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THE

PUBLIC HEALTH ACTS

ANNOTATED

WITH APPENDICES

CONTAINING

The Various Incorporated Statutes and Orders of the Ministry of Health, etc.

First Edition, Public Health Act, 1875, by

W. G. LUMLEY, LL.M., Q.C., and EDMUND LUMLEY, B.A.

Counsel to the Local Government Board. *Of the Middle Temple, Barrister-at-Law.*

TENTH EDITION

IN THREE VOLUMES

BY

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One of His Majesty's Counsel

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ADDENDA AND CORRIGENDA

VOLUME III.

P. 2495, Sec. 2, Electric Lighting Act, 1888. See as to this section *Oxford Corporation* v. *Oxford Electric Co., Ltd.* (1930), 94 J. P. 86.

P. 3658. R. & V. (Forms of Demand Note) Rules, 1926, revoked. See now R. & V. (Forms of Demand Note) Rules, 1930, set out, *post*, p. 3919.

P. 3719. R. & V. (Forms of Precept, C.C.) Rules, 1929, revoked. See now R. & V. (Form of Precept, C.C.) Rules, 1930, set out, *post*, p. 3927.

THE PUBLIC HEALTH ACTS.

APPENDIX I.

THE KNACKERS ACT, 1786.

(26 Geo. 3, c. 71) (*a*).

An Act for Regulating Houses and other Places kept for the purpose of Slaughtering Horses.

Preamble.

Whereas the practice of stealing horses, cows and other cattle hath of late years increased to an alarming degree, and hath been greatly facilitated by certain persons of low condition who keep houses or places for the purpose of slaughtering horses and other cattle: For remedy whereof, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the twentieth day of July in the year of our Lord one thousand seven hundred and eighty-six, no person or persons shall keep or use any house or place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat or other cattle which shall not be killed for butchers meat, without first taking out a licence for that purpose at the general quarter sessions held for the county, riding, city, town, district, division or liberty wherein such slaughtering house or place shall be situate; and the justices of the peace, at their general quarter sessions assembled, are hereby authorised and empowered to grant (*b*) such licences as aforesaid, upon a certificate (*c*), under the hands and seals of the minister and churchwardens or overseers, or of the minister and two or more substantial householders of the parish wherein the person or persons applying for such licence shall dwell, that such person or persons is or are fit and proper to be trusted with the management and carrying on such business as aforesaid: Provided always, that in case of the death of any person to whom such licence as aforesaid shall be granted, it shall and may be lawful for the widow, or personal representative of such person so dying, to carry on the said business until the then next ensuing general quarter sessions of the peace (*d*).

From July 20th, 1786, every person keeping a slaughtering house to take out a licence, etc.

(*a*) This Act is amended by the 7 & 8 Vict. c. 87, *post*, p. 2077, and by the Protection of Animals Act, 1911, and repealed as to London by the P. H. (London) A., 1891, s. 142.

See also as to the licensing of slaughter-houses and knackers' yards, ss. 125—131 of the Towns Improvement Clauses Act, 1847, *post*, pp. 2210 *et seq.*, incorporated by s. 169 of the P. H. A., 1875, *ante*, p. 408, and modified by ss. 29—31 of the P. H. A., 1890, *ante*, p. 893. Where a licence has been granted under these sections an additional licence under this Act is not necessary. See *R.* v. *Essex JJ.*, *Ex parte Barking U. D. C.*, [1916] 2 K. B. 406; 80 J. P. 345, affirming decision of Divisional Court, [1916] 1 K. B. 665.

In London, outside the city, the licensing of slaughter-houses and knackers' yards is provided for by s. 20 of the P. H. (London) A., 1891, s. 6 (4) of the London G. Act, 1899, and s. 53, L.C.C. (General Powers) Act, 1903.

Note to Section 1.

(*b*) The powers, duties, and liabilities of quarter sessions in relation to these licences are now transferred to the district or county borough council by the L. G. A., 1894, ss. 27 (2) and 32, *ante*, pp. 993, 994. Licences granted under this Act were limited to continue in force for one year only from their date by 7 & 8 Vict. c. 87, s. 1, *post*, p. 2077. Form of licence, see the Encyclopædia of Forms and Precedents, Vol. XII., p. 208, No. 110. Power to cancel a licence is given by s. 2 of the same Act, *post*, p. 2077.

(*c*) This certificate is not required for the renewal of a licence when once it has been granted. See 7 & 8 Vict. c. 87, s. 1, *post*, p. 2077. Form of certificate, see the Encyclopædia of Forms and Precedents, Vol. XII., p. 212, No. 116.

(*d*) Apparently this proviso will now authorise the widow or personal representative in carrying on the business until the expiration of the licence at the end of the year for which it is issued.

Justices to grant licences, which are to be entered, etc.

2. And . . . every such licence shall be signed by the justices of the peace assembled at such general quarter sessions or by the major part of them, and a copy of every such licence shall be entered in a book to be kept for that purpose by the clerk of the peace of the county wherein the same shall be so granted as aforesaid; and . . . all and every person and persons shall have liberty at all times (Sundays excepted), between the hours of ten and twelve of the clock in the forenoon, to search the office of such clerk of the peace wherein any such copy shall be entered or kept, and to make an extract or extracts from the same, paying for every such search the sum of sixpence; *and all and every person and persons so licensed as aforesaid shall cause to be painted or affixed over the door or gate of the house or place where he, she or they shall carry on the said business, in large legible characters, his, her and their name and names, with the words " Licensed for slaughtering horses, pursuant to an Act passed in the twenty-sixth year of his Majesty King George the Third "* (*a*).

Persons licensed to affix to their houses the words herein mentioned.

(*a*) The conduct of a knacker's business is now regulated by ss. 5, 6, and Sched. I. of the Protection of Animals Act, 1911, replacing ss. 7—11 of the Cruelty to Animals Act, 1849, which the Act of 1911 repealed. The schedule requires (*inter alia*) that " the name of the knacker, together with the word ' knacker,' shall be painted or affixed in a conspicuous manner over the door or gate of the knacker's yard." The provision in the text upon this point may therefore be regarded as superseded: s. 7 of the Cruelty to Animals Act, 1849, which imposed a penalty for breach of it, is repealed as above mentioned.

* * * * * *

Persons slaughtering horses, etc. without licence, etc. guilty of felony.

8. And . . . if any person or persons keeping or using any such slaughtering house or place as aforesaid shall at any time from and after the twentieth day of July one thousand seven hundred and eighty-six slaughter any horse, mare or gelding, foal or filly, ass or mule, or any bull, cow, heifer, ox, calf, sheep, hog, goat or other cattle, for any other purpose than for butchers meat, or shall flay any horse, mare, gelding, foal, filly, ass, mule, bull, cow, heifer, ox, calf, sheep, hog, goat or other cattle brought dead to such slaughtering house or other place, without taking out such licence . . . such person or persons so offending in either of the said cases, being thereof convicted, shall be adjudged, deemed and taken to be guilty of felony . . . (*a*).

(*a*) The punishment imposed by this section was fine and imprisonment and whipping, or transportation for not more than seven years. Penal servitude is substituted for transportation by 20 & 21 Vict. c. 3. Whipping for such an offence may be regarded as obsolete.

* * * * * *

Penalty on persons lending houses for the purpose of slaughtering without licence.

13. And . . . if any person or persons shall occasionally lend any house, barn, stable or other place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat or other cattle which shall not be killed for butchers meat without taking out such licence as aforesaid, and shall be thereof convicted before any justice of the peace for the county, riding, city, town, district, division or liberty wherein such person or persons shall reside, upon the oath of two credible witnesses, he, she or they shall forfeit, upon conviction, for every such offence, any sum not exceeding twenty pounds . . . one moiety thereof to be paid to the informer and the other moiety to the poor of the parish where the offence shall be committed, and which said last-mentioned moiety shall, upon payment thereof, be immediately transmitted by the justice so convicting to the overseers of the poor of the said parish or one of them (*a*) ; and in case such penalty shall not be forthwith paid, such justice shall commit the offender to the common gaol or house of correction . . . (*b*).

Section 13.

(*a*) As to the application of these penalties now that overseers have been abolished by s. 62 of the R. and V. Act, 1925, see the Overseers Order, 1927 (S. R. & O., 1927, No. 55), Art. 13 (1) (*b*), in App. II. at p. 3684, *post*.

(*b*) The remainder of this section, as well as the minimum penalty originally imposed thereby, is repealed by the S. J. A., 1884, s. 4.

Act not to extend to curriers, etc. killing distempered horses, etc.

14. Provided always, that this Act shall not extend to any currier, felt-maker, tanner or dealer in hides who shall kill any distempered or aged horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat or other cattle, or purchase any dead horse, mare, gelding, colt, filly, ass, mule, ox, cow, heifer, calf, sheep, hog, goat or other cattle, for the bonâ fide purpose of selling, using or curing the hide or hides thereof in the course of their respective trades, nor to any furrier employed to kill aged and distempered cattle, nor to any person or persons who shall kill any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat or other cattle of their own, or other cattle, or purchasing any dead horse or other cattle to feed their own hounds or dogs, or giving away the flesh thereof for the like purpose.

* * * * * *

18. [*General issue and treble costs*] (*a*).

(*a*) See now the Public Authorities Protection Act, 1893, *ante*, p. 939.

THE GAME ACT, 1831.

(1 & 2 Will. 4, c. 32) (*a*).

An Act to amend the Laws in England (*b*) *relative to Game.*

[5th October 1831.

* * * * * *

Definition of "game" under this Act.

2. The word "game" shall for all the purposes of this Act be deemed to include hares, pheasants, partridges, grouse, heath or moor game, black game, and bustards (*c*).

(*a*) See the L. G. A., 1894, ss. 27, 32, *ante*, pp. 992, 994.

(*b*) All the clauses and provisions of this Act and of 2 & 3 Vict. c. 35, relating to the granting of licences by justices to deal in game, and to the holding of special sessions for the purpose of granting such licences, and also all the clauses, provisions, and penalties contained in the said Acts or either of them relating to dealers in game and to the selling of game, either by or to such dealers or others, are extended to the whole of the United Kingdom by the Game Licences Act, 1860, s. 13.

(*c*) Note that deer, rabbits, quail, landrail, woodcock, snipe, geese, duck, pigeon, and plover are not included in this definition.

* * * * * *

Penalty on dealers in game

4. If any person licensed to deal in game by virtue of this Act as hereinafter mentioned shall buy or sell, or knowingly have in his house, shop,

Section 4.

buying, selling or possessing birds of game after ten days after expiration of season for killing, and on other persons buying or selling birds after ten days, or possessing them, except for breeding, after forty days.

stall, possession, or control, any bird of game (*a*) after the expiration of ten days (one inclusive and the other exclusive) from the respective days in each year on which it shall become unlawful to kill or take such birds of game respectively as aforesaid; or if any person not being licensed to deal in game by virtue of this Act as hereinafter mentioned, shall buy or sell any bird of game after the expiration of ten days (one inclusive and the other exclusive) from the respective days in each year on which it shall become unlawful to kill or take such birds of game respectively as aforesaid, or shall knowingly have in his house, possession, or control any bird of game (except birds of game kept in a mew or breeding place) after the expiration of forty days (one inclusive and the other exclusive) from the respective days in each year on which it shall become unlawful to kill or take such birds of game respectively as aforesaid; every such person shall, on conviction of any such offence before two justices of the peace, forfeit and pay for every head of game so bought or sold, or found in his house, shop, possession, or control, such sum of money, not exceeding one pound, as to the convicting justices shall seem meet, together with the costs of the conviction (*b*).

(*a*) Alive or dead (*Loome* v. *Bailey* (1860), 25 J. P. 55; 3 El. & El. 444). Under an earlier Act which contained no provision as to the ten days' grace, it was held that it was not an offence for a qualified person to have in his possession nine days after the commencement of the close season birds killed before its commencement (*Simpson* v. *Unwin* (1832), 3 B. & Ad. 134). It makes no difference whether the bird is tame or wild (*Harnett* v. *Miles* (1884), 48 J. P. 455). But now by s. 10 of the Revenue Act, 1911, "so much of s. 4 of the Game Act, 1831, as makes it an offence for any person to buy or sell, or have in his house, possession, or control game birds after the dates therein specified shall not apply where the game is live game, and the person buying, selling, or having in his house, possession, or control the game, is keeping or intending to keep the game solely for the purpose of breeding or for sale alive, and either is licensed at the time to deal in game, or is a holder of a certificate or licence to kill game in force at the time. The amendments made by this section shall have effect in the Game Act, 1831, as applied by any subsequent enactment, as well as in that Act as originally enacted." This provision relieved game breeders from a difficulty: if they were licensed to sell game, they could not lawfully keep their stock during the close season (s. 4); if they were not licensed, purchases from them were illegal: see *Cook* v. *Trevener*, [1911] 1 K. B. 9; 74 J. P. 469. See also *M'Lean* v. *Johnston*, [1913] S. C. (J.) 1. Game killed abroad is not within the section (*Guyer* v. *R.* (1889), 23 Q. B. D. 100; 53 J. P. 436). See, however, the Customs and Inland Revenue Act, 1893, s. 2, under which licences are required for dealing in imported game.

(*b*) As to forfeiture of the licence, see s. 22, *post*, p. 2075.

* * * * * *

Justices to hold a special session yearly for granting licences to persons to deal in game.

18. The justices of the peace of every county, riding, division, liberty, franchise, city, or town (*a*) shall hold a special session in the division or district for which they usually act, and in every year in the month of July (*b*), for the purpose of granting licences to deal in game, of the holding of which session seven days notice shall be given to each of the justices acting for such division or district; and the majority of the justices assembled at such session, or at some adjournment thereof, not being less than two, are hereby authorised (if they shall think fit) to grant under their hands to any person being a householder or keeper of a shop or stall within such division or district and not being an innkeeper (*c*) or victualler, or licensed to sell beer by retail (*d*), nor being the owner, guard, or driver of any mail coach or other vehicle employed in the conveyance of the mails of letters, or of any stage coach, stage waggon, van, or other public conveyance, nor being a carrier or higgler, nor being in the employment of any of the above-mentioned persons, a licence (*e*) according to the form in the Schedule (A.) annexed to this Act, empowering the person to whom such licence shall be so granted to buy game at any place from any person who may lawfully sell game by virtue of this Act, and also to sell the same at one house, shop, or stall only, kept by him; provided that every person, while so licensed to deal in game as aforesaid, shall affix to some part of the outside of the front of his house, shop, or stall, and shall there keep a board having thereon in clear and legible characters, his Christian name and surname, together with the following words (that is to say), "Licensed to deal in game"; and every such licence granted in any succeeding year shall continue in force for the period of one year next after the granting thereof.

(*a*) The powers, duties, and liabilities of justices under this section are now transferred to district and county borough councils by ss. 27, 32 of the L. G. A., 1894, *ante*, pp. 992, 994.

(*b*) By 2 & 3 Vict. c. 35, s. 4, after reciting this enactment, and that it is expedient that justices should be empowered to hold a special session for the purpose of granting these licences not only in July but also at any subsequent period of the year, it is enacted that from and after the passing of this Act it shall be lawful for the said justices of the peace to hold in their respective divisions or districts a special session for the purpose of granting licences to deal in game, not only in the month of July, but also at any time and from time to time as often as they shall think fit after the said month of July in every year; and it shall also be lawful for the majority of the said justices (not being less than two) assembled at any such session or at any adjournment thereof, to grant licences to deal in game, in the manner directed by the said last-recited Act, and under and subject to the provisions and regulations thereof: Provided always, that of the holding of any such special session seven days' notice shall be given to each of the justices acting for the division or district in which such session is intended to be held: Provided also, that every licence to deal in game, at whatever time the same hath been or shall be granted, shall continue in force from the granting thereof until the first day of July then next following, and no longer, anything in the said last-recited Act or in such licence to the contrary notwithstanding.

Although the whole of the above Act, 2 & 3 Vict. c. 35, was repealed by the Revenue Act, 1869, s. 39, it is considered that the foregoing section remains in force by virtue of s. 13 of the Game Licences Act, 1860, cited, *ante*, p. 2073.

(*c*) Although an innkeeper may not be a licensed dealer in game, yet under s. 26 of this Act an innkeeper or tavern keeper may without this licence sell game for consumption in his own house, if he has procured it from a licensed dealer.

(*d*) Including the holder of an additional licence to sell beer under s. 1 of the Revenue Act, 1863 (*Shoolbred* v. *St. Pancras JJ.* (1890), 24 Q. B. D. 346; 54 J. P. 231); but such licences are no longer granted. A question has been raised, but not decided, whether a person being the owner of several establishments in different districts and holding a licence to sell beer in one of them can hold a licence to sell game in one or more of the other establishments. See *R.* v. *Bird* (1898), 62 J. P. 309.

(*e*) An adapted form of licence is given in Warry's Game Laws, 1896 ed., at p. 203. The licence must specify the particular house, shop, or stall at which the game is to be sold. Until this is done the excise licence required by s. 14 of the Game Licences Act, 1860, as amended by s. 17 of the Revenue (No. 2) Act, 1861, cannot be granted. A game dealer's licence is personal and cannot be transferred. There is no provision for the case of a licensed person dying during the year his licence is current. It would seem that the personal representative carrying on the business should apply for a fresh licence.

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Proviso as to licences in case of partnership.

21. Provided always, that persons being in partnership, and carrying on their business at one house, shop, or stall only, shall not be obliged by virtue of this Act to take out more than one licence in any one year to authorise them to deal in game at such house, shop or stall.

Licences to become void on any conviction under this Act.

22. If any person licensed by virtue of this Act to deal in game shall during the period of such licence be convicted of any offence whatever against this Act, such licence shall thereupon become null and void (*a*).

(*a*) There is no prohibition against an application by a convicted person for another licence. As to offences, see ss. 4, 28.

* * * * * *

Penalty on licensed dealers buying game from persons not authorised

28. If any person, being licensed to deal in game according to this Act, shall buy or obtain any game from any person not authorised to sell game for want of a game certificate, or for want of a licence to deal in game (*a*); or if any person, being licensed to deal in game according to this Act, shall

Section 28. sell or offer for sale any game at his house, shop, or stall, without such board as aforesaid being affixed to some part of the outside of the front of such house, shop, or stall at the time of such selling or offering for sale, or shall affix or cause to be affixed such board to more than one house, shop, or stall, or shall sell any game at any place other than his house, shop, or stall where such board shall have been affixed; or if any person, not being licensed to deal in game according to this Act, shall assume, or pretend, by affixing such board as aforesaid, or by exhibiting any certificate, or by any other device or pretence, to be a person licensed to deal in game; every such offender, being convicted thereof before two justices of the peace, shall forfeit and pay such sum of money, not exceeding ten pounds, as to the said justices shall seem meet, together with the costs of the conviction.

to sell, or otherwise offending;

and on unlicensed persons feigning to be licensed.

(*a*) It makes no difference whether he knew or not, when he purchased the game, that the seller was unlicensed (*R.* v. *Muirhead* (1887), 51 J. P. 760).

Servants of licensed dealer may buy and sell game.

One licensed dealer in game may sell on account of another.

29. Provided always, that the buying and selling of game by any person or persons employed on the behalf of any licensed dealer in game, and acting in the usual course of his employment, and upon the premises where such dealing is carried on, shall be deemed to be a lawful buying and selling in every case, where the same would have been lawful if transacted by such licensed dealer himself: Provided also, that nothing herein contained shall prevent any licensed dealer in game from selling any game which shall have been sent to him to be sold on account of any other licensed dealer in game.

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47. [*Limitations of actions, etc.*] (*a*).

(*a*) This section was repealed by the Public Authorities Protection Act, 1893, *ante*, p. 939.

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SCHEDULE (A.)

FORM OF LICENCE.

At a special session of the justices of the peace of the county of [*or* riding, etc., *as the case may be*], acting for the division of [*or otherwise, as the case may be*] in the said county, holden at in the said on the day of in the year .

We , being justices acting for the said assembled at the said special session, do hereby authorise and empower *A. B.*, of [*here insert the name, description, and place of residence, and if more than one in partnership, say C. D.*, of, etc., and *E. F.*, of etc., being partners], being a householder [*or* householders] [*or* keeper (*or* keepers) of a shop or stall, *as the case may be*], to buy game from any person authorised to sell game by virtue of an Act passed in the second year of the reign of King William the Fourth, intituled "An Act to amend the Laws in England relative to Game"; and we do also authorise and empower the said *A. B.*, [*or C. D.* and *E. F.*, being partners] to sell at his [*or* their] house [shop *or* stall] any game so bought, provided that the said *A. B.* (*or C. D.* and *E. F.*, being partners] shall affix to some part of the outside of the front of his [*or* their] house [shop *or* stall] and shall there keep, a board having thereon in clear and legible characters, his Christian name and surname [*or* their Christian names and surnames], together with the following words, "Licensed to deal in game."

This licence will expire on .

(Signed) , Justice of the Peace.
, Justice of the Peace.

THE KNACKERS ACT, 1844.

(7 & 8 VICT. c. 87.) (*a*)

An Act to amend the Law for regulating Places kept for Slaughtering Horses. [9th August 1844.]

Licences to keep slaughter houses granted under 26 Geo. 3, c. 71, to be annual.

[**1.**] Every licence which shall be granted under or by virtue of the Knackers Act, 1786, authorising any person to keep or use any house or place for the purpose of slaughtering or killing any horse or other cattle (not killed for butcher's meat), shall be granted, and shall continue in force, for a period not exceeding one year from the date at which the same was granted, determinable as hereinafter provided: Provided nevertheless, that in the case of the renewal of any such licence to any person to whom any such licence may have been previously granted as aforesaid it shall not be necessary for such person to obtain or produce to the justices at such general quarter sessions of the peace (*b*) a certificate under the hands and seals of the minister, churchwardens, overseers, or householders, as required by the said last-mentioned Act.

(*a*) See 26 Geo. 3, c. 71, *ante*, p. 2071. This Act is repealed as to London by s. 142 of the P. H. (London) A., 1891. In London outside the City the licensing of slaughter-houses and knackers' yards is provided for by s. 20 of that Act.

(*b*) Now the district or county borough council. See ss. 27 (2) and 32 of the L. G. A., 1894, *ante*, pp. 993, 994.

Justices in quarter sessions may cancel licences.

2. It shall be lawful for the justices assembled at any general quarter sessions of the peace to be holden for any county (*a*), upon application and complaint made to them in writing by any person, and upon due proof being made to them that the party so complaining had given fourteen days previous notice in writing thereof to the clerk of the peace for such county, and also to the party complained against, and upon due proof to their satisfaction that any person so licensed as aforesaid has been guilty of any breach or violation of the said two several hereinbefore recited Acts or either of them, or of this Act, or any part or parts thereof respectively, to cancel and wholly put an end to any and every licence which may have been granted to the person or persons so complained against, and from thenceforth the same shall be of no force or effect.

(*a*) Now the district or county borough council. See ss. 27 (2) and 32 of the L. G. A., 1894, *ante*, pp. 993, 994.

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Meaning of certain words used in this Act.

10. The words hereinafter mentioned, which in their usual signification have a more restricted or different meaning, shall in this Act (except where the nature of the provisions or the context of the Act shall exclude such construction) be interpreted as follows; (that is to say,) the word "county" shall include city, town, borough, cinque port, riding, liberty, or division; the word "horse" shall include mare, gelding, mule, pony, colt, or filly; the word "cattle" shall include bull, ox, cow, steer, heifer, calf, ass, sheep, lamb, goat, pig, or any other domestic animal; the word "constable" shall include headborough, peace officer, or police officer; and every word importing the singular number only shall extend and be applied to several persons and things as well as to one person or thing; and every word importing the masculine gender only shall extend to a female as well as a male.

THE COMPANIES CLAUSES CONSOLIDATION ACT, 1845.

(8 & 9 VICT. c. 16) (*a*).

An Act for consolidating in one Act certain Provisions usually inserted in Acts with respect to the Constitution of Companies incorporated for carrying on Undertakings of a public nature. [8th May 1845.]

*   *   *   *   *   *

Interpretation.

2. And with respect to the construction of this Act, and of other Acts to be incorporated therewith, be it enacted as follows (*b*):

"The special Act." "Prescribed." "The undertaking."

The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed incorporating a joint stock company for the purpose of carrying on any undertaking, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed" used in this Act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act; and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the undertaking" shall mean the undertaking or works, of whatever nature, which shall by the special Act be authorised to be executed.

(*a*) Certain of the sections of this Act are incorporated by some of the Acts included in this Appendix; for example, by the Baths and Washhouses Act, 1846, s. 23, *post*, p. 2148. Only the sections so incorporated are here set out, but ss. 2 and 3 are also included in the present work, as these are necessary for reference in construing the incorporated sections.

(*b*) These clauses must be read in connection with the sections of the several Acts by which this Act is incorporated, as the interpretations here given are in some instances qualified.

Interpretations in this and the special Act:

3. The following words and expressions both in this and the special Act shall have the several meanings hereby assigned to them, unless there be something in the subject or the context repugnant to such construction; (that is to say,) (*a*)

Number

Words importing the singular number only shall include the plural number; and words importing the plural number only shall include the singular number:

Gender.

Words importing the masculine gender only shall include females:

"Lands."

The word "lands" shall extend to messuages, lands, tenements, and hereditaments, of any tenure:

"Lease."

The word "lease" shall include an agreement for a lease:

"Month."

The word "month" shall mean calendar month:

"Superior courts."

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster . . . (*b*).

"Oath."

The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath:

"County."

The word "county" shall include any riding or other like division of a county, and shall also include county of a city or county of a town:

"Justice." "Two justices."

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where any matter shall be authorised or required to be done by two justices the expression "two justices" shall be understood to mean two justices assembled and acting together in petty sessions:

"The company." The expression "the company" shall mean the company constituted by the special Act:

"Directors." The expression "the directors" shall mean the directors of the company, and shall include all persons having the direction of the undertaking, whether under the name of directors, managers, committee of management, or under any other name:

"Shareholder." The word "shareholder" shall mean shareholder, proprietor, or member of the company; and in referring to any such shareholder, expressions properly applicable to a person shall be held to apply to a corporation: and

"Secretary." The expression "secretary" shall mean the secretary of the company, and shall include the word "clerk."

* * * * * *

(*a*) These clauses must be read in connection with the sections of the several Acts by which this Act is incorporated, as the interpretations here given are in some instances qualified.

(*b*) Words relating to Ireland only are here omitted.

Power to borrow money. And with respect to the borrowing of money by the company on mortgage or bond, be it enacted as follows:

Sections 38—55 inclusive are incorporated by the Baths and Washhouses Act, 1846, s. 23, *post*, p. 2148.

Power to borrow money. **38.** If the company be authorised by the special Act to borrow money on mortgage or bond, it shall be lawful for them, subject to the restrictions contained in the special Act, to borrow on mortgage or bond such sums of money as shall from time to time, by an order of a general meeting of the company, be authorised to be borrowed, not exceeding in the whole the sum prescribed by the special Act, and for securing the repayment of the money so borrowed, with interest, to mortgage the undertaking, and the future calls on the shareholders, or to give bonds in manner hereinafter mentioned.

Power to re-borrow. **39.** If, after having borrowed any part of the moneys so authorised to be borrowed on mortgage or bond, the company pay off the same, it shall be lawful for them again to borrow the amount so paid off, and so from time to time; but such power of re-borrowing shall not be exercised without the authority of a general meeting of the company, unless the money be so re-borrowed in order to pay off any existing mortgage or bond.

Evidence of authority for borrowing. **40.** Where by the special Act the company shall be restricted from borrowing any money on mortgage or bond until a definite portion of their capital shall be subscribed or paid up, or where by this or the special Act the authority of a general meeting is required for such borrowing, the certificate of a justice that such definite portion of the capital has been subscribed or paid up, and a copy of the order of a general meeting of the company authorising the borrowing of any money, certified by one of the directors or by the secretary to be a true copy, shall be sufficient evidence of the fact of the capital required to be subscribed or paid up having been so subscribed or paid up, and of the order for borrowing money having been made; and upon production to any justice of the books of the company, and of such other evidence as he shall think sufficient, such justice shall grant the certificate aforesaid.

Mortgages and bonds to be stamped. **41.** Every mortgage and bond for securing money borrowed by the company shall be by deed under the common seal of the company, duly stamped, and wherein the consideration shall be truly stated; and every

Section 41.

such mortgage deed or bond may be according to the form in the Schedule (C.) (*a*) or (D.) to this Act annexed, or to the like effect.

(*a*) See *Legg* v. *Mathieson* (1860), 29 L. J. Ch. 385; 2 L. T. 112; *Holdsworth* v. *Davenport* (1876), 3 Ch. D. 185. If the consideration is apparent the instrument is not void merely becaue the consideration is not in terms stated (*Landowners West of England and South Wales Land Drainage and Inclosure Co.* v. *Ashford* (1881), 16 Ch. D. 411).

Rights of mortgagees.

42. The respective mortgagees shall be entitled one with another to their respective proportions of the tolls, sums, and premises comprised in such mortgages, and of the future calls payable by the shareholders, if comprised therein, according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively, and to be repaid the sums so advanced, with interest, without any preference one above another by reason of priority of the date of any such mortgage, or of the meeting at which the same was authorised (*a*).

(*a*) See *Landowners West of England, etc. Co.* v. *Ashford, supra.*

Application of calls notwithstanding mortgages.

43. No such mortgage (although it should comprise future calls on the shareholders) shall, unless expressly so provided, preclude the company from receiving and applying to the purposes of the company any calls to be made by the company.

Rights of obligees.

44. The respective obligees in such bonds shall, proportionally, according to the amount of the moneys secured thereby, be entitled to be paid, out of the tolls or other property or effects of the company, the respective sums in such bonds mentioned, and thereby intended to be secured, without any preference one above another by reason of priority of date of any such bond, or of the meeting at which the same was authorised, or otherwise howsoever.

Register of mortgages and bonds.

45. A register of mortgages and bonds shall be kept by the secretary, and within fourteen days after the date of any such mortgage or bond an entry or memorial, specifying the number and date of such mortgage or bond, and the sums secured thereby, and the names of the parties thereto, with their proper additions, shall be made in such register; and such register may be perused at all reasonable times by any of the shareholders, or by any mortgagee or bond creditor of the company, or by any person interested in any such mortgage or bond, without fee or reward.

Transfers of mortgages and bonds to be stamped.

46. Any party entitled to any such mortgage or bond may from time to time transfer his right and interest therein to any other person; and every such transfer shall be by deed duly stamped, wherein the consideration shall be truly stated; and every such transfer may be according to the form in the Schedule (E.) to this Act annexed, or to the like effect.

Transfers of mortgages and bonds to be registered.

47. Within thirty days after the date of every such transfer, if executed within the United Kingdom, or otherwise within thirty days after the arrival thereof in the United Kingdom, it shall be produced to the secretary, and thereupon the secretary shall cause an entry or memorial thereof to be made in the same manner as in the case of the original mortgage; and after such entry every such transfer shall entitle the transferee to the full benefit of the original mortgage or bond in all respects; and no party having made such transfer, shall have power to make void, release, or discharge the mortgage or bond so transferred, or any money thereby secured; and for such entry the company may demand a sum not exceeding the prescribed sum, or, where no sum shall be prescribed, the sum of two shillings and sixpence; and until such entry the company shall not be in any manner responsible to the transferee in respect of such mortgage.

Payment of interest on moneys borrowed.

48. The interest of the money borrowed upon any such mortgage or bond shall be paid at the periods appointed in such mortgage or bond, and if no period be appointed, half-yearly, to the several parties entitled thereto and in preference to any dividends payable to the shareholders of the company (*a*).

(*a*) As to interest not provided for by the security, see *Price* v. *G. W. Rail. Co.* (1857), 16 L. J. Ex. 87; 16 M. & W. 244. Though interest be payable half-yearly, it accrues due *de die in diem*, and is therefore subject to apportionment (*In re Rogers* (1861), 30 L. J. Ch. 153; 3 L. T. 397).

Transfers of interest to be stamped.

49. The interest on any such mortgage or bond shall not be transferable, except by deed duly stamped.

Repayment of money borrowed at a time fixed.

50. The company may, if they think proper, fix a period for the repayment of the principal money so borrowed, with the interest thereof, and in such case the company shall cause such period to be inserted in the mortgage deed or bond; and upon the expiration of such period the principal sum, together with the arrears of interest thereon, shall, on demand, be paid to the party entitled to such mortgage or bond; and if no other place of payment be inserted in such mortgage deed or bond, such principal and interest shall be payable at the principal office or place of business of the company.

Repayment of money borrowed where no time fixed.

51. If no time be fixed in the mortgage deed or bond for the repayment of the money so borrowed, the party entitled to the mortgage or bond may, at the expiration or at any time after the expiration of twelve months from the date of such mortgage or bond, demand payment of the principal money thereby secured, with all arrears of interest, upon giving six months previous notice for that purpose; and in the like case the company may at any time pay off the money borrowed, on giving the like notice; and every such notice shall be in writing or print, or both, and if given by a mortgagee or bond creditor shall be delivered to the secretary or left at the principal office of the company, and if given by the company shall be given either personally to such mortgagee or bond creditor or left at his residence, or if such mortgagee or bond creditor be unknown to the directors, or cannot be found after diligent inquiry, such notice shall be given by advertisement in the London or Dublin Gazette, according as the principal office of the company shall be in England or Ireland, and in some newspaper, as after mentioned.

Interest to cease on expiration of notice to pay off mortgage or bond.

52. If the company shall have given notice of their intention to pay off any such mortgage or bond at a time when the same may lawfully be paid off by them, then at the expiration of such notice all further interest shall cease to be payable on such mortgage or bond, unless, on demand of payment made pursuant to such notice, or at any time thereafter, the company shall fail to pay the principal and interest due at the expiration of such notice on such mortgage or bond.

Arrears of interest, when to be enforced by appointment of receiver.

53. Where by the special Act the mortgagees of the company shall be empowered to enforce the payment of the arrears of interest, or the arrears of principal and interest, due on such mortgages, by the appointment of a receiver, then, if within thirty days after the interest accruing upon any such mortgage has become payable, and after demand thereof in writing, the same be not paid, the mortgagee may, without prejudice to his right to sue for the interest so in arrear in any of the superior courts of law or equity, require the appointment of a receiver, by an application to be made as hereinafter provided; and if within six months after the principal money owing upon any mortgage has become payable, and after demand thereof

Section 53.

Arrears of principal and interest.

in writing, the same be not paid, the mortgagee, without prejudice to his right to sue for such principal money, together with all arrears of interest, in any of the superior courts of law or equity, may, if his debt amount to the prescribed sum alone, or, if his debt does not amount to the prescribed sum he may, in conjunction with other mortgagees whose debts, being so in arrear, after demand as aforesaid, shall, together with his, amount to the prescribed sum, require the appointment of a receiver, by an application to be made as hereinafter provided.

Appointment of receiver.

54. Every application for a receiver in the cases aforesaid shall be made to two justices, and on every such application it shall be lawful for such justices, by order in writing, after hearing the parties, to appoint some person to receive the whole or a competent part of the tolls or sums liable to the payment of such interest, or such principal and interest, as the case may be, until such interest, or until such principal and interest, as the case may be, together with all costs, including the charges of receiving the tolls or sums aforesaid, be fully paid; and upon such appointment being made all such tolls and sums of money as aforesaid shall be paid to and received by the person so to be appointed; and the money so to be received shall be so much money received by or to the use of the party to whom such interest, or such principal and interest, as the case may be, shall be then due, and on whose behalf such receiver shall have been appointed; and after such interest and costs, or such principal, interest, and costs, have been so received the power of such receiver shall cease.

Access to account books by mortgagees.

55. At all seasonable times the books of account of the company shall be open to the inspection of the respective mortgagees and bond creditors thereof, with liberty to take extracts therefrom, without fee or reward.

* * * * * *

Accountability of officers.

And with respect to the accountability of the officers of the company be it enacted as follows:

Sections 109—114 inclusive are incorporated by the Baths and Washhouses Act, 1846, s. 23, *post*, p. 2148.

Security to be taken from officers intrusted with money.

109. Before any person intrusted with the custody or control of moneys, whether treasurer, collector, or other officer of the company, shall enter upon his office, the directors shall take sufficient security from him for the faithful execution of his office.

Officers to account, on demand.

110. Every officer employed by the company shall from time to time, when required by the directors, make out and deliver to them, or to any person appointed by them for that purpose, a true and perfect account, in writing under his hand, of all moneys received by him on behalf of the company; and such account shall state how, and to whom, and for what purpose, such moneys shall have been disposed of; and, together with such account, such officer shall deliver the vouchers and receipts for such payments; and every such officer shall pay to the directors, or to any person appointed by them to receive the same, all moneys which shall appear to be owing from him upon the balance of such accounts.

Summary remedy against parties failing to account.

111. If any such officer fail to render such account, or to produce and deliver up all the vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for three days after being thereunto required he fail to deliver up to the directors, or to any person appointed by them to receive the same, all papers and writings, property, effects, matters, and things, in his possession or power, relating to the execution of this or the special Act, or any Act incorporated therewith, or belonging to the company, then, on complaint thereof being made to a justice, such justice shall summon such officer to appear before two or more justices at a time and place to be set forth in such summons, to answer such charge; and upon the appearance of such officer, or in his absence, upon proof that such summons was personally served upon him, or left at his last known place of abode, such justices may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such officer; and if it appear, either upon confession of such officer or upon evidence, or upon inspection of the account, that any moneys of the company are in the hands of such officer, or owing by him to the company, such justices may order such officer to pay the same; and if he fail to pay the amount it shall be lawful for such justices to grant a warrant to levy the same by distress, or, in default thereof, to commit the offender to gaol, there to remain without bail for a period not exceeding three months, unless the same be sooner paid.

Officers refusing to deliver up documents, etc., to be imprisoned.

112. If any such officer refuse to make out such account in writing, or to produce and deliver to the justices the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things, in his possession or power, belonging to the company, such justices may lawfully commit such offender to gaol, there to remain until he shall have delivered up all the vouchers and receipts, if any, in his possession or power, relating to such accounts, and have delivered up all books, papers, writings, property, effects, matters, and things, if any, in his possession or power, belonging to the company.

Where officer about to abscond, a warrant may be issued in the first instance.

113. Provided always, that if any director or other person acting on behalf of the company shall make oath that he has good reason to believe, upon grounds to be stated in his deposition, and does believe, that it is the intention of any such officer as aforesaid to abscond, it shall be lawful for the justice before whom the complaint is made, instead of issuing his summons, to issue his warrant for the bringing such officer before such two justices as aforesaid; but no person executing such warrant shall keep such officer in custody longer than twenty-four hours without bringing him before some justice; and it shall be lawful for the justice before whom such officer may be brought either to discharge such officer, if he thinks there is no sufficient ground for his detention, or to order such officer to be detained in custody, so as to be brought before two justices, at a time and place to be named in such order, unless such officer give bail, to the satisfaction of such justice, for his appearance before such justices to answer the complaint of the company.

Sureties not to be discharged.

114. No such proceeding against or dealing with any such officer as aforesaid shall deprive the company of any remedy which they might otherwise have against such officer, or any surety of such officer.

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Byelaws.

And with respect to the making of byelaws, be it enacted as follows:

Sections 124—127 inclusive are incorporated by the Baths and Washhouses Act, 1846, s. 23, *post*, p. 2148, subject, however, to the provisions of s. 34 of that Act, *post*, p. 2152.

Power to make byelaws for the officers of the company.

124. It shall be lawful for the company from time to time to make such byelaws as they think fit, for the purpose of regulating the conduct of the officers and servants of the company, and for providing for the due management of the affairs of the company in all respects whatsoever, and from time to time to alter or repeal any such byelaws, and make others, provided such byelaws be not repugnant to the laws of that part of the United Kingdom

Section 124. where the same are to have effect, or to the provisions of this or the special Act; and such byelaws shall be reduced into writing, and shall have affixed thereto the common seal of the company; and a copy of such byelaws shall be given to every officer and servant of the company affected thereby.

Fines for breach of such byelaws.

125. It shall be lawful for the company, by such byelaws, to impose such reasonable penalties upon all persons, being officers or servants of the company, offending against such byelaws, as the company think fit, not exceeding five pounds for any one offence.

Byelaws to be so framed as that penalties may be mitigated.

126. All the byelaws to be made by the company shall be so framed as to allow the justice before whom any penalty imposed thereby may be sought to be recovered to order a part only of such penalty to be paid, if such justice shall think fit.

Evidence of byelaws.

127. The production of a written or printed copy of the byelaws of the company, having the common seal of the company affixed thereto, shall be sufficient evidence of such byelaws in all cases of prosecution under the same.

* * * * * *

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and penalties, be it enacted as follows:

Sections 142—160 inclusive are incorporated by the Baths and Washhouses Act, 1846, s. 23, *post*, p. 2148. They are almost identical with ss. 136—140 of the Lands Clauses Consolidation Act, 1845, *post*, p. 2136. This part of the Act is printed as it remains unrepealed. The sections and parts of sections repealed were repealed by the S. J. A., 1884, s. 5 of which provides for the substitution of the procedure under the S. J. Acts, 1848 and 1879.

Provision for ascertainment of damages not otherwise provided for.

Enforcement by distress.

142. In all cases where any damages, costs, or expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not provided for, such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand, the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, on application, shall issue their or his warrant accordingly.

Distress against the treasurer.

Notice to treasurer.

Reimbursement of treasurer.

143. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, or expenses, payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

Method of proceeding before justices in questions of damages, etc.

144. Where in this or the special Act, or any Act incorporated therewith, any question of compensation, expenses, charges, or damages is referred to the determination of any one justice, or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Publication penalties.

145. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed on paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for such publication.

146. If any person shall pull down or injure any board put up or affixed as required by this or the special Act, or any Act incorporated therewith, for the purpose of publishing any byelaw or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds, and shall defray the expenses attending the restoration of such board.

Penalties to be summarily recovered before two justices.

147. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices . . .

148. [*Penalties may be levied by distress. Repealed by Summary Jurisdiction Act*, 1884.]

149. [*Imprisonment in default of distress. Repealed as above.*]

Distress, how to be levied.

150. Where in this or the special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained (*a*).

(*a*) See the S. J. A., 1879, s. 43; and as to demand before proceeding to recover overplus, *Simpson* v. *Routh* (1824), 2 L. J. O. S. K. B. 163; 2 B. & C. 682; *Philp* v. *Donati* (1809), 2 Taunt. 62.

Distress not unlawful for want of form, etc.

151. No distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved

Section 151. by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Application of penalties.

152. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, for the benefit of the poor of such parish . . . (*a*).

(*a*) The remainder of this section is repealed by the S. L. R. A., 1875. As to the appropriation of these penalties in boroughs having a separate court of quarter sessions, see the Municipal Corporations Act, 1882, s. 221.

As to the application of these penalties now that overseers have been abolished by the R. and V. Act, 1925, s. 62, see the Overseers Order, 1927 (S. R. & O. 1927, No. 55), Art. 13 (1) (*b*), in App. II., *post*, at p. 3684.

Damage to be made good in addition to penalty.

153. [*Penalties to be sued for within six months. Repealed by the Summary Jurisdiction Act*, 1884. *See now the Summary Jurisdiction Act*, 1848, *s*. 11.]

154. If, through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this or the special Act, or any Act incorporated therewith, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on nonpayment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Penalty on witnesses making default.

155. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special Act, or any Act incorporated therewith, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence (*a*).

(*a*) This section is repealed as to England and Wales so far as relates to any matter to which the S. J. Acts apply (47 & 48 Vict. c. 43, s. 4).

Transient offenders.

156. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special Act, or any Act incorporated therewith, and whose name and residence shall be unknown to such officer or agent, and convey him, with all convenient despatch, before some justice, without any warrant or other authority than this or the special Act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

157. [*Form of conviction. Repealed by Summary Jurisdiction Act*, 1884.]

Proceedings not to be quashed for want of form, etc.

158. No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts.

Appeal.

Parties allowed to appeal to quarter sessions on giving security.

159. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special Act, or any Act incorporated therewith, such party may appeal to the general quarter sessions . . . (*a*).

(*a*) See S. J. Acts, 1879, s. 31, and 1884, s. 6.

Court to make such order as they think reasonable.

160. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may conform or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

* * * * * *

SCHEDULES referred to by the foregoing Act.

* * * * * *

SCHEDULE (C.) (*a*).

FORM OF MORTGAGE DEED.

"The Company."

Mortgage, Number . £

By virtue of [*here name the special Act*] we, "The Company," in consideration of the sum of pounds paid to us by *A. B.*, of , do assign unto the said *A. B.*, his executors, administrators, and assigns, the said undertaking, [and (*in case such loan shall be in anticipation of the capital authorised to be raised*) all future calls on shareholders,] and all the tolls and sums of money arising by virtue of the said Act, and all the estate, right, title, and interest of the company in the same, to hold unto the said *A. B.*, his executors, administrators, and assigns, until the said sum of pounds, together with interest for the same at the rate of for every one hundred pounds by the year, be satisfied [the principal sum to be repaid at the end of years from the date hereof (*in case any period be agreed upon for that purpose*)] [at , *or any place of payment other than the principal office of the company*].

Given under our common seal, this day of , in the year of our Lord .

(*a*) See s. 41, *ante*, p. 2079.

SCHEDULE (D.) (*a*).

FORM OF BOND.

"The Company."

Bond, Number . £

By virtue of [*here name the special Act*], we, "The Company," in consideration of the sum of pounds to us in hand paid by *A. B.*, of , do bind ourselves and our successors unto the said *A. B.*, his executors, administrators, and assigns, in the penal sum of pounds.

The condition of the above obligation is such, that, if the said company shall pay to the said *A. B.*, his executors, administrators, or assigns, [at (*in case any other place of payment than the principal office of the company be intended*),] on the day of which will be in the year one thousand eight hundred

Schedule.

and , the principal sum of pounds, together with interest for the same at the rate of pounds per centum per annum, payable half-yearly on the day of and day of , then the above-written obligation is to become void, otherwise to remain in full force.

Given under our common seal, this day of one thousand eight hundred and .

(a) See s. 41, *ante*, p. 2079.

SCHEDULE (E.) (*a*).

FORM OF TRANSFER OF MORTGAGE OR BOND.

I, *A. B.*, of , in consideration of the sum of paid to me by *G. H.*, of , do hereby transfer to the said *G. H.*, his executors, administrators, and assigns, a certain bond [*or* mortgage] number , made by "The Company," to , bearing date the day of , for securing the sum of , and interest, [*or, if such transfer be by endorsement*, the within security,] and all my right, estate, and interest in and to the money thereby secured [*and if the transfer be of a mortgage*, and in and to the tolls, money, and property thereby assigned].

In witness whereof I have hereunto set my hand and seal, this day of one thousand eight hundred and .

* * * * * *

(a) See s. 46, *ante*, p. 2080.

THE LANDS CLAUSES CONSOLIDATION ACT, 1845.

(8 & 9 VICT. C. 18) (*a*).

An Act for consolidating in one Act certain Provisions usually inserted in Acts authorising the taking of Lands for Undertakings of a public nature.

[8th May 1845.]

Act to apply to all undertakings authorised by Acts hereafter to be passed.

[**1.**] This Act shall apply to every undertaking authorised by any Act which shall hereafter (*b*) be passed, and which shall authorise the purchase or taking of lands for such undertaking, and this Act shall be incorporated with such Act; and all the clauses and provisions of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act (*c*).

(*a*) This Act is incorporated with the P. H. A., 1875, s. 176, *ante*, p. 436, except as therein mentioned. It is also incorporated with other Acts included in this Appendix, *e.g.*, the Baths and Washhouses Act, 1847, s. 4, *post*, p. 2213. It is amended by 23 & 24 Vict. c. 106; 46 & 47 Vict. c. 15; 58 & 59 Vict. c. 11. It should be noticed, however, that in the application of the provisions of the Lands Clauses Acts in some cases, these provisions have been largely modified by recent legislation. The Small Holdings and Allotments Act, 1908, s. 39, *ante*, p. 1172, incorporates the Lands Clauses Acts with reference to the compulsory acquisition of land subject to the modifications contained in Sched. I. to that Act. A similar provision is contained in s. 40 (4) of the Housing Act, 1925, *ante*, p. 1415. Reference may also be made to s. 20 (2) and Sched. III., *ibid.*, *ante*, p. 1396. See also, the Defence of the Realm (Acquisition of Land) Act, 1916, *post*, p. 2742, and the Land Settlement (Facilities) Act, 1919, *ante*, p. 1278. And reference must be made to the Acquisition of Land (Assessment of Compensation) Act, 1919, *ante*, p. 1271, which provides generally for the procedure as to the assessment of compensation in respect of land acquired compulsorily for public purposes, and largely supersedes the provisions of the Lands Clauses Acts in cases to which it applies.

(*b*) See, as to a corporation incorporated before 1845, but empowered to take lands under later Acts, *In re Mills' Estate* (1887), 34 Ch. D. 24; 51 J. P. 151. A private charity incorporated by charter is not an undertaking of a public nature within the meaning of this Act (*Re Sion College* (1887), 57 L. T. (N.S.) 743).

(c) The preamble and part of s. 1 were repealed by the S. L. R. A., 1891.

Note to Section 1.

And with respect to the construction of this Act and of Acts to be incorporated therewith, be it enacted as follows:

Interpretation.

2. The expression "the special Act," used in this Act, shall be construed to mean any Act which shall be hereafter passed which shall authorise the taking of lands for the undertaking to which the same relates, and with which this Act shall be so incorporated as aforesaid; and the word "prescribed" used in this Act, in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the works" or "the undertaking" shall mean the works or undertaking, of whatever nature, which shall by the special Act be authorised to be executed; and the expression "the promoters of the undertaking" shall mean the parties, whether company, undertakers, commissioners, trustees, corporations, or private persons, by the special Act empowered to execute such works or undertaking (*a*).

"Special Act." "Prescribed." "The works." "Promoters of the undertaking."

(*a*) As to the meaning of these expressions when read as incorporated with the P. H. A., 1875, see s. 316 of that Act, *ante*, p. 655.

3. The following words and expressions, both in this and the special Act, shall have the several meanings hereby assigned to them, unless there be something either in the subject or context repugnant to such construction; (that is to say,)

Interpretations in this and the special Act.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include the singular number: — Number.

Words importing the masculine gender only shall include females: — Gender.

The word "lands" shall extend to messuages, lands, tenements, and hereditaments of any tenure (*a*): — "Lands."

The word "lease" shall include an agreement for a lease: — "Lease."

The word "month" shall mean calendar month: — "Month."

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster . . . (*b*): — "Superior courts."

The word "oath" shall include affirmation in the case of Quakers, or other declaration lawfully substituted for an oath in the case of any other persons exempted by law from the necessity of taking an oath: — "Oath."

The word "county" shall include any riding or other like division of a county and shall also include county of a city or county of a town: — "County."

The word "sheriff" shall include under sheriff, or other legally competent deputy; and where any matter in relation to any lands is required to be done by any sheriff, or by any clerk of the peace, the expression "the sheriff," or the expression "the clerk of the peace," shall in such case be construed to mean the sheriff or the clerk of the peace of the county, city, borough, liberty, cinque port, or place where such lands shall be situate; and if the lands in question, being the property of one and the same party, be situate not wholly in one county, city, borough, liberty, cinque port, or place, the same expression shall be construed to mean the sheriff or clerk of the peace of any county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate: — "Sheriff." "Clerk of the peace."

Section 3.

"Justices." The word "justices" shall mean justices of the peace acting for the county, city, liberty, cinque port, or place where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter; and where such matter shall arise in respect of lands, being the property of one and the same party, situate not wholly in any one county, city, borough, liberty, cinque port, or place, the same shall mean a justice acting for the county, city, borough, liberty, cinque port, or place where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorised or required to be done by two justices, "Two justices." the expression "two justices" shall be understood to mean two justices assembled and acting together:

"Owner." Where under the provisions of this or the special Act, or any Act incorporated therewith, any notice shall be required to be given to the owner of any lands, or where any act shall be authorised or required to be done with the consent of any such owner, the word "owner" shall be understood to mean any person or corporation who, under the provisions of this or the special Act, would be enabled to sell and convey lands to the promoters of the undertaking (*c*):

"The Bank." The expression "the Bank" shall mean the Bank of England where the same shall relate to moneys to be paid or deposited in respect of lands situate in England . . . (*b*):

(*a*) It seems to be doubtful whether the definition includes incorporeal hereditaments, such as easements. See *G. W. Rail. Co.* v. *Swindon, etc. Rail. Co.* (1884), 9 App. Cas. 787; 48 J. P. 921; and *per* VAUGHAN WILLIAMS, L.J., in *Re City and South London Railway and St. Mary Woolnoth*, [1903] 2 K. B. at p. 737. Compare the definition in the P. H. A., 1875, s. 4, *ante*, p. 8; and see s. 176, *ante*, p. 436, and notes. The definition of "land" in the Law of Property Act, 1925, and the Settled Land Act, 1925, is much wider than the definition in the text and this fact should be borne in mind when construing the provisions of those Acts referred to in the notes to this Act.

(*b*) Words relating to Ireland only are omitted here.

(*c*) This definition includes mortgagees of land who have a power of sale. See *Martin* v. *L. C. & D. Ry.* (1866), 1 Ch. App. 501; *R.* v. *Middlesex* (*Clerk of Peace of*), [1914] 3 K. B. 259. The extended powers of sale conferred by the Settled Land Act, 1925, should be borne in mind in connection with this definition.

Short title of the Act.

4. In citing this Act in other Acts of Parliament and in legal instruments it shall be sufficient to use the expression "The Lands Clauses Consolidation Act, 1845" (*a*).

(*a*) The expression "Lands Clauses Acts" is sanctioned by the Interpretation Act, 1889, s. 23.

Form in which portions of this Act may be incorporated with other Acts.

5. And whereas it may be convenient in some cases to incorporate with Acts of Parliament hereafter to be passed some portion only of the provisions of this Act: Be it therefore enacted, that for the purpose of making any such incorporation it shall be sufficient in any such Act to enact that the clauses of this Act with respect to the matter so proposed to be incorporated (describing such matter as it is described in this Act in the words introductory to the enactment with respect to such matter), shall be incorporated with such Act, and thereupon all the clauses and provisions of this Act with respect to the matter so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if the substance of such clauses and provisions were set forth therein with reference to the matter to which such Act shall relate.

Purchase of lands by agreement.

And with respect to the purchase of lands by agreement, be it enacted as follows:

Power to purchase lands by agreement.

6. Subject to the provisions of this and the special Act it shall be lawful for the promoters of the undertaking to agree with the owners of any lands by the special Act authorised to be taken, and which shall be required for the purposes of such Act, and with all parties having any estate or interest in such lands, or by this or the special Act enabled to sell and convey the same, for the absolute purchase, for a consideration in money, of any such lands, or such parts thereof as they shall think proper, and of all estates and interests in such lands of what kind soever (*a*).

(*a*) See *Errington* v. *Metropolitan District Rail. Co.* (1882), 19 Ch. D. 559. A person having a mere possessory title, good against every one but the lawful owner and in course of becoming absolute as against him, has a primâ facie right to compensation (*Perry* v. *Clissold*, [1907] A. C. 73).

The promoters cannot bind themselves not to use their statutory powers in respect of any portion of the lands taken, even though the owner agrees to accept a smaller sum by way of compensation in consideration of a restriction in the conveyance on the user of the lands (*Ayr Harbour Trustees* v. *Oswald* (1883), 8 App. Cas. 623; *Re S. E. Rail. Co. and Wiffin's Contract*, [1907] 2 Ch. 366). And see *Stourcliffe Estates Co., Ltd.* v. *Bournemouth Corporation*, [1910] 2 Ch. 12; 74 J. P. 289. See, however, a special power of this nature in relation to improvement lines given by P. H. A., 1925, s. 33 (7), *ante*, p. 1577.

Parties under disability enabled to sell and convey.

7 (*a*). It shall be lawful for all parties, being seised, possessed of, or entitled to any such lands, or any estate or interest therein, to sell and convey or release the same to the promoters of the undertaking, and to enter into all necessary agreements for that purpose; and particularly it shall be lawful for all or any of the following parties so seised, possessed, or entitled as aforesaid so to sell, convey, or release; (that is to say,) all corporations, tenants in tail (*b*) or for life, married women seised in their own right (*c*) or entitled to dower, guardians, committees of lunatics and idiots (*d*), trustees or feoffees in trust for charitable or other purposes, executors and administrators (*e*), and all parties for the time being entitled to the receipt of the rents and profits of any such lands in possession or subject to any estate in dower, or to any lease for life, or for lives and years, or for years, or any less interest; and the power so to sell and convey or release as aforesaid may lawfully be exercised by all such parties, other than married women entitled to dower, or lessees for life, or for lives and years, of for years, or for any less interest, not only on behalf of themselves and their respective heirs, executors, administrators, and successors, but also for and on behalf of every person entitled in reversion, remainder, or expectancy after them, or in defeasance of the estates of such parties, and as to such married women, whether they be of full age or not, as if they were sole and of full age, and as to such guardians, on behalf of their wards, and as to such committees, on behalf of the lunatics and idiots of whom they are the committees respectively, and that to the same extent as such wives, wards, lunatics and idiots respectively could have exercised the same power under the authority of this or the special Act if they had respectively been under no disability, and as to such trustees, executors, and administrators, on behalf of their cestui que trusts, whether infants, issue unborn, lunatics, femes covert, or other persons, and that to the same extent as such cestui que trusts respectively could have exercised the same powers under the authority of this and the special Act if they had respectively been under no disability.

(*a*) This section is to take effect as if the references to the disabilities which were removed by the Law of Property Act, 1922 (see now the Settled Land Act, 1925 (15 Geo. 5, c. 18)), had been omitted (15 Geo. 5, c. 5, Sched. IX. 2). Under the Settled Land Act a tenant for life (ss. 38, 39 (5) and 58), a tenant in tail in possession (s. 20 (1) (i)), a married woman (s. 20 (1) (x) and s. 25) and trustees for charitable, ecclesiastical or public trusts or purposes (s. 29) are given powers of sale. The powers of dealing with settled property and of property subject to equitable interests is outside the scope of this work and is too involved a subject to permit of being effectively dealt with in a note. Reference should,

Note to Section 7.

therefore, be made to one of the standard works on the Law of Property Act, 1925, the Settled Land Act, 1925, and the Administration of Estates Act, 1925.

(*b*) Even if the estate tail is inalienable; but this statute does not extend to the Crown (*In re Cuckfield Burial Board* (1856), 19 Beav. 153).

(*c*) The trustees of land for married women, who are absolutely entitled for their separate use, cannot contract to sell under this section (*Peters* v. *Lewes and East Grinstead Rail. Co.* (1881), 18 Ch. D. 429).

(*d*) Note that only the committee, not the lunatic, can sell. See *Re Tugwell* (1884), 27 Ch. D. 309).

(*e*) This means executors and administrators who are seised, possessed of, or entitled to land or any estate or interest therein, and not executors or administrators who have only a power of sale (*Re Barrow-in-Furness Corporation and Rawlinson's Contracts*, [1903] 1 Ch. 339). See also the Administration of Estates Act, 1925.

Parties under disability to exercise other powers.

8. The power hereinafter given to enfranchise copyhold lands (*a*), as well as every other power required to be exercised by the lord of any manor pursuant to the provisions of this or the special Act, or any Act incorporated therewith, and the power to release lands from any rent, charge, or incumbrance, and to agree for the apportionment of any such rent, charge, or incumbrance, shall extend to and may lawfully be exercised by every party hereinbefore enabled to sell and convey or release lands to the promoters of the undertaking.

(*a*) All copyhold lands are enfranchised by the Law of Property Act, 1922.

Amount of compensation in case of parties under disability to be ascertained by valuation, and paid into the Bank.

9. The purchase money or compensation to be paid for any lands to be purchased or taken from any party under any disability or incapacity, and not having power to sell or convey such lands except under the provisions of this or the special Act, and the compensation to be paid for any permanent damage or injury to any such lands, shall not, except where the same shall have been determined by the verdict of a jury, or by arbitration, or by the valuation of a surveyor appointed by two justices under the provision hereinafter contained, be less than shall be determined by the valuation of two able practical surveyors, one of whom shall be nominated by the promoters of the undertaking, and the other by the other party (*a*), and if such two surveyors cannot agree in the valuation, then by such third surveyor as any two justices shall, upon application of either party, after notice to the other party, for that purpose nominate; and each of such two surveyors, if they agree, or if not, then the surveyor nominated by the said justices, shall annex to the valuation a declaration in writing subscribed by them or him, of the correctness thereof; and all such purchase money or compensation shall be deposited in the Bank for the benefit of the parties interested, in manner hereinafter mentioned (*b*).

(*a*) The surveyor must not be the party himself (*Peters* v. *Lewes, etc. Rail. Co.*, *ante, supra*).

(*b*) See s. 69, *post*, p. 2109. The declaration in writing is necessary before a claim can be made for specific performance (*Bridgend Gas and Water Co.* v. *Dunraven* (1886), 31 Ch. D. 219). See note (*a*) to s. 7, *ante*, p. 2091. "Where a purchaser has power to acquire land "compulsorily and a contract, whether by virtue of a notice to treat or otherwise is sub"sisting under which title can be made without payment of the compensation money into "court, title shall be made in that way unless the purchaser, to avoid expense or delay or "for any special reason, considers it expedient that the money should be paid into court" (s. 42 (7), Law of Property Act, 1925 (15 Geo. 5, c. 20)).

Where vendor absolutely entitled, lands may be sold on chief rents.

10. It shall be lawful for any person seised in fee of or entitled to dispose of absolutely for his own benefit any lands authorised to be purchased for the purposes of the special Act to sell and convey such lands or any part thereof unto the promoters of the undertaking in consideration of an annual rent-charge payable by the promoters of the undertaking, *but, except as aforesaid, the consideration to be paid for the purchase of any such lands, or for any damage done thereto, shall be in a gross sum* (*a*).

Note to Section 10.

(*a*) So much of this section as provides that, save in the case of lands of which any person is seised in fee, or entitled to dispose absolutely for his own benefit, the consideration to be paid for any lands or for any damage done thereto shall be in a gross sum, was repealed by 23 & 24 Vict. c. 106, s. 1. The power to sell for an annual rent-charge provided by this section is extended by 23 & 24 Vict. c. 106, s. 2, *post*, to parties under disability. The amount of the rent-charge is under s. 4 of that Act to be settled in manner directed by s. 9, *supra*. The Law of Property Act, 1922, 12 & 13 Geo. 5. c. 16, s. 39, provided that the power conferred by s. 10 to sell and convey land in consideration of an annual rent-charge shall extend to a tenant for life in like manner in all respects as if he had been entitled to dispose of the settled land absolutely for his own benefit, and accordingly, s. 4 of the Lands Clauses Act, 1860, shall not apply to such a sale. That section is, however, repealed by the Settled Land Act, 1925 (15 Geo. 5, c. 18), which does not contain an identical provision though the same effect results from the combined operation of ss. 38 and 39, *ibid.*, and s. 9 and Sched. IX. of the Law of Property (Amendment) Act, 1924 (15 Geo. 5, c. 5). See also note (*a*) to s. 7, *ante*, p. 2091. On a contract of sale for a yearly rentcharge, under which the undertakers have entered, the vendor has no lien for arrears of the rentcharge (*Earl of Jersey* v. *Briton Ferry Floating Dock Co.* (1869), L. R. 7 Eq. 409).

Payment of rents to be charged on tolls.

11. The yearly rents reserved by any such conveyance shall be charged on the tolls or rates, if any, payable under the special Act, and shall be otherwise secured in such manner as shall be agreed between the parties (*a*), and shall be paid by the promoters of the undertaking as such rents become payable; and if at any time such rents be not paid within thirty days after they so become payable, and after demand thereof in writing, the person to whom any such rent shall be payable may either recover the same from the promoters of the undertaking, with costs of suit, by action of debt in any of the superior courts, or it shall be lawful for him to levy the same by distress of the goods and chattels of the promoters of the undertaking (*b*).

(*a*) *E.g.*, by a power of entry (*Forster* v. *Manchester and Milford Rail. Co.* (1880), 49 L. J. Ch. 454).

(*b*) The power given by this section is extended by 23 & 24 Vict. c. 106, s. 2, *post*, to persons under a disability. As to the removal of certain classes of persons from this category, see note (*a*) to s. 7, *ante*, p. 2091. The holder of a rentcharge may be allowed leave to distrain, notwithstanding the appointment of a receiver (*Eyton* v. *Denbigh, Ruthin, and Corwen Rail. Co.* (1869), L. R. 6 Eq. 14, 488). The rentcharge is a first charge upon the land conveyed, but upon that land only (*Eyton* v. *Denbigh, Ruthin, and Corwen Rail. Co.* (1869), L. R. 7 Eq. 439).

Power to purchase lands required for additional accommodation.

12. In case the promoters of the undertaking shall be empowered by the special Act to purchase lands for extraordinary purposes, it shall be lawful for all parties who, under the provisions hereinbefore contained, would be enabled to sell and convey lands, to sell and convey the lands so authorised to be purchased for extraordinary purposes.

Authority to sell and re-purchase such lands.

13. It shall be lawful for the promoters of the undertaking to sell the lands which they shall have so acquired for extraordinary purposes, or any part thereof, in such manner, and for such considerations, and to such persons, as the promoters of the undertaking may think fit, and again to purchase other lands for the like purposes, and afterwards sell the same, and so from time to time; but the total quantity of land to be held at any one time by the promoters of the undertaking for the purposes aforesaid shall not exceed the prescribed quantity.

Restraint on purchase from incapacitated persons.

14. The promoters of the undertaking shall not, by virtue of the power to purchase land for extraordinary purposes (*a*), purchase more than the prescribed quantity from any party under legal disability, or who would not be able to sell and convey such lands except under the powers of this and the special Act; and if the promoters of the undertaking purchase the said quantity of land from any party under such legal disability, and afterwards sell the whole or any part of the land so purchased, it shall not be lawful for any party being under legal disability to sell to the promoters

Section 14. of the undertaking any other lands in lieu of the land so sold or disposed of by them (*b*).

(*a*) See *Hooper* v. *Bourne* (1877), 3 Q. B. D., at p. 272. And see also s. 175 of the P. H. A., 1875, *ante*, p. 412.

(*b*) As to persons under disability, see note (*a*) to s. 7 on p. 2091, *ante*.

Municipal corporations not to sell without the approbation of the Treasury.

15. Nothing in this or the special Act contained shall enable any municipal corporation to sell for the purposes of the special Act, without the approbation of the Treasury, any lands which they could not have sold without such approbation before the passing of the special Act, other than such lands as the company are by the powers of this or the special Act empowered to purchase or take compulsorily.

Purchase of lands otherwise than by agreement.

And with respect to the purchase and taking of lands otherwise than by agreement, be it enacted as follows (*a*):

* * * * * *

(*a*) Sections 16 and 17 relate to the subscription of capital before these clauses are put in force. They are not set out here, as they cannot apply to local authorities.

This group of sections relates to the compulsory acquisition of land. As already stated in note (*a*) on p. 2088, *ante*, they have been modified in their application to certain cases. The P. H. A., 1875, s. 176, *ante*, p. 436, contains certain conditions upon which these clauses may be put in force. But the assessment of compensation in respect of land acquired compulsorily for public purposes is now regulated by the Acquisition of Land (Assessment of Compensation) Act, 1919, 9 & 10 Geo. 5, c. 57. See that Act, *ante*, p. 1271.

Mortgagees of land with a power of sale are entitled under these clauses to all the rights of owners. See *R.* v. *Middlesex* (*Clerk of the Peace of*), [1914] 3 K. B. 259.

As to the power of the Crown to take lands without payment of compensation in time of war, see *Re a petition of right*, [1915] 3 K. B. 649; 84 L. J. K. B. 1961; 32 T. L. R. 699; *Att.-Gen.* v. *De Keyser's Royal Hotel*, [1920] A. C. 508.

Notice of intention to take lands.

18. When the promoters of the undertaking shall require to purchase or take any of the lands which by this or the special Act, or any Act incorporated therewith, they are authorised to purchase or take (*a*), they shall give notice thereof to all the parties interested in such lands, or to the parties enabled by this Act to sell and convey or release the same, or such of the said parties as shall, after diligent inquiry, be known to the promoters of the undertaking, and by such notice shall demand from such parties the particulars of their estate and interest in such lands, and of the claims (*b*) made by them in respect thereof; and every such notice shall state the particulars of the lands so required, and that the promoters of the undertaking are willing to treat for the purchase thereof, and as to the compensation to be made to all parties for the damage that may be sustained by them by reason of the execution of the works (*c*).

(*a*) As to the meaning of these words, see *Spencer* v. *Metropolitan Board of Works* (1882), 22 Ch. D. 142. The corporation of a borough, being empowered by a local Act which incorporated this Act to erect and maintain in, on, over, or under any street in which their tramways were laid poles and posts for the purpose of working the tramways by mechanical power, were held not to have taken land within the meaning of this Act by erecting a post on it in the pavement forming part of a street, and that a preliminary notice to or consent by the owner of the soil in order to justify their action was not required (*Escott* v. *Newport Corporation*, [1904] 2 K. B. 369; 68 J. P. 135).

(*b*) W. was the lessor, and S. was the lessee of premises the frontage of which was compulsorily acquired by a tramway company under statutory powers. W. had claimed a certain sum as the present value of the frontage deferred until the expiration of the lease, and had accepted an offer by the company of a smaller sum "for the purchase of the interest claimed by you." S. on assigning the lessee's interest in the frontage covenanted with the company to pay the whole rent reserved by his lease. On an originating summons, W. asked to be declared entitled to require the company to procure from S. at their own expense a covenant by S. with W. to pay the whole rent reserved without deduction for severance. It was held that as W. had not put forward his claim on the ground that he would be deprived of any portion of the rent, there was no contract between

Note to Section 18.

W. and the company for the covenant asked for (*In re Way and London United Tramways Co., Ltd.* (1908), 125 L. T. Jo. 594).

(*c*) If notice to treat is served before applying to Parliament for power to take land, and the Act gives power to take more land than that described in the notice, such additional land may be taken, though it was not included in the notice (*In re Corporation of Huddersfield and Jacomb* (1875), L. R. 10 Ch. 92). After notice to treat an owner cannot deal with his property so as to cast any additional expense on the undertakers (*In re Marylebone Improvement Act* (1871), L. R. 12 Eq. 389; *Metropolitan Rail. Co.* v. *Woodhouse* (1864), 34 L. J. Ch. 297; 12 L. T. (N.S.) 113); nor can he deal with other property not included in the notice to treat, but injuriously affected by the proposed works, so as to give persons bonâ fide acquiring an interest in such property a right to compensation for injurious affection (*Mercer* v. *Liverpool, St. Helens, and South Lancashire Rail. Co.*, [1904] A. C. 461; 68 J. P. 533). An owner may before acceptance withdraw and amend his claim, therefore where an owner (possessing a leasehold interest) claims for disturbance and makes no claim in respect of the leasehold interest and subsequent to the notice to treat and before his claim is accepted, assigns his leasehold interest, his assignee is in the same position as the owner and can withdraw or amend the claim either expressly or by sending in a claim in respect of the leasehold interest wholly inconsistent with the original claim. The undertakers cannot on receipt of such a claim ignore the assignee and continue to treat and contract with the original owner (*Cardiff Corporation* v. *Cook*, [1923] 2 Ch. 115; 87 J. P. 90). But he may transfer his interest *in toto* (*Sewell* v. *Harrow and Uxbridge Rail. Co.* (1904), 19 T. L. R. 130; settled on appeal, 20 T. L. R. 21; see also *Zick* v. *London United Tramways, Ltd.*, [1908] 2 K. B. 126; 72 J. P. 257). The mere fact that the promoters have already taken possession of the property does not preclude them from their statutory right to give notice to treat (*Cooke* v. *London C. C.*, [1911] 1 Ch. 604; 75 J. P. 309). For a case where a builder after notice to treat suspended operations, having obtained an extension of time under his agreement, see *Birmingham and District Land Co.* v. *L. & N. W. Rail. Co.* (1889), 40 Ch. D. 268. Where notice to treat is given in respect of part only of the land comprised in a building agreement, the building agreement may be still binding in respect of the land not included (*Re Furness and Willesden U. D. C.* (1906), 70 J. P. 25; 22 T. L. R. 52). As to what expenditure by an owner can be recovered as thrown away, and therefore damage by reason of the execution of the works, see *Re Streatham and General Estates Co.* (1886), 4 T. L. R. 766. Notice to treat operates to release the landowner from any restrictive covenants that he may be under in respect of the land comprised in it (*Bailey* v. *De Crespigny* (1869), L. R. 4 Q. B. 180). The remedy of the covenantee is, under s. 68, for compensation from the undertakers, and not for an injunction or damages (*Kirby* v. *Harrogate School Board*, [1896] 1 Ch. 437; 60 J. P. 182; *Long Eaton Recreation Grounds Co.* v. *Midland Rail. Co.*, [1902] 2 K. B. 574; 67 J. P. 1). But a lessor may recover substantial damages for breach of covenant to repair committed after notice to treat and before assignment to the promoters (*Mills* v. *East London Union* (1873), L. R. 8 C. P. 79). Notice to treat does not make the landowner's claim for compensation an attachable debt before the compensation has been assessed (*Richardson* v. *Elmit* (1877), 2 C. P. D. 9). Where notice to treat is properly withdrawn, a second notice can be given provided the time limited under s. 123, *post*, p. 2132, has not expired (*Ashton Vale Iron Co.* v. *Bristol Corporation*, [1901] 1 Ch. 591). Persons known to be equitable mortgagees having a lien over the lands proposed to be taken, ought to be served with notice to treat as being "parties interested" (*Martin* v. *L. C. & D. Rail. Co.* (1866), 1 Ch. App. 501). And see *R.* v. *Middlesex* (*Clerk of the Peace of*), [1914] 3 K. B. 259.

Where a proposed road is mentioned in the particulars scheduled to a notice to treat as one of the boundaries of the land to be purchased, the same must be regarded as descriptive only, and not as passing any right to have the road constructed, or any right over land adjacent to the land to be purchased (*In re London School Board and Foster* (1898), 87 L. T. (N.S.) 700).

As to what is a sufficient notice to treat, see *Shepherd* v. *Norwich Corporation* (1885), 30 Ch. D. 553. The notice to treat must be for the whole estate or interest of the parties interested in the lands (*In re Chilworth Gunpowder Co. and Manchester Ship Canal Co.* (1891), 8 T. L. R. 79). As to the effect of a notice to treat for part only of a building, see s. 92 and notes thereto, *post*, p. 2121.

For a general form of notice to treat, see Encyclopædia of Forms and Precedents, Vol. IX., p. 42.

Service of notices on owners and occupiers of lands.

19. All notices required to be served by the promoters of the undertaking upon the parties interested in or entitled to sell any such lands shall either be served personally on such parties or left at their last usual place of abode, if any such can after diligent inquiry be found, and in case any such parties shall be absent from the United Kingdom, or cannot be found after diligent inquiry, shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

Section 20.

Service of notice on a corporation aggregate.

20. If any such party be a corporation aggregate such notice shall be left at the principal office of business of such corporation, or, if no such office can after diligent inquiry be found, shall be served on some principal member, if any, of such corporation, and such notice shall also be left with the occupier of such lands, or, if there be no such occupier, shall be affixed upon some conspicuous part of such lands.

If parties fail to treat or in case of dispute question to be settled as after mentioned.

21. If for twenty-one days after the service of such notice any such party shall fail to state the particulars of his claim in respect of any such land, or to treat with the promoters of the undertaking in respect thereof, or if such party and the promoters of the undertaking shall not agree as to the amount of the compensation to be paid by the promoters of the undertaking for the interest in such lands belonging to such party, or which he is by this or the special Act enabled to sell, or for any damage that may be sustained by him by reason of the execution of the works, the amount of such compensation shall be settled in the manner hereinafter provided for settling cases of disputed compensation (*a*).

(*a*) See ss. 25—57, *post*. And see also the Acquisition of Land (Assessment of Compensation) Act, 1919, 9 & 10 Geo. 5, c. 57, *ante*, p. 1271. As to the right of a person whose lands are taken in respect of a right of pre-emption over adjoining lands, see *Clout* v. *Metropolitan Rail. Co.* (1883), 48 L. T. (N.S.) 257.

Disputes as to compensation where the amount claimed does not exceed £50 to be settled by two justices.

22. If no agreement be come to between the promoters of the undertaking and the owners of or parties by this Act enabled to sell and convey or release any lands taken or required for or injuriously affected (*a*) by the execution of the undertaking, or any interest in such lands, as to the value of such lands or of any interest therein, or as to the compensation to be made in respect thereof, and if in any such case the compensation claimed shall not exceed fifty pounds, the same shall be settled by two justices (*b*).

See now the Acquisition of Land (Assessment of Compensation) Act, 1919, *ante*, p. 1271.

(*a*) That is, if injuriously affected, whether taken or not (*R.* v. *St. Luke's* (*Chelsea*) *Vestry* (1872), L. R. 7 Q. B. 148).

(*b*) The summons to hear and determine the question of compensation may be issued more than six months after the service of the notice to treat (*R.* v. *Hannay* (1875), 44 L. J. M. C. 27; 31 L. T. 702. See also s. 24, *post*, p. 2097, and note thereto).

Compensation exceeding £50 to be settled by arbitration or jury, at the option of the party claiming compensation.

23. If the compensation claimed or offered in any such case shall exceed fifty pounds, and if the party claiming compensation desire to have the same settled by arbitration (*a*), and signify such desire by notice in writing to the promoters of the undertaking, before they have issued their warrant to the sheriff to summon a jury in respect of such lands, under the provisions hereinafter contained, stating in such notice the nature of the interest in respect of which such party claims compensation, and the amount of the compensation so claimed, the same shall be so settled accordingly; but unless the party claiming compensation shall as aforesaid signify his desire to have the question of such compensation settled by arbitration, or if when the matter shall have been referred to arbitration the arbitrators or their umpire shall for three months have failed to make their or his award (*b*), or if no final award shall be made, the question of such compensation shall be settled by the verdict of a jury, as hereinafter provided.

(*a*) That is, by arbitration under this Act, not under the P. H. A., 1875. See *Ex parte Rayner* (1878), 3 Q. B. D. 446; 42 J. P 807. But see now the Acquisition of Land (Assessment of Compensation) Act, 1919, 9 & 10 Geo. 5, c. 57, *ante*, p. 1271, which prescribes the procedure for assessment of compensation where land is compulsorily acquired for public purposes.

Form of notice for arbitration, Encyclopædia of Forms and Precedents, Vol IX., p. 50.

Service of a subsequent notice to treat in respect of a larger piece of land does not put an end to the arbitration agreed upon in respect of the compensation payable for the smaller (*Rebbeck* v. *Bournemouth Corporation*, Times, March 17th, 1902). Where an owner of two contiguous pieces of land forming an area suitable, and it may be best suited, for development and use as one building site, sells under compulsion a part of one piece as a part of that piece, and without any reference to his interest in the other piece, the purchase price for the land so contracted to be sold must be calculated without reference to the vendors interest in the other piece, and is not to be ascertained by deducting the value of what is left to the owner of the two pieces after the sale from their aggregate value immediately prior to the sale (*S. E. Rail. Co.* v. *L. C. C.*, [1915] 2 Ch. 252 ; 79 J. P. 545).

(*b*) The umpire has a period of three months from the time when the arbitration devolves upon him (*Skerratt* v. *North Staffordshire Rail. Co.* (1848), 17 L. J. Ch. 161 ; *In re Bradshaw* (1848), 12 Q. B. 562 ; *In re Pullen and the Mayor of Liverpool* (1882), 51 L. J. Q. B. 285 ; 46 J. P. 468). The parties may by consent extend the time. The court can also extend the time for making the award even after the expiration of the three months (*In re Dare Valley Rail. Co.* (1869), 4 Ch. App. 554 ; *Rhodes* v. *Airedale Drainage Commissioners* (1876), 1 C. P. D. 403 ; *Warburton* v. *Haslingden L. B.* (1879), 48 L. J. Q. B. 451 ; Arbitration Act, 1889, s. 9, *ante*, p. 835 ; *Knowles & Sons, Ltd.* v. *Bolton Corporation*, [1900] 2 Q. B. 253).

Method of proceeding for settling disputes as to compensation by justices.

24. It shall be lawful for any justice, upon the application of either party with respect to any question of disputed compensation by this or the special Act, or any Act incorporated therewith, authorised to be settled by two justices, to summon the other party to appear before two justices, at a time and place to be named in the summons, and upon the appearance of such parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such justices to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, upon oath, and the costs of every such inquiry shall be in the discretion of such justices, and they shall settle the amount thereof (*a*).

(*a*) A settlement by justices under this section of the compensation due to any person is not an order within 11 & 12 Vict. c. 43, s. 11, and need not be made within six months (*R.* v. *Edwards* (1884), 13 Q. B. D. 586 ; 49 J. P. 117, overruling *Re Edmundson* (1851), 17 Q. B. 67).

Appointment arbitrators when questions are to be determined by arbitration.

25. When any question of disputed compensation by this or the special Act, or any Act incorporated therewith, authorised or required to be settled by arbitration shall have arisen, then, unless both parties shall concur in the appointment of a single arbitrator (*a*), each party, on the request of the other party, shall nominate and appoint an arbitrator, to whom such dispute shall be referred ; and every appointment of an arbitrator shall be made on the part of the promoters of the undertaking (*b*) under the hands of the said promoters or any two of them, or of their secretary or clerk, and on the part of any other party under the hand of such party, or if such party be a corporation aggregate under the common seal of such corporation ; and such appointment shall be delivered to the arbitrator, and shall be deemed a submission to arbitration on the part of the party by whom the same shall be made ; and after any such appointment shall have been made neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation ; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matter so required to be referred to arbitration, shall have been served by the one party on the other party to appoint an arbitrator, such last-mentioned party fail to appoint such arbitrator, then upon such failure the party making the request, and having himself appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties (*c*), and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

(*a*) Form of appointment of single arbitrator, Encyclopædia of Forms and Precedents, Vol. IX., p. 51.

Note to Section 25.

(*b*) Form of appointment of arbitrator by promoters, Encyclopædia of Forms and Precedents, Vol. IX., p. 51; the like under protest, *ibid.*, p. 52. Form of notice by promoters and request to appoint, *ibid.*, p. 55.

(*c*) Form of appointment of arbitrator to act for both parties where one party has failed to appoint, Encyclopædia of Forms and Precedents, Vol. IX., p. 53.

Vacancy of arbitrator to be supplied

26. If before the matters so referred shall be determined any arbitrator appointed by either party die, or become incapable, the party by whom such arbitrator was appointed may nominate and appoint in writing (*a*) some other person to act in his place, and if for the space of seven days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed ex parte; and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

(*a*) Form of appointment of arbitrator in place of one who has died, Encyclopædia of Forms and Precedents, Vol. IX., p. 54.

Appointment of umpire.

27. Where more than one arbitrator shall have been appointed such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing (*a*) under their hands an umpire to decide on any such matters on which they shall differ, or which shall be referred to him under the provisions of this or the special Act; and if such umpire shall die, or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place; and the decision of every such umpire on the matters so referred to him shall be final.

(*a*) Form of appointment of umpire, Encyclopædia of Forms and Precedents, Vol. IX., p. 56.

Board of Trade empowered to appoint an umpire on neglect of the arbitrators.

28. If in either of the cases aforesaid the said arbitrators shall refuse, or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade, *in any case in which a railway company shall be one party to the arbitration, and two justices in any other case* (*a*), shall, on the application (*b*) of either party to such arbitration, appoint an umpire; and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

(*a*) These words are repealed by 46 & 47 Vict. c. 15, *post*, p. 2460.

(*b*) Form of request to Board of Trade to appoint umpire, Encyclopædia of Forms and Precedents, Vol. IX., p. 56.

In case of death of single arbitrator, the matter to begin *de novo.*

29. If when a single arbitrator shall have been appointed such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration, under the provisions of this or the special Act, in the same manner as if such arbitrator had not been appointed.

If either arbitrator refuse to act, the other to proceed *ex parte.*

30. If where more than one arbitrator shall have been appointed either of the arbitrators refuse or for seven days neglect to act, the other arbitrator may proceed ex parte, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties (*a*).

(*a*) The appointment of an umpire is not a condition precedent to the *ex parte* proceedings (*Shepherd* v. *Norwich Corporation* (1885), 30 Ch. D. 553).

If arbitrators fail to make their award within twenty-one days, or

31. If where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within twenty-one days after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid (*a*).

extended time, the matter to go to the umpire.

(*a*) Form of extension of time for award, Encyclopædia of Forms and Precedents, Vol. IX., p. 52. The umpire's duty devolves upon him at the expiration of the time named, and the time within which he must make his award runs from that date, whether or not he has received notice of the failure of the arbitrators to make their award (*Skerratt* v. *North Staffordshire Rail. Co.*, *ante*, p. 2097). By consent the umpire may sit with the arbitrators and make his award within the time of the arbitrators for making their award. See form of consent, Encyclopædia of Forms and Precedents, Vol. IX., p. 57.

Power of arbitrators to call for books, etc.

32. The said arbitrators or their umpire may call for the production of any documents in the possession or power of either party, which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Arbitrator or umpire to make a declaration.

33. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he shall in the presence of a justice (*a*) make and subscribe the following declaration; that is to say,

"I A. B. do solemnly and sincerely declare, that I will faithfully and honestly, and to the best of my skill and ability, hear and determine the matters referred to me under the provisions of the Act [naming the special Act.]

"A. B.

"Made and subscribed in the presence of ."

And such declaration shall be annexed to the award when made; and if any arbitrator or umpire having made such declaration shall wilfully act contrary thereto he shall be guilty of a misdemeanor (*b*).

(*a*) That is, *any* justice, not merely one having jurisdiction where the lands are situated (*Davies* v. *South Staffordshire Rail. Co.* (1851), 21 L. J. M. C. 52; 15 Jur. 1133).

(*b*) As to when a failure to make this declaration will be a ground for setting aside the award, see *Levick* v. *Epsom, etc. Rail. Co.* (1859), 1 L. T. (N.S.) 60, and *cf.* *Ludlow Corporation* v. *Prosser* (1906), 4 L. G. R. 940. As to the time within which the declaration may be made, see *In re Bradshaw's Arbitration* (1848), 12 Q. B. 562.

Costs of arbitration, how to be borne.

34. All the costs of any such arbitration, and incident thereto, to be settled by the arbitrators, shall be borne by the promoters of the undertaking, unless the arbitrators shall award the same or a less sum than shall have been offered by the promoters of the undertaking, in which case each party shall bear his own costs incident to the arbitration, and the costs of the arbitrators shall be borne by the parties in equal proportions (*a*).

(*a*) The section contemplates nothing more than an offer of money (*Fisher* v. *G. W. Rail. Co.*, [1911] 1 K. B. 551). The right to costs depends upon the section, and not upon the provisions of the P. H. A. (*Ex parte Rayner*, *ante*, p. 2096). The section, however, only applies to a competent arbitration under the Act, and if there is no jurisdiction to hold the arbitration the promoters can be under no liability for costs (*L. & N. W. Rail. Co.* v. *Walker*, [1903] A. C. 289). The section applies to an offer made generally under s. 38, notwithstanding notice by the claimant under s. 23 (*Lascelles* v. *Swansea School Board* (1899), 69 L. J. Q. B. 24; 63 J. P. 742). If an offer is made but refused, and afterwards during the arbitration withdrawn by consent, and the subsequent award is less than the offer, the promoters of the undertaking cannot claim the benefit of this section (*Foster* v. *Sheffield Corporation* (1895), 59 J. P. 404; 72 L. T. (N.S.) 549). But if the award is not in respect of the same subject-matter as the offer, the claimant is entitled to costs, although the award is less than the offer (*Miles* v. *G. W. Rail. Co.*, [1896] 2 Q. B. 432). Thus, where a claim was made against a railway company for compensation in respect of the diversion of a footpath and the company offered £50 in settlement of the claim upon the understanding that they would construct a new road it was held that the claimant was entitled

Note to Section 34.

to the costs of arbitration proceedings although he was awarded only £50 thereunder (*Fisher* v. *G. W. Rail Co., supra*). Where costs are awarded, the execution of a conveyance is not a condition precedent to the payment of such costs (*Capell* v. *G. W. Rail. Co.* (1883), 11 Q. B. D. 345). As to statement of a special case by the arbitrator, see 52 & 53 Vict. c. 49, s. 7, *ante*, p. 835. And as to costs, see s. 20, *ibid.*, *ante*, p. 838, and *In re Gonty and Manchester, Sheffield, and Lincolnshire Rail. Co.*, [1896] 2 Q. B. 439. Costs not included in the award cannot be afterwards given by the arbitrator (*South Mimms R. D. C.* v. *Barnet U. D. C.* (1900), 82 L. T. (N.S.) 421).

As to the taxation of the costs, see 58 & 59 Vict. c. 11, *post*, p. 2564; *Re Cannings and Middlesex C. C.*, [1907] 1 K. B. 51; 71 J. P. 46, and the note to s. 35, *infra*. The taxing master's certificate disallowing fees charged by the arbitrator and umpires is not evidence that such fees are unreasonable or extortionate, and it must be shown that they are so in order that any part may be recovered back after payment in order to take up the award (*Llandrindod Wells Water Co.* v. *Hawksley* (1904), 68 J. P. 242; 20 T. L. R. 241). The function of the taxing master is ministerial only, not judicial, and therefore his certificate cannot be quashed on *certiorari* (*R.* v. *Goff*, [1905] 2 I. R. 121).

Award to be delivered to the promoters of the undertaking.

35. The arbitrators shall deliver their award in writing to the promoters of the undertaking, and the said promoters shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the other party to the arbitration, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by such party or any person appointed by him for that purpose (*a*).

(*a*) Form of award, Encyclopædia of Forms and Precedents, Vol. IX., p. 58. The promoters of the undertaking, though they have joined in the arbitration under protest, are bound to take up the award, and may be compelled to do so by *mandamus* (*L. & N. W. Rail. Co.* v. *Walker*, [1900] A. C. 109; 64 J. P. 483). But it is a good return that the prosecutor is not entitled to any compensation at all by reason that the lands alleged to be injuriously affected have not been so affected (*R.* v. *Cambrian Rail. Co.* (1869), L. R. 4 Q. B. 320). And if a protest on the ground of want of jurisdiction is upheld the promoters will not be liable to costs (*L. & N. W. Rail. Co.* v. *Walker*, [1903] A. C. 289). On taking up the award and paying the amount fixed by the arbitrator for so doing, including a bill of costs of solicitors employed by the umpire to draw up the award, the promoters are entitled to an order for taxation of such bill under s. 38 of the Solicitors Act, 1843 (*Re Collyer-Bristow & Co.*, [1901] 2 K. B. 839). The order may be made in any division of the High Court (R. S. C., Order LXV., r. 26A). The process of enforcing the award remains under the Lands Clauses Consolidation Act, 1845, notwithstanding s. 13 (1) of the Light Railways Act, 1896 (*R.* v. *Barton and Immingham Light Rail. Co., Ex parte Simon*, [1912] 3 K. B. 72; 76 J. P. 344).

Submission may be made a rule of court.

36. The submission to any such arbitration may be made a rule of any of the superior courts, on the application of either of the parties (*a*).

(*a*) This does not enable an award to be enforced by motion (*Newbold* v. *Metropolitan Rail. Co.* (1863), 14 C. B. (N.S.) 405; *Re Walker and Beckenham L. B.* (1884), 48 J. P. 264; 50 L. T. (N. S.) 207). An award may be enforced under s. 12 of the Arbitration Act, 1889, *ante*, p. 836, or by action. A claim for compensation under s. 68 is capable of assignment, and the assignee may bring an action in his own name to enforce the award (*Dawson* v. *G. N. Rail. Co.*, [1905] 1 K. B. 260; 69 J. P. 29). The period within which an action may be brought to enforce the award is six years from the date of the award (*Turner* v. *Midland Rail. Co.*, [1911] 1 K. B. 832; 75 J. P. 283).

Award not void through error in form.

37. No award made with respect to any question referred to arbitration under the provisions of this or the special Act shall be set aside for irregularity or error in matter of form (*a*).

(*a*) But it may be set aside if it include compensation in respect of a claim not legally enforceable (*Beckett* v. *Midland Rail. Co.* (1865), L. R. 1 C. P. 241). This case was considered in *Campbell* v. *Paddington Corporation*, [1911] 1 K. B. 869; 75 J. P. 277, when it was decided that where a nuisance is created by the erection of an unauthorised structure in a highway and special damage is thereby caused to a person by reason of the view from his house being obstructed, he is entitled to recover damages from the persons creating the nuisance. See also *Duke of Buccleuch* v. *Metropolitan Board of Works* (1867), L. R. 3 Ex. 320; *Re Hurley and Queenstown U. D. C.* (1913), 47 Ir. L. T. 117. By proceeding to arbitration the undertakers waive any misdescription of the claimant's interest (*Lovering* v. *City of London, etc. Subway Co.* (1890), 7 T. L. R. 600).

Promoters of the undertaking to give notice before summoning a jury.

38. Before the promoters of the undertaking shall issue their warrant for summoning a jury for settling any case of disputed compensation they shall give not less than ten days notice to the other party of their intention to cause such jury to be summoned; and in such notice the promoters of the undertaking shall state what sum of money they are willing to give for the interest in such lands sought to be purchased by them from such party, and for the damage to be sustained by him by the execution of the works (*a*).

(*a*) This section does not apply where the promoters have already taken or injuriously affected land in respect of which no compensation has been made, and the section is not incorporated with s. 68, which is applicable to such cases (*Hayward* v. *Metropolitan Rail. Co.* (1863), 4 B. & S. 787; 33 L. J. Q. B. 73). An irregularity in complying with this section may be waived. See *Emmanuel Hospital* v. *Metropolitan District Rail. Co.* (1869), 19 L. T. 692. See also *R.* v. *Manley Smith* (1892), 56 J. P. 729; 67 L. T. (N.S.) 197. The offer may be accepted at any time before verdict, and in such case the jury should be directed to return a verdict for the amount of the offer (*R.* v. *High Bailiff of Westminster*, [1903] 2 K. B. 189; 67 J. P. 302). And further, as to this offer, see the notes to s. 51, *post*, p. 2104.

Form of notice by promoters of intention to summon jury, Encyclopædia of Forms and Precedents, Vol. IX., p. 60.

Warrant for summoning jury to be addressed to the sheriff; or in certain cases to coroner, or to ex-sheriff or ex-coroner.

39. In every case in which any such question of disputed compensation shall be required to be determined by the verdict of a jury the promoters of the undertaking shall issue their warrant to the sheriff, requiring him to summon a jury for that purpose (*a*), and such warrant shall be under the common seal of the promoters of the undertaking if they be a corporation, or if they be not a corporation under the hands and seals of such promoters or any two of them; and if such sheriff be interested (*b*) in the matter in dispute such application shall be made to some coroner of the county in which the lands in question, or some part thereof, shall be situate; and if all the coroners of such county be so interested such application may be made to some person having filled the office of sheriff or coroner in such county, and who shall be then living there, and who shall not be interested in the matter in dispute; and with respect to the persons last mentioned preference shall be given to one who shall have most recently served either of the said offices; and every ex-sheriff, coroner, or ex-coroner shall have power, if he think fit, to appoint a deputy or assessor.

(*a*) Separate juries cannot be summoned in respect of each different property of the same owner included in the notice to treat (*Ecclesiastical Commissioners* v. *Commissioners of Sewers of City of London* (1872), 14 Ch. D. 305). A special jury can be had on proper notice under s. 54, *post*, p. 2105.

(*b*) As to the interest of the sheriff, see *R.* v. *Manchester, Sheffield and Lincolnshire Rail. Co.* (1867), L. R. 2 Q. B. 336; 31 J. P. 453.

Provisions applicable to sheriff to apply to coroner, or other person acting in place of sheriff.

40. Throughout the enactments contained in this Act relating to the reference to a jury, where the term "sheriff" is used, the provisions applicable thereto shall be held to apply to every coroner or other person lawfully acting in his place; and in every case in which any such warrant shall have been directed to any other person than the sheriff such sheriff shall, immediately on receiving notice of the delivery of the warrant, deliver over, on application for that purpose, to the person to whom the same shall have been directed, or to any person appointed by him to receive the same, the jurors book and special jurors list belonging to the county where the lands in question shall be situate.

Jury to be summoned.

41. Upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at a convenient time and place to be appointed by him for that purpose, such time not being less than fourteen nor more than

Section 41. twenty-one days after the receipt of such warrant, and such place not being more than eight miles distant from the lands in question, unless by consent of the parties interested, and he shall forthwith give notice to the promoters of the works of the time and place so appointed by him (*a*).

(*a*) The sheriff must summon a fresh jury if the first inquisition has been quashed (*Horrocks* v. *Metropolitan Rail. Co.* (1865), 19 C. B. (N.S.) 139). A verdict will not be set aside on the ground that some of the jurymen were not qualified, the remedy in such case being by challenge (*In re Chelsea Waterworks Co.* (1854), 10 Exch. 731).

Jury to be empannelled.

42. Out of the jurors appearing upon such summons a jury of twelve persons shall be drawn by the sheriff, in such manner as juries for trials of issues joined in the superior courts are by law required to be drawn (*a*); and if a sufficient number of jurymen do not appear in obedience to such summons the sheriff shall return other indifferent men, duly qualified as aforesaid, of the bystanders, or others that can speedily be procured, to make up the jury to the number aforesaid; and all parties concerned may have their lawful challenges against any of the jurymen, but no such party shall challenge the array.

(*a*) See County Juries Act, 1825, s. 26. That section is not repealed by the Juries Act, 1922, 12 & 13 Geo. 5, c. 11.

Sheriff to preside.

Witnesses to be summoned.

View by jury.

43. The sheriff shall preside on the said inquiry, and the party claiming compensation shall be deemed the plaintiff, and shall have all such rights and privileges as the plaintiff is entitled to in the trial of actions at law (*a*); and if either party so request in writing, the sheriff shall summon before him any person considered necessary to be examined as a witness touching the matters in question; and on the like request the sheriff shall order the jury, or any six or more of them, to view the place or matter in controversy, in like manner as views may be had in the trial of actions in the superior courts.

(*a*) "These words were clearly intended to regulate the general course of the proceedings, to remove doubts concerning the right to begin, and to show in other respects how the inquisition should be conducted": *per* Lord DENMAN, C.J., in *R.* v. *Gardner* (1837), 6 A. & E., at p. 117. See also *R.* v. *Sheriff of Warwickshire* (1837), 2 Rail. Cas. 661.

Penalty on sheriff and jurors for default.

44. If the sheriff make default in any of the matters hereinbefore required to be done by him in relation to any such trial or inquiry, he shall forfeit fifty pounds for every such offence, and such penalty shall be recoverable by the promoters of the undertaking by action in any of the superior courts; and if any person summoned and returned upon any jury under this or the special Act, whether common or special, do not appear, or if appearing he refuse to make oath, or in any other manner unlawfully neglect his duty, he shall, unless he show reasonable excuse to the satisfaction of the sheriff, forfeit a sum not exceeding ten pounds, and every such penalty payable by the sheriff or juryman shall be applied in satisfaction of the costs of the inquiry, so far as the same will extend; and in addition to the penalty hereby imposed every such juryman shall be subject to the same regulations, pains, and penalties as if such jury had been returned for the trial of an issue joined in any of the superior courts.

Penalty on witnesses making default.

45. If any person duly summoned to give evidence upon any such inquiry, and to whom a tender of his reasonable expenses shall have been made, fail to appear at the time and place specified in the summons, without sufficient cause, or if any person, whether summoned or not, who shall appear as a witness refuse to be examined on oath touching the subject matter in question, every person so offending shall forfeit to the party aggrieved a sum not exceeding ten pounds.

Notice inquiry.

46. Not less than ten days notice of the time and place of the inquiry shall be given in writing by the promoters of the undertaking to the other party (*a*).

(*a*) Form of notice, Encyclopædia of Forms and Precedents, Vol. IX., p. 63.

If claimant makes default compensation to be determined by surveyor.

47. If the party claiming compensation shall not appear at the time appointed for the inquiry such inquiry shall not be further proceeded in, but the compensation to be paid shall be such as shall be ascertained by a surveyor appointed by two justices in manner hereinafter provided.

Jury to be sworn.

48. Before the jury proceed to inquire of and assess the compensation or damage in respect of which their verdict is to be given they shall make oath that they will truly and faithfully inquire of and assess such compensation or damage; and the sheriff shall administer such oaths as well as the oaths of all persons called upon to give evidence.

Sums to be paid for purchase of lands, and for damage, to be assessed separately.

49. Where such inquiry shall relate to the value of lands to be purchased, and also to compensation claimed for injury done or to be done to the lands held therewith, the jury shall deliver their verdict separately for the sum of money to be paid for the purchase of the lands required for the works, or of any interest therein belonging to the party with whom the question of disputed compensation shall have arisen, or which under the provisions herein contained he is enabled to sell or convey, and for the sum of money to be paid by way of compensation for the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith (*a*).

(*a*) These provisions are directory only (*Re Bradshaw's Arbitration* (1848), 12 Q. B. 562).

As to the power of the court to quash a verdict for misdirection or improper rejection of evidence, see *Streatham and General Estates Co.* v. *Commissioners of Public Works* (1888), 52 J. P. 615.

Lands may be held with lands taken within the meaning of this section though not actually adjoining (*Cowper Essex* v. *Acton L. B.* (1889), 14 App. Cas. 153; 53 J. P. 756). See also *S. E. Rail. Co.* v. *L. C. C.*, *ante*, p. 2097; and *Holditch* v. *Canadian Northern Ontario Ry.*, cited in the note to s. 63, *post*, p. 2107.

Verdict and judgment to be recorded.

50. The sheriff before whom such inquiry shall be held shall give judgment for the purchase-money or compensation assessed by such jury (*a*); and the verdict and judgment shall be signed by the sheriff, and being so signed shall be kept by the clerk of the peace among the records of the general or quarter sessions of the county in which the lands or any part thereof shall be situate in respect of which such purchase-money or compensation shall have been awarded; and such verdicts and judgments shall be deemed records, and the same or true copies thereof shall be good evidence in all courts and elsewhere; and all persons may inspect the said verdicts and judgments, and may have copies thereof or extracts therefrom, on paying for each inspection thereof one shilling, and for every one hundred words copied or extracted therefrom sixpence, which copies or extracts the clerk of the peace is hereby required to make out, and to sign and certify the same to be true copies (*b*).

(*a*) Where a claimant has given particulars of his claim with items, he is not bound by such particulars, and the jury may award him more in respect of any particular item than the sum actually claimed in respect of it. It is doubtful, however, whether the verdict may be for a greater total sum than the total amount claimed (*Robertson* v. *City and South London Rail. Co.* (1904), 68 J. P. 280). Interest is payable not from date of verdict, but from the time when the promoters might prudently have taken possession, *i.e.*, in a case where the title has not been accepted before verdict, when a good title is shown (*In re*

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Pigott and G. W. Rail. Co. (1881), 18 Ch. D. 146, disapproving *Re Eccleshill L. B.* (1879), 13 Ch. D. 365).

(*b*) Form of verdict, Encyclopædia of Forms and Precedents, Vol. IX., p. 64. The recording of the verdict and judgment is not a condition precedent to their validity (*Chabot* v. *Lord Morpeth* (1851), 15 Q. B. 446). And if not recorded, parol evidence may be given of the finding, and of the grounds on which it proceeded (*Manning* v. *Eastern Counties Rail. Co.* (1844), 12 M. & W. 237; 13 L. J. Ex. 265). The record is available as a title, no conveyance being necessary on possession being taken by the promoters after payment of the sum assessed (*Bruce* v. *Willes* (1840), 11 A. & E. 463; 9 L. J. M. C. 43). And the verdict and judgment may be enforced by *mandamus*, although the record is a record of quarter sessions (*R.* v. *Nottingham Old Waterworks Co.* (1837), 6 A. & E. 355; 6 L. J. K. B. 89).

Costs of the inquiry, how to be borne.

51. On every such inquiry before a jury, where the verdict of the jury shall be given for a greater sum than the sum previously offered (*a*) by the promoters of the undertaking, all the costs of such inquiry shall be borne by the promoters of the undertaking; but if the verdict of the jury be given for the same or a less sum than the sum previously offered by the promoters of the undertaking, or if the owner of the lands shall have failed to appear at the time and place appointed for the inquiry, having received due notice thereof, one-half of the costs of summoning, impannelling, and returning the jury, and of taking the inquiry and recording the verdict and judgment thereon, in case such verdict shall be taken, shall be defrayed by the owner of the lands, and the other half by the promoters of the undertaking, and each party shall bear his own costs, other than as aforesaid, incident to such inquiry (*b*).

(*a*) This applies only to an offer made under s. 38 (*R.* v. *Manley Smith* (1884), 12 Q. B. D. 481).

(*b*) The claimant is not entitled to any costs if an award is made in his favour in respect of a claim for which he has no right to compensation (*Todd* v. *Metropolitan District Rail. Co.* (1871), 24 L. T. (N.S.) 435; 19 W. R. 720). As to the offer of compensation, see s. 38, *ante*, p. 2101. As to costs of an abortive inquiry, see *R.* v. *North London Rail. Co.* (1882), 51 L. J. Q. B. 241; 30 W. R. 272. The conveyance by the owner is not a condition precedent to the payment of costs due to him (*Capell* v. *G. W. Rail. Co.* (1883), 11 Q. B. D. 345; 47 J. P. 246). Where the sum awarded was paid into court and the taxed costs paid to the claimant who afterwards was found to have no title, it was held that the costs so paid could not be recovered back (*London C. C.* v. *Campbell* (1888), 6 T. L. R. 420).

Particulars of the costs.

52. The costs of any such inquiry shall, in case of difference, be settled by one of the masters of the Court of Queen's Bench of England or Ireland, according as the lands are situate, on the application of either party, and such costs shall include all reasonable costs, charges and expenses incurred in summoning, impannelling, and returning the jury, taking the inquiry, the attendance of witnesses, the employment of counsel and attornies, recording the verdict and judgment thereon, and otherwise incident to such inquiry (*a*).

(*a*) The Chancery taxing masters whose office is amalgamated with and who are themselves transferred to the Central Office by general rules pursuant to the Supreme Court of Judicature (Officers) Act, 1879, which came into operation on January 11th, 1902, now have jurisdiction to tax these costs (*Covington* v. *Metropolitan District Rail. Co.*, [1903] 1 K. B. 231). The decision of the master cannot be reviewed (*Sandback Charity Trustees* v. *North Staffordshire Rail. Co.* (1878), 3 Q. B. D. 1).

See also as to the taxation of the costs, 58 & 59 Vict. c. 11, *post*, p. 2564.

Payment of costs.

53. If any such costs shall be payable by the promoters of the undertaking, and if within seven days after demand such costs be not paid to the party entitled to receive the same, they shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly (*a*); and if any such costs shall be payable by the owner of the lands, or of any interest therein the same may be deducted and retained by the promoters of the undertaking, out of any money awarded by the jury to such owner, or determined by the valuation of a surveyor under the provision hereinafter contained;

and the payment or deposit of the remainder, if any, of such money shall be deemed payment and satisfaction of the whole thereof, or if such costs shall exceed the amount of the money so awarded or determined the excess shall be recoverable by distress, and on application to any justice he shall issue his warrant accordingly.

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(a) On proof of the allocatur, of the demand for payment, and non-compliance within seven days, the justice is bound to issue his warrant (*Metropolitan Rail. Co.* v. *Turnham* (1863), 14 C. B. (N.S.) 212). As regards the warrant and its execution the S. J. Acts will apply. See, particularly, the S. J. A., 1879, ss. 39 (4) and 43 (1), (8).

Special jury to be summoned at the request of either party.

54. If either party desire any such question of disputed compensation as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, be given to the promoters of the undertaking before they have issued their warrant to the sheriff; and for that purpose the promoters of the undertaking shall by their warrant to the sheriff require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies, at some convenient time and place appointed by him, for the purpose of nominating a special jury (not being less than five nor more than eight days from the service of such summons); and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury, in the manner in which such juries shall be required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts, and the sheriff shall appoint a day, not later than the eighth day after striking of such jury, for the parties or their agents to appear before him to reduce the number of such jury, and thereof shall give four days notice to the parties; and on the day so appointed the sheriff shall proceed to reduce the said special jury to the number of twenty in the manner used and accustomed by the proper officers of the superior courts (*a*).

(a) Form of warrant for special jury, Encyclopædia of Forms and Precedents, Vol. IX., p. 61; Form of notice of time and place for nomination, *ibid.*, p. 62. The special jury must be summoned if notice is given within twenty-one days limited by s. 68 without any further extension of time (*Glyn* v. *Aberdare Rail. Co.* (1859), 6 C. B. (N.S.) 359).

Deficiency of special jurymen.

55. The special jury on such inquiry shall consist of twelve of the said twenty who shall first appear on the names being called over, the parties having their lawful challenges against any of the said jurymen; and if a full jury do not appear, or if after such challenges a full jury do not remain, then, upon the application of either party, the sheriff shall add to the list of such jury the names of any other disinterested persons qualified to act as special or common jurymen, who shall not have been previously struck off the aforesaid list, and who may then be attending the court, or can speedily be procured, so as to complete such jury, all parties having their lawful challenges against such persons; and the sheriff shall proceed to the trial and adjudication of the matters in question by such jury; and such trial shall be attended in all respects with the like incidents and consequences, and the like penalties shall be applicable, as hereinbefore provided in the case of a trial by common jury.

Other inquiries before same special jury by consent.

56. Any other inquiry than that for the trial of which such special jury may have been struck and reduced as aforesaid may be tried by such jury, provided the parties thereto respectively shall give their consent to such trial.

Jurymen not to attend more than once a year.

57. No juryman shall, without his consent, be summoned or required to attend any such proceeding as aforesaid more than once in any year.

Section 58.

Compensation to absent parties to be determined by a surveyor appointed by two justices.

58. The purchase-money or compensation to be paid for any lands to be purchased or taken by the promoters of the undertaking from any party who, by reason of absence from the kingdom, is prevented from treating, or who cannot after diligent inquiry be found, or who shall not appear at the time appointed for the inquiry before the jury as hereinbefore provided for, after due notice thereof, and the compensation to be paid for any permanent injury to such lands, shall be such as shall be determined by the valuation of such able practicable surveyor as two justices shall nominate for that purpose as hereinafter mentioned.

Two justices to nominate a surveyor.

59. Upon application (*a*) by the promoters of the undertaking to two justices, and upon such proof as shall be satisfactory to them that any such party is, by reason of absence from the kingdom, prevented from treating, or cannot after diligent inquiry be found, or that any such party fail to appear on such inquiry before a jury as aforesaid, after due notice to him for that purpose, such justices shall, by writing under their hands (*b*), nominate an able practicable surveyor for determining such compensation as aforesaid, and such surveyor shall determine the same accordingly, and shall annex to his valuation a declaration in writing, subscribed by him, of the correctness thereof.

(*a*) Form of application, Encyclopædia of Forms and Precedents, Vol. IX., p. 65.

(*b*) Form of nomination, Encyclopædia of Forms and Precedents, Vol. IX., p. 66. This need not specify the lands to be valued (*Poynder* v. *G. N. Rail. Co.* (1848), 16 L. J. Ch. 444; 16 Sim. 3).

Declaration to be made by the surveyor.

60. Before such surveyor shall enter upon the duty of making such valuation as aforesaid he shall, in the presence of such justices, or one of them, make and subscribe the declaration following at the foot of such nomination; (that is to say,)

"I A. B. do solemnly and sincerely declare, that I will faithfully, impartially, and honestly, according to the best of my skill and ability, execute the duty of making the valuation hereby referred to me.

"A. B.

"Made and subscribed in the presence of ."

And if any surveyor shall corruptly make such declaration, or having made such declaration shall wilfully act contrary thereto, he shall be guilty of a misdemeanor.

Valuation, etc. to be produced to the owner of the lands on demand.

61. The said nomination and declaration shall be annexed to the valuation to be made by such surveyor, and shall be preserved together therewith by the promoters of the undertaking, and they shall at all times produce the said valuation and other documents, on demand, to the owner of the lands comprised in such valuation, and to all other parties interested therein.

Expenses to be borne by promoters.

62. All the expenses of and incident to every such valuation shall be borne by the promoters of the undertaking.

Purchase-money and compensation, how to be estimated.

63. In estimating the purchase-money or compensation to be paid by the promoters of the undertaking, in any of the cases aforesaid, regard shall be had by the justices, arbitrators, or surveyors, as the case may be, not only to the value of the land to be purchased or taken by the promoters of the undertaking, but also to the damage, if any, to be sustained by the owner of the lands by reason of the severing of the lands taken from the other lands of such owner, or otherwise injuriously affecting such other lands by the exercise of the powers of this or the special Act, or any Act incorporated therewith (*a*).

Note to Section 63.

(*a*) Compensation under this section may be awarded in one sum (*In re Bradshaw's Arbitration* (1848), 12 Q. B. 562). It must always be assessed on the basis of the value to the particular claimant of the lands taken or injuriously affected (*Bailey* v. *Isle of Thanet Light Rail. Co.*, [1900] 1 Q. B. 723), and not with reference to the value to the persons taking them, see *Stebbing* v. *Metropolitan Board of Works* (1871), L. R. 6 Q. B. 37 (churchyard). The latter case was cited as an authority to show that when a public body compelled a man to part with his property for public purposes, they ought to pay him what the property was worth to him because he was not a willing seller, and KEKEWICH, J., upheld this contention (*In re Smart and Stepney Borough Council* (1903), 25 M. C. C. 56). See also *Re Morgan and L. & N. W. Rail. Co.*, [1896] 2 Q. B. 469 (public park); *Trent-Stoughton* v. *Barbados Water Supply Co.*, [1893] A. C. 502 (streams of water); *Re Gough and Aspatria, Silloth and District Joint Water Board*, [1904] 1 K. B. 417; 67 J. P. 137; *Re Tynemouth Corporation and Duke of Northumberland* (1903), 67 J. P. 425; 80 L. T. (N.S.) 557; *Re Lucas and Chesterfield Gas and Water Board*, [1909] 1 K. B. 16; 72 J. P. 437 (land for reservoir); *City and South London Rail. Co.* v. *United Parishes of St. Mary Woolnoth and St. Mary Woolchurch Haw*, [1905] A. C. 1; 69 J. P. 101 (site of church). See also as to "special adaptability," *Cedars Rapids, etc. Co.* v. *La Coste* (1914), 30 T. L. R. 293. *Sidney* v. *N. E. Ry.*, [1914] 3 K. B. 629. These cases were considered in *Fraser* v. *Fraserville City*, [1917] A. C. 187. It was there decided that the value to be ascertained is the value to the seller of his property in its actual condition at the time of expropriation with all its existing advantages, and with all its possibilities, excluding any advantage due to the carrying out of the scheme for which the property is compulsorily acquired, the question of what is the scheme being a question of fact for the arbitrator in each case. See also *Pastoral Finance Association* v. *The Minister*, [1914] A. C. 1083, as to the elements to be considered in ascertaining the value of the land to the seller. And on the same question see *per* EVE, J., in *S. E. Ry.* v. *L. C. C.*, [1915] 2 Ch. at p. 258. The Acquisition of Land (Assessment of Compensation) Act, 1919, s. 2 (3), *ante*, p. 1273, which provides for the assessment of compensation in respect of lands acquired compulsorily for public purposes, provides that the special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser, or the requirements of any Government Department or any local or public authority; provided that any bona fide offer for the purchase of the land made before the passing of the Act which may be brought to the notice of the arbitrator, shall be taken into consideration. And see as to the effect of this clause *Percival* v. *Peterborough Corporation*, [1921] 1 K. B. 414; 65 S. J. 60; *Metropolitan Water Board* v. *Dulwich College*, [1921] 1 Ch. 299; 36 T. L. R. 834.

As to the compensation payable in respect of land held subject to restrictions, see *Corrie* v. *MacDermott*, [1914] A. C. 1056. And as to the case where the owner holds adjoining properties of which part of one only is acquired, see *S. E. Rail. Co.* v *L. C. C.*, *ante*, p. 2097.

Compensation is payable under this section in respect of land not taken which is the property of a person some of whose other land is taken, but which is separated from the land taken by intervening land belonging to other owners, *e.g.*, a line of railway (*R.* v. *Essex* (1888), 14 App. Cas. 153; 53 J. P. 756). The case last mentioned was distinguished in *Holditch* v. *Canadian Northern Ontario Ry.*, [1916] 1 A. C. 536. So where windows were obstructed, some of which were ancient lights and some not, it was held that compensation must be paid in respect of the whole (*L. T. & S. Rail. Co.* v. *Gower's Walk Schools (Trustees)* (1890), 24 Q. B. D. 326). But no compensation is payable in respect of land not taken where no other land belonging to the claimant is taken or used for the purposes of the undertaking (*Horton* v. *Colwyn Bay and Colwyn U. D. C.*, [1908] 1 K. B. 327; 72 J. P. 57; *R.* v. *Mountford*, [1906] 2 K. B. 814; 70 J. P. 511), unless there is a special agreement to that effect (*L. & N. W. Rail. Co.* v. *Reddaway* (1907), 71 J. P. 150; 23 T. L. R. 279).

See also as to damage by severance, *R.* v. *Brown* (1867), L. R. 2 Q. B. 630; *Re Gonty and Manchester, Sheffield, and Lincolnshire Rail. Co.*, [1896] 2 Q. B. 439; *Ripley* v. *G. N. Rail. Co.* (1875), L. R. 10 Ch. 435.

Where compensation to absent party has been determined by a surveyor, the party may have the same submitted to arbitration.

64. When the compensation payable in respect of any lands, or any interest therein, shall have been ascertained by the valuation of a surveyor, and deposited in the Bank under the provisions herein contained, by reason that the owner of or party entitled to convey such lands or such interest therein as aforesaid could not be found or was absent from the kingdom, if such owner or party shall be dissatisfied with such valuation it shall be lawful for him, before he shall have applied to the Court of Chancery for payment or investment of the moneys so deposited under the provisions herein contained, by notice in writing (*a*) to the promoters of the undertaking, to require the question of such compensation to be submitted to arbitration, and thereupon

Section 64. the same shall be so submitted accordingly, in the same manner as in other cases of disputed compensation hereinbefore authorised or required to be submitted to arbitration.

(*a*) Form of notice, Encyclopædia of Forms and Precedents, Vol. IX., p. 67.

Question to be submitted to the arbitrators.

65. The question to be submitted to the arbitrators in the case last aforesaid shall be, whether the said sum so deposited as aforesaid by the promoters of the undertaking was a sufficient sum, or whether any and what further sum ought to be paid or deposited by them.

If further sum awarded promoters to pay or deposit same within fourteen days.

66. If the arbitrators shall award that a further sum ought to be paid or deposited by the promoters of the undertaking, they shall pay or deposit, as the case may require, such further sum within fourteen days after the making of such award, or in default thereof the same may be enforced by attachment, or recovered, with costs, by action or suit in any of the superior courts.

Costs of the arbitration.

67. If the arbitrators shall determine that the sum so deposited was sufficient, the costs of and incident to such arbitration, to be determined by the arbitrators, shall be in the discretion of the arbitrators; but if the arbitrators shall determine that a further sum ought to be paid or deposited by the promoters of the undertaking, all the costs of and incident to the arbitration shall be borne by the promoters of the undertaking.

Compensation to be settled by arbitration or jury, at the option of the party claiming compensation.

68. If any party shall be entitled to any compensation in respect of any lands, or of any interest therein, which shall have been taken for or injuriously affected (*a*) by the execution of the works, and for which the promoters of the undertaking shall not have made satisfaction under the provisions of this or the special Act, or any Act incorporated therewith, and if the compensation claimed in such case shall exceed the sum of fifty pounds, such party may have the same settled either by arbitration or by the verdict of a jury, as he shall think fit; and if such party desire to have the same settled by arbitration, it shall be lawful for him to give notice in writing (*b*) to the promoters of the undertaking of such his desire, stating in such notice the nature of the interest in such lands in respect of which he claims compensation, and the amount of the compensation so claimed therein; and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and shall enter into a written agreement for that purpose within twenty-one days after the receipt of any such notice from any party so entitled, the same shall be settled by arbitration in the manner herein provided; or if the party so entitled as aforesaid desire to have such question of compensation settled by jury, it shall be lawful for him to give notice in writing of such his desire to the promoters of the undertaking, stating such particulars as aforesaid, and unless the promoters of the undertaking be willing to pay the amount of compensation so claimed, and enter into a written agreement for that purpose, they shall, within twenty-one days after the receipt of such notice, issue their warrant to the sheriff to summon a jury for settling the same in the manner herein provided, and in default thereof they shall be liable to pay to the party so entitled as aforesaid the amount of compensation so claimed, and the same may be recovered by him, with costs, by action in any of the superior courts (*c*).

(*a*) The damage awarded under this section must be damage in respect of which an action would have lain but for the statutory powers justifying it, and must arise from the execution of the works, not from the use of them when executed (*Ricket* v. *Metropolitan Rail. Co.* (1867), L. R. 2 H. L. 175; 31 J. P. 484; *Hammersmith Rail. Co.* v. *Brand* (1869), L. R. 4 H. L. 171; *R.* v. *Metropolitan Board of Works* (1869), L. R. 4 Q. B. 358; *Metropolitan Board of Works* v. *M'Carthy* (1874), L. R. 7 H. L. 243; 38 J. P. 820; *Buccleuch* (*Duke*) v. *Metropolitan Board of Works* (1872), L. R. 5 H. L. 418; 36 J. P. 724; *Caledonian Rail. Co.* v. *Walker's Trustees* (1881), 7 App. Cas. 259; 46 J. P. 676; *Canadian Pacific*

Note to Section 68.

Rail. Co. v. *Roy*, [1902] A. C. 220). For the numerous cases decided upon this section reference should be made to Browne and Allan on Compensation.

A county council, in the exercise of statutory powers, compulsorily acquired from a freeholder one-third of his land upon which two cottages were standing. This part of the premises constituted a strip thereof fronting a public road. The freeholder elected to retain the remaining two-thirds of his property. The council also acquired the leasehold interest in the whole of the property and pulled down all the cottages and not merely the two which stood on the strip. Upon action by the freeholder to enforce his right of re-entry and for damages for breach of covenants, it was held that the remedy by compensation under this section was not applicable as the damage was not the result of the proper exercise of statutory powers (*Piggott* v. *Middlesex C. C.*, [1909] 1 Ch. 134; 72 J. P. 461). Compensation can only be awarded in respect of an interest in lands, therefore a contract merely giving exclusive personal rights cannot be the basis of a claim for compensation (*Warr & Co., Ltd.* v. *L. C. C.*, [1904] 1 K. B. 713; 68 J. P. 335).

A house may have a special value, as, for example, a hotel or public-house, and if so, the owner is entitled to be compensated for the depreciation in value of the house as having that special value (*Wadham* v. *N. E. Rail. Co.* (1886), 16 Q. B. D. 227; 49 J. P. 599).

As to compensation for the right of a local authority to access to a sewer, see *Birkenhead Corporation* v. *L. & N. W. Rail. Co.* (1885), 15 Q. B. D. 572; 50 J. P. 84. But see also *Thurrock, Grays, etc. Sewerage Board* v. *Goldsmith* (1915), 79 J. P. 17, where that case was distinguished, and see as to the application of the Acquisition of Land, etc., Act, 1919, *ante*, p. 1271, to the assessment of compensation for laying a sewer in private land under s. 16, P. H. A., 1875, *ante*, p. 59, *Thurrock, Grays, etc. Sewerage Board* v. *Thames Land Co.* (1926), 90 J. P. 1; 23 L. G. R. 648.

Compensation is payable for injuriously affecting land during the execution of the works if the injury is sufficient to lessen the value of the property (*Ford* v. *Metropolitan Rail. Co.* (1886), 17 Q. B. D. 12; 50 J. P. 661).

As to compensation for a subsequent alteration in the construction of the works, see *Att.-Gen.* v. *Metropolitan Rail. Co.*, [1894] 1 Q. B. 384; 58 J. P. 348.

As to compensation for cutting off access to houses, see *Furness Rail. Co.* v. *Cumberland Co-operative Society* (1885), 49 J. P. 292, and *cf. Re G. E. Rail. Co. and London C. C.* (1907), 72 J. P. 1; 98 L. T. 116.

As to compensation for injuriously affecting ancient lights, when the Act authorised the purchase of easements, see *Wigram* v. *Fryer* (1887), 36 Ch. D. 87.

Where a lessee, pursuant to a power in his lease, determined his lease before injury had actually been done to him, it was held that he could not recover compensation by reason of his having had to remove to other premises (*R.* v. *Poulter* (1888), 20 Q. B. D. 132; 52 J. P. 244.) If the reversion expectant on the determination of a lease is acquired by arrangement, but the lessee's interest is not acquired, and he is afterwards injuriously affected by the works, his remedy for breach of the covenant for quiet enjoyment is by compensation, not by action (*Manchester, Sheffield, and Lincolnshire Rail. Co.* v. *Anderson*, [1898] 2 Ch. 394). The mere probability of the continuance of a tenancy without disturbance is not ground for compensation (*Lynch* v. *Glasgow Corporation* (1903), 5 F. 1154).

For a case of "injuriously affecting," by reason of dealing with a highway, so as to divert the traffic, see *Metropolitan Board of Works* v. *Howard* (1887), 5 T. L. R. 732; and as to interfering with a private occupation road, see *Barnard* v. *G. W. Rail. Co.* (1902), 66 J. P. 568; 86 L. T. (N.S.) 798; and as to interference with a private wharf, see *Hewett* v. *Essex C. C.* (1928), 138 L. T. 742.

As to injuriously affecting mills by taking water, see *Page* v. *Kettering Waterworks Co.* 1891), 8 T. L. R. 228.

(*b*) Form of notice, Encyclopædia of Forms and Precedents, Vol. IX., p. 68.

(*c*) A claim for compensation under this section is capable of assignment (*Dawson* v. *G. N. Rail. Co.*, [1905] 1 K. B. 260; 69 J. P. 29). The period within which an action may be brought is six years from the date of the award (*Turner* v. *Midland Rail. Co.*, [1911] 1 K. B. 832; 75 J. P. 283).

Application of compensation.

And with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, be it enacted as follows:

Purchase money or compensation payable to parties under disability (*a*) amounting to £200 to be deposited in the Bank.

69. If the purchase money or compensation which shall be payable in respect of any lands, or any interest therein, purchased or taken by the promoters of the undertaking from any corporation, tenant for life or in tail, married woman seised in her own right or entitled to dower, guardian, committee of lunatic or idiot, trustee, executor or administrator, or person having a partial or qualified interest only in such lands, and not entitled to sell or

Section 69. convey the same except under the provisions of this or the special Act, or the compensation to be paid for any permanent damage to any such lands, amount to or exceed the sum of two hundred pounds, the same shall be paid into the Bank, in the name and with the privity of the Accountant-General of the Court of Chancery (*b*) to be placed to the account there of such Accountant-General, ex parte the promoters of the undertaking, (describing them by their proper name,) in the matter of the special Act, (citing it,) pursuant to the method prescribed by any Act for the time being in force for regulating moneys paid into the said courts; and such moneys shall remain so deposited until the same be applied to some one or more of the following purposes; (that is to say,)

Application of moneys deposited.

In the purchase or redemption of the land tax (*c*), or the discharge of any debt or incumbrance affecting the land in respect of which such money shall have been paid, or affecting other lands settled therewith to the same or the like uses, trusts, or purposes (*d*); or

In the purchase of other lands to be conveyed, limited, and settled upon the like uses, trusts, and purposes, and in the same manner, as the lands in respect of which such money shall have been paid stood settled (*e*); or

If such money shall be paid in respect of any buildings taken under the authority of this or the special Act, or injured by proximity of the works, in removing or replacing such buildings, or substituting others in their stead, in such manner as the Court of Chancery shall direct (*f*); or

In payment to any party becoming absolutely entitled to such money (*g*).

(*a*) See note (*a*) to s. 7, on p. 2091, *ante*.

(*b*) Now the Accountant-General of the Supreme Court (15 & 16 Geo. 5, c. 49, s. 133). Some words are here repealed by the S. L. R. A., 1892.

(*c*) A tenant for life having redeemed before the passing of the special Act may be reimbursed (*Ex parte Northwick* (1842), 1 You. & Coll. 166). Costs of the purchase or redemption are chargeable on the promoters under s. 80, *post*, p. 2115 (*Re L. B. & S. C. Rail. Co.* (1854), 18 Beav. 608).

(*d*) As to what constitute incumbrances, see *Ex parte Lockwood* (1851), 14 Beav. 158 (inclosures expenses); *Ex parte Sheffield Corporation* (1856), 25 L. J. Ch. 587; 4 W. R. 70 (existing lease); *Re Brasher's Trust* (1856), 6 W. R. 406; *Ex parte London Corporation* (1868), L. R. 5 Eq. 418 (existing leases); *Ex parte Kirksmeaton* (1882), 20 Ch. D. 203; *Re Brewer* (1875), 1 Ch. D. 409 (rent-charges); *Re Derby Municipal Estates* (1876), 3 Ch. D. 289 (securities for loans by corporation); *Re Davies' Estate* (1858), 27 L. J. Ch. 712; 6 W. R. 844 (statutory charge); *Re London Street, Greenwich* (1888), 57 L. T. (N.S.) 673 (right of re-entry); *Ex parte Tottenham* (1884), 13 L. R. Ir. 479 (tithe rent-charge); *Ex parte Ballinrobe and Claremorris Light Rail. Co. and Kenny*, [1913] 1 I. R. 519 (mortgages). As to other lands, see *Ex parte Lockwood; Ex parte London Corporation, supra; Ex parte Cambridge Corporation* (1848), 6 Hare, 30; 5 Rail. Cas. 204. As to costs when purchase-money is sought to be applied in paying off incumbrances, see *In re Dublin, Wicklow and Wexford Rail. Co.* (1890), 25 L. R. Ir. 175.

(*e*) As to commonable land, see *Nash* v. *Coombs* (1868), L. R. 6 Eq. 51. Enfranchisement of copyholds is equivalent to purchase of other lands (*Re Ground's Estate* (1852), 1 W. R. 32; *Dixon* v. *Jackson* (1855), 25 L. J. Ch. 588; 4 W. R. 450; *Re Cheshunt College* (1854), 3 W. R. 638; 1 Jur. (N.S.) 995). As to purchase of leaseholds instead of freeholds, see *Re Rehoboth Chapel* (1875), L. R. 19 Eq. 180. An equity of redemption cannot be purchased (*Ex parte Macaulay* (1854), 23 L. J. Ch. 815; *Re Portadown, Dungannon, and Omagh Junction Rail. Co.* (1876), Ir. R. 10 Eq. 368). As to effect of the Settled Land Act, 1882, s. 32 (now reproduced and extended in Settled Land Act, 1925, s. 76), see *Re Byron's Charity* (1883), 23 Ch. D. 171; *Ex parte Corporation of the City of London* (1901), 45 Sol. J. 259.

(*f*) See *Re Ward's Estates* (1885), 28 Ch. D. 100; *Ex parte Commissioners of Sewers and Vicar of St. Botolph's, Aldgate*, [1894] 3 Ch. 544; *Re London C. C., Ex parte Pennington* (1901), 65 J. P. 536; 84 L. T. (N.S.) 808.

(*g*) See *In re the Parson, etc. of St. Albans* (1886), 55 L. T. (N.S.) 314. The purchase-money for land belonging to a waterworks company, forming part of their pipe track, was held rightly paid into court under this section, and was ordered to be paid out to the company (*Re Chelsea Waterworks Co.* (1887), 56 L. J. Ch. 640; 56 L. T. (N.S.) 421). See further as to persons absolutely entitled, as corporate trustees of charity property, *Re Spurstowe's Charity* (1874), L. R. 18 Eq. 279; *Re Haberdashers' Co.* (1886), 55 L. T. (N.S.) 758; *Ex parte Bowman*, W. N. (1881), 179; *Re Leeds Grammar School*, [1901] 1 Ch. 228; 65 J. P. 88; *Re Sheffield Corporation and Trustees of St. William's Roman Catholic Chapel and Schools*, [1903] 1 Ch. 208; as dowress, *Re Hall's Estate* (1870), L. R. 9 Eq. 179; as lord of the manor, *Att.-Gen.* v. *Meyrick*, [1893] A. C. 1; 57 J. P. 212. It is in the discretion of the court whether money will be ordered to be paid out to trustees of settled lands (*In re Smith* (1889), 40 Ch. D. 386). The purchase-money of lands allotted by an inclosure award to the surveyor of highways for road materials was, subject to the consent of the L. G. B., ordered to be paid out to an urban district council as being the surveyor of highways and absolutely entitled under the Sale of Exhausted Parish Lands Act, 1876 (*Re Brumby and Frodingham U. D. C.* (1904), 69 J. P. 96; 3 L. G. R. 258). A metropolitan borough council who have not obtained the consent of the L. G. B. (now M. of H.) to the sale of land as required by s. 6 (5) of the London Government Act, 1899, are not persons "absolutely entitled" (*Ex parte G. W. Rail. Co.*, [1909] W. N. 202; 74 J. P. 21, overruling *Ex parte Woolwich Corporation*, [1908] W. N. 56). For a case of apportionment of the costs of re-investment where the petition related to two funds in court, see *Ex parte Perpetual Curate of Bilston* (1889), 37 W. R. 460. But see *Ex parte Watford U. D. C.* (1914), 78 J. P. N. 160. An apportionment cannot be made under this section between a tenant for life and remainderman (*Re Robinson's Settlement Trusts*, [1891] 3 Ch. 129).

Order for application and investment meanwhile.

70. Such money may be so applied as aforesaid upon an order of the Court of Chancery made on the petition of the party who would have been entitled to the rents and profits of the lands in respect of which such money shall have been deposited; and until the money can be so applied it may, upon the like order, be invested by the said Accountant-General in the purchase of Three Per Centum Consolidated or Three Per Centum Reduced Bank Annuities, or in Government or real securities, and the interest, dividends, and annual proceeds thereof paid to the party who would for the time being have been entitled to the rents and profits of the lands (*a*).

(*a*) It may also be invested in any securities in which cash under the control of the court may be invested (*Ex parte St. John Baptist College, Oxford* (1883), 22 Ch. D. 93). See R. S. C., Order XXVI., r. 17. As to the costs of investments, see s. 80, *post*, p. 2115, and notes thereto.

Sums from £20 to £200 to be deposited, or paid to trustees.

71. If such purchase money or compensation shall not amount to the sum of two hundred pounds, and shall exceed the sum of twenty pounds, the same shall either be paid into the Bank, and applied in the manner hereinbefore directed with respect to sums amounting to or exceeding two hundred pounds, or the same may lawfully be paid to two trustees, to be nominated by the parties entitled to the rents or profits of the lands in respect whereof the same shall be payable, such nomination to be signified by writing under the hands of the party so entitled; and in case of the coverture, infancy, lunacy, or other incapacity of the parties entitled to such moneys, such nomination may lawfully be made by their respective husbands, guardians, committees, or trustees; but such last-mentioned application of the moneys shall not be made unless the promoters of the undertaking approve thereof, and of the trustees named for the purpose; and the moneys so paid to such trustees, and the produce arising therefrom, shall be by such trustees applied in the manner hereinbefore directed with respect to money paid into the Bank, but it shall not be necessary to obtain any order of the Court for that purpose (*a*).

(*a*) Under this section, where a sum of £34 had been paid into court, payment out was directed to be made to a tenant for life who undertook to spend it in permanent improvements (*Ex parte Smith, Re Kells Union Guardians* (1888), 21 L. R. Ir. 346).

Sums not exceeding £20 to be paid to parties.

72. If such money shall not exceed the sum of twenty pounds, the same shall be paid to the parties entitled to the rents and profits of the lands in respect whereof the same shall be payable, for their own use and benefit; or in case of the coverture, infancy, idiotcy, lunacy, or other incapacity of any such parties, then such money shall be paid, for their use, to the respective husbands, guardians, committees, or trustees of such persons.

All sums payable under contract with persons not absolutely entitled, to be paid into Bank or to trustees.

73. All sums of money exceeding twenty pounds which may be payable by the promoters of the undertaking in respect of the taking, using, or interfering with any lands under a contract or agreement with any person who shall not be entitled to dispose of such lands, or of the interest therein contracted to be sold by him, absolutely for his own benefit, shall be paid into the Bank or to trustees in manner aforesaid; and it shall not be lawful for any contracting party not entitled as aforesaid to retain to his own use any portion of the sums so agreed or contracted to be paid for or in respect of the taking, using, or interfering with any such lands, or in lieu of bridges, tunnels or other accommodation works, or for assenting to or not opposing the passing of the Bill authorising the taking of such lands, but all such moneys shall be deemed to have been contracted to be paid for and on account of the several parties interested in such lands, as well in possession as in remainder, reversion, or expectancy: Provided (*a*) always, that it shall be in the discretion of the Court of Chancery, or the said trustees, as the case may be, to allot to any tenant for life, or for any other partial or qualified estate, for his own use, a portion of the sum so paid into the Bank or to such trustees as aforesaid, as compensation for any injury, inconvenience, or annoyance which he may be considered to sustain, independently of the actual value of the lands to be taken, and of the damage occasioned to the lands held therewith, by reason of the taking of such lands and the making of the works.

(*a*) For an instance of the application of this proviso, see *Re Saunderton Glebe Lands*, [1903] 1 Ch. 480.

Court of Chancery may direct application of money in respect of leases or reversions as they may think just.

74. Where any purchase money or compensation paid into the Bank under the provisions of this or the special Act shall have been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, it shall be lawful for the Court of Chancery, on the petition of any party interested in such money, to order that the same shall be laid out, invested, accumulated, and paid in such manner as the said court may consider will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion in respect of which such money shall have been paid, or as near thereto as may be (*a*).

(*a*) See *Re Barrington, Gamlen* v. *Lyon* (1886), 33 Ch. D. 523. This case was discussed and distinguished in *Re Robinson's Settlement Trusts*, [1891] 3 Ch. 129. A lessor having a right of re-entry in respect of non-payment of rent was held to be a person interested in compensation to the lessee paid into court, such right being an incumbrance on the leasehold interest (*Re London Street, Greenwich* (1888), 57 L. T. (N.S.) 673).

Upon deposit being made, the owners of the lands to convey, or in default the lands to vest in the promoters of the undertaking upon a deed poll being executed.

75. Upon deposit in the Bank in manner hereinbefore provided of the purchase money or compensation agreed or awarded to be paid in respect of any lands purchased or taken by the promoters of the undertaking under the provisions of this or the special Act, or any Act incorporated therewith, the owner of such lands, including in such term all parties by this Act enabled to sell or convey lands, shall, when required so to do by the promoters of the undertaking, duly convey such lands to the promoters of the undertaking, or as they shall direct; and in default thereof, or if he fail to adduce a good title to such lands to their satisfaction, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll under their common seal if they be a corporation, or if they be not a corporation, under the hands and seals of the promoters, or any two of them, containing a description of

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the lands in respect of which such default shall be made, and reciting the purchase or taking thereof by the promoters of the undertaking, and the names of the parties from whom the same were purchased or taken, and the deposit made in respect thereof, and declaring the fact of such default having been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein; and thereupon all the estate and interest in such lands of or capable of being sold and conveyed by the party between whom and the promoters of the undertaking such agreement shall have been come to, or as between whom and the promoters of the undertaking such purchase money or compensation shall have been determined by a jury, or by arbitrators, or by a surveyor appointed by two justices, as herein provided, and shall have been deposited as aforesaid, shall vest absolutely in the promoters of the undertaking; and as against such parties, and all parties on behalf of whom they are herein-before enabled to sell and convey, the promoters of the undertaking shall be entitled to immediate possession of such lands (*a*).

(*a*) See note (*b*) to s. 176 of the P. H. A., 1875, *ante*, p. 439, as to the effect of this section where owners cannot give a good title. The promoters are bound both under the ordinary law of specific performance, and, where the property is not vested in them by the special Act, also by s. 12 of the Finance Act, 1895, to take a conveyance which must be settled by the court if the parties differ (*Re Cary-Elwes' Contract*, [1906] 2 Ch. 143; 70 J. P. 345). In a case decided under Michael Angelo Taylor's Act, 1817, it was held that a vendor is entitled to have the dimensions of the property inserted in the conveyance (*Monighetti* v. *Wandsworth Borough Council* (1909), 73 J. P. 91).

Where parties refuse to convey or do not show title, or cannot be found, the purchase money to be deposited.

76. If the owner of any such lands purchased or taken by the promoters of the undertaking, or of any interest therein, on tender of the purchase money or compensation either agreed or awarded to be paid in respect thereof refuse to accept the same, or neglect or fail to make out a title to such lands, or to the interest therein claimed by him, to the satisfaction of the promoters of the undertaking, or if he refuse to convey or release such lands as directed by the promoters of the undertaking, or if any such owner be absent from the Kingdom, or cannot after diligent inquiry be found, or fail to appear on the inquiry before a jury, as herein provided for, it shall be lawful for the promoters of the undertaking to deposit the purchase money or compensation payable in respect of such lands, or any interest therein, in the Bank, in the name and with the privity of the Accountant-General of the Court of Chancery (*a*), to be placed, except in the cases herein otherwise provided for, to his account there, to the credit of the parties interested in such lands, (describing them, so far as the promoters of the undertaking can do,) subject to the control and disposition of the said court (*b*).

(*a*) Now the Accountant-General of the Supreme Court (15 & 16 Geo. 5, c. 49, s. 133).

(*b*) See as to this and the next section, *Wells* v. *Chelmsford L. B.* (1880), 15 Ch. D. 108; 45 J. P. 6.

The power conferred by this section is specifically saved by the Law of Property Act, 1925, s. 7 (3). See also sub-s. (4), *ibid.*

See also s. 42 (7), Law of Property Act, 1925 (15 Geo. 5, c. 20), set out in note (*b*) to s. 9, *ante*, p. 2092.

Upon deposit being made a receipt to be given, and the lands to vest in the promoters upon a deed poll being executed.

77. Upon any such deposit of money as last aforesaid being made the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money, specifying therein for what and for whose use (described as aforesaid) the same shall have been received, and in respect of what purchase the same shall have been paid in; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, under their common seal if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, containing a description of the lands in respect whereof such deposit shall have been made, and declaring the circumstances under which and the names of the parties to whose credit such deposit shall have been made, and such deed poll shall be stamped with the stamp duty which would have been payable upon a conveyance to the promoters of the undertaking of the lands described therein ; and thereupon all the estate and interest in such lands of the parties for whose use and in respect whereof such purchase money or compensation shall have been deposited shall vest absolutely in the promoters of the undertaking, and as against such parties they shall be entitled to immediate possession of such lands.

Application of moneys so deposited.

78. Upon the application by petition of any party making claim to the money so deposited as last aforesaid, or any part thereof, or to the lands in respect whereof the same shall have been so deposited, or any part of such lands, or any interest in the same, the said Court of Chancery may, in a summary way, as to such court shall seem fit, order such money to be laid out or invested in the public funds, or may order distribution thereof, or payment of the dividends thereof, according to the respective estates, titles, or interests of the parties making claim to such money or lands, or any part thereof, and may make such other order in the premises as to such court shall seem fit (*a*).

(*a*) As to the procedure when the land is land in respect of which the purchase-money is claimed by the Crown or by other claimants, see *Ex parte Reeve, Re Manor of Lowestoft and G. E. Rail. Co.* (1883), 24 Ch. D. 253. For the purposes of the Housing Act, 1925, this section is superseded by s. 129, *ibid., ante*, p. 1476. See also s. 9 of the Town Planning Act, 1925, *ante*, p. 1500.

As to the rights of a tenant for life of settled land, see *Re Griffith's Will* (1883), 49 L. T. (N.S.) 161, and the Settled Land Act, 1925. As to mortgages, see *Ex parte Ballinrobe and Claremorris Light Rail. Co., Ltd., and Kenny* (1913), 47 Ir. L. T. 101.

Where £400 was awarded, of which £150 was for a leasehold interest which was mortgaged, and £250 for trade damages, etc., the court ordered the £250 to be paid out at once (*Cooper* v. *Metropolitan Board of Works* (1884), 25 Ch. D. 472).

As to the procedure on applications for payment of money out of court, see R. S. C., Order LV., r. 2 ; *Ex parte London Corporation* (1884), 25 Ch. D. 384 ; *Ex parte Maidstone and Ashford Rail. Co.* (1884), 25 Ch. D. 138 ; *Re Brandram* (1884), 25 Ch. D. 365 ; *Re Madgwick* (1884), 25 Ch. D. 371 ; *Re Callon's Will* (1884), 25 Ch. D. 240 ; *Ex parte Jesus College* (1884), 50 L. T. (N.S.) 583 ; *Re Bethlehem and Bridewell Hospitals* (1885), 30 Ch. D. 541 ; *Re Haworth*, W. N. (1885) 48.

As to costs, see *Re Fisher*, [1894] 1 Ch. 450 ; *Re Leeds Grammar School*, [1901] 1 Ch. 228 ; 65 J. P. 88 ; *Re Kearns, Ex parte Lurgan U. D. C.*, [1902] 1 I. R. 157 ; *Re Schmarr*, [1902] 1 Ch. 326 ; *Dublin Corporation* v. *Carroll* (1914), 49 Ir. L. T. 6, 6a.

An order was made for *interim* investment of a fund arising out of charity lands taken in *Re Stafford's Charity* (1887), 57 L. T. (N.S.) 846. On petition for payment out of moneys deposited for purchase of a leasehold interest, the court refused to make the order conditional on the lease being handed over (*Taylor* v. *Whittaker*, W. N. (1890) 9).

Party in possession to be deemed the owner,

79. If any question arise respecting the title to the lands in respect whereof such moneys shall have been so paid or deposited as aforesaid, the parties respectively in possession of such lands, as being the owners thereof, or in receipt of the rents of such lands, as being entitled thereto at the time of such lands being purchased or taken, shall be deemed to have been lawfully entitled to such lands, until the contrary be shown to the satisfaction of the court ; and unless the contrary be shown as aforesaid the parties so in possession, and all parties claiming under them, or consistently with their possession, shall be deemed entitled to the money so deposited, and to the dividends or interest of the annuities or securities purchased therewith, and the same shall be paid and applied accordingly (*a*).

(*a*) See *Ex parte Chamberlain* (1880), 14 Ch. D. 323 ; which was followed in *Re Harris, Hansler* v. *Harris*, [1909] W. N. 181. In the latter case it was held that a person showing title by adverse possession for twelve years after the expiration of a long term of years to

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land taken under the Lands Clauses Act will, in the absence of any valid claim by the reversioner, be deemed to be the owner of the land and entitled to the payment out of the purchase-money. As to the right to the value of a reversion after the expiration of a term when the reversioner is unknown, see *Gedye* v. *Commissioners of Works*, [1891] 2 Ch. 630; *Re Harris's Estate, Ex parte London C. C.*, [1901] 1 Ch. 931.

Costs in cases of money deposited (*d*).

80. In all cases of moneys deposited in the Bank under the provisions of this or the special Act, or an Act incorporated therewith, except (*a*) where such moneys shall have been so deposited by reason of the wilful refusal (*b*) of any party entitled thereto to receive the same (*c*), or to convey or release the lands in respect whereof the same shall be payable, or by reason of the wilful neglect of any party to make out a good title to the land required, it shall be lawful for the Court of Chancery to order the costs of the following matters, including therein all reasonable charges and expenses incident thereto, to be paid by the promoters of the undertaking; (that is to say,) the costs of the purchase or taking (*d*) of the lands, or which shall have been incurred in consequence thereof, other than such costs as are herein otherwise provided for, and the costs of the investment of such moneys in Government or real securities (*e*), and of the re-investment thereof in the purchase of other lands (*f*), and also the costs of obtaining the proper orders (*g*) for any of the purposes aforesaid, and of the orders for the payment of the dividends and interest of the securities upon which such moneys shall be invested, and for the payment out of court of the principal of such moneys, or of the securities whereon the same shall be invested, and of all proceedings relating thereto, except such as are occasioned by litigation between adverse claimants (*h*): Provided always, that the costs of one application only for re-investment in land shall be allowed, unless it shall appear to the Court of Chancery that it is for the benefit of the parties interested in the said moneys that the same should be invested in the purchase of lands in different sums and at different times, in which case it shall be lawful for the court, if it think fit, to order the costs of any such investments to be paid by the promoters of the undertaking.

(*a*) The court has now, by virtue of the Supreme Court of Judicature (Consolidation) Act, 1925, s. 50 (re-enacting 53 & 54 Vict. c. 44, s. 5), a discretionary power to order payment of costs in the excepted cases (*In re Schmarr*, [1902] 1 Ch. 326).

(*b*) See *In re Jones and Cardiganshire C. C.* (1913), 57 Sol. Jo. 374.

(*c*) See *Re Leeds Grammar School*, [1901] 1 Ch. 228; 65 J. P. 88; *In re Dublin Corporation and Baker*, [1912] 1 I. R. 498.

(*d*) See note (*g*), *ante*, p. 2110, and note (*a*) to s. 82, *post*, p. 2116. Where the promoters avail themselves of this section and pay money into court they must bear all the costs of the legal steps necessary to be taken by the claimants in order to get the money paid to them. See *In re Lloyd and North London Ry. (City Branch) Act*, 1861, [1896] 2 Ch. 397; *In re Griggs, Ex parte London School Board*, [1914] 2 Ch. 547; 80 J. P. 35.

(*e*) See *Charlton* v. *Rolleston* (1885), 28 Ch. D. 137; and as to costs of brokerage, see *In re Gaselee and London C. C.*, [1901] 1 Ch. 923; *Re Magdalen College, Oxford*, [1901] 2 Ch. 786; 66 J. P. 23. Where a petition is presented for the payment out of court of two funds of unequal value representing the purchase-money of lands acquired by two railway companies respectively, the brokerage on selling the two funds must be borne by the two companies equally and ought not to be apportioned according to the relative amounts of the two funds (*Ex parte Emmanuel Hospital* (1908), 24 T. L. R. 261). A petition was presented to obtain payment out of a fund which represented moneys paid into court by a railway company under this section and asked further for the payment out of another fund representing proceeds of enfranchisement of copyholds, and that the costs of the petitioner and all other necessary parties might be taxed and paid by the railway company, except such amount of the costs as should be certified as arising from the inclusion in the petition of the fund representing the enfranchisement of the copyholds. It was held that there was no difference between the case and one of an application for re-investment in land, and that the order asked for as to costs was a proper one (*In re Lynn and Fakenham Railway Extension Act*, 1880, [1909] W. N. 24; 73 J. P. 163).

(*f*) See *Re Gedling Rectory* (1885), 53 L. T. (N.S.) 244; *Drake* v. *Greaves* (1886), 33 Ch. D. 609; *Att.-Gen.* v. *St. John's Hospital, Bath*, [1893] 3 Ch. 151; *Re the Bishopsgate Foundation*, [1894] 1 Ch. 185; *Re Arden* (1894), 70 L. T. (N.S.) 506; *Re Kearns, Ex parte Lurgan U. D. C.*, [1902] 1 I. R. 157; *Ex parte Thavie Estate Trustees*, [1905] 1 Ch. 403; *Re Clark*, [1906] 1 Ch. 615; *Re Nepton's Charity* (1907), 22 T. L. R. 442.

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(*g*) Where a summons is only partly successful the costs payable by the promoters must be confined to the costs of obtaining the particular order which is made (*In re Jacobs, Baldwin* v. *Pescott*, [1908] 2 Ch. 691). Where schools had been taken, the costs of settling a new scheme for applying the purchase-money in buying a new site and erecting fresh schools were held too remote to be recoverable under this provision (*Re St. Paul's Schools, Finsbury* (1883), 52 L. J. Ch. 454). But compare *Re Butchers' Co.* (1885), 53 L. T. (N.S.) 491. Where a local authority in pursuance of the compulsory powers conferred on them by the Act take land belonging to a charity, and as a direct result the trustees of the charity apply to the Charity Commissioners for a scheme for the regulation of the charity, the costs of the trustees so incurred are payable by the local authority (*In re Wood Green Gospel Hall Charity, Ex parte Middlesex C. C.*, [1909] 1 Ch. 263). The allowance of two fees for attendance before the Accountant-General, on an application under the Supreme Court Funds Rules, 1905, rr. 34, 35, for payment out of funds paid in under the Act, which originated when under the practice in Chancery under the old consolidated orders it was necessary for the solicitor to attend both before the Registrar and also before the Accountant-General, was held to be common form to-day and such fees were accordingly allowed (*In re Butler, Ex parte Metropolitan Board of Works*, [1912] W. N. 50; 106 L. T. 673). See also *In re Piggin, Ex parte Mansfield Rail. Co.*, [1913] 2 Ch. 326, as to the persons to be made parties to a petition.

(*h*) A local authority as promoters acquired some land for the purposes of their undertaking, and paid the purchase-money into court in consequence of the title to the land being in dispute. The dispute was subsequently settled without actual litigation. It was held that the costs of the negotiations for the settlement of the dispute as to the title were costs occasioned by adverse litigation within the meaning of the section (*In re Hood and In re West Ham Corporation Act*, 1902, [1910] W. N. 80; 74 J. P. 179).

Conveyances.

And with respect to the conveyances of lands, be it enacted as follows:

Form of conveyances (*a*).

81. Conveyances of lands to be purchased under the provisions of this or the special Act, or any Act incorporated therewith, may be according to the forms in the Schedules (A.) and (B.) respectively to this Act annexed, or as near thereto as the circumstances of the case will admit, or by deed in any other form which the promoters of the undertaking may think fit; and all conveyances made according to the forms in the said schedules, or as near thereto as the circumstances of the case will admit, shall be effectual to vest the lands thereby conveyed in the promoters of the undertaking, and shall operate to merge all terms of years attendant by express declaration (*b*), or by construction of law, on the estate or interest so thereby conveyed, and to bar and to destroy all such estates tail, and all other estates, rights, titles, remainders, reversions, limitations, trusts, and interests whatsoever, of and in the lands comprised in such conveyances, which shall have been purchased or compensated for by the consideration therein mentioned; but although terms of years be thereby merged, they shall in equity afford the same protection as if they had been kept on foot, and assigned to a trustee for the promoters of the undertaking to attend the reversion and inheritance.

(*a*) As to the effect of the statutory form of conveyance, see *Caledonian Ry. Co.* v. *Heriot's Trust*, [1915] A. C. 1046. The schedules containing the statutory forms are set out at p. 2139, *post*.

(*b*) See s. 5, Law of Property Act, 1925.

Costs of conveyances.

82. The costs of all such conveyances shall be borne by the promoters of the undertaking; and such costs shall include all charges and expenses, incurred on the part as well of the seller as of the purchaser, of all conveyances and assurances of any such lands, and of any outstanding terms or interest therein, and of deducing, evidencing, and verifying the title to such lands, terms, or interests, and of making out and furnishing such abstracts and attested copies as the promoters of the undertaking may require, and all other reasonable expenses incident to the investigation, deduction, and verification of such title (*a*).

(*a*) Costs of proving their incumbrances were refused to mortgagees of reversionary interests in the funds in court, the mortgages being subsequent to the payment

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into court (*Re Gough's Trusts* (1883), 24 Ch. D. 569). But this decision was dissented from in *Re Olive's Estate* (1890), 44 Ch. D. 316. See, as to costs of adverse litigation, *Re Cutling's Estate*, W. N. (1890) 75; *Ex parte Cooper* (1864), 34 L. J. Ch. 373; 11 L. T. (N.S.) 661. See, as to the right to costs in the case of a lessor having a right of re-entry in respect of unpaid rent, *Re London Street, Greenwich* (1888), 57 L. T. (N.S.) 673; in the case of the trustee of a settlement relating to land taken, *Re English's Settlement* (1888), 39 Ch. D. 556. As to costs of a disentailing deed, see *Re Navan and Kingscourt Rail. Co. and Fingall*, [1906] 1 I. R. 557. As to the costs of successive orders for payment of dividends, see *In re Rider* (1888), 37 Ch. D. 595. As to costs for purpose of conveyance of copyholds under s. 95 after decease of vendor, see *Re Thames Tunnel (Rotherhithe and Ratcliff) Act*, 1900, [1908] 1 Ch. 493; 72 J. P. 153, overruling on this point *Re London United Tramways Act*, 1900, [1906] 1 Ch. 534; and of leaseholds in similar conditions, *In re Elementary Education Acts*, 1870 *and* 1873, *Ex parte Baxter*, [1909] 1 Ch. 55; 73 J. P. 22. As to procedure by petition or summons, see *Re Hargrave's Trust, Ex parte Bradford Corporation* (1888), 58 L. T. (N.S.) 367; *Re De Grey's Entailed Estate*, W. N. (1887), 241. The undertakers take the risk of having to pay the costs in cases where money in court is dealt with under powers contained in a settlement (*Re Brooshooft's Settlement* (1889), 42 Ch. D. 250). Undertakers were ordered to pay costs of re-investing consols in which purchase-money had been invested, on their being redeemed by Government (*Re Brown* (1890), 59 L. J. Ch. 530; 63 L. T. (N.S.) 131). As to the costs of payment out when there has been a refusal to show title, see *Re St. Luke's Vestry*, W. N. (1889) 102. As to interest on costs and the form of order, see *Re Bird's Estate*, W. N. (1889) 182.

The costs of conveyance include costs of taking out letters of administration necessary to make a legal title (*Ex parte Keatley* (1890), 25 L. R. Ir. 265; *Ex parte Kelly* (1893), 31 L. R. Ir. 137; *Ex parte Rorke*, [1894] 1 I. R. 146; *Re Lloyd and North London Rail. Co.*, [1896] 2 Ch. 397; *Re Liverpool Improvement Act* (1868), L. R. 5 Eq. 282). And see *Re Griggs, Ex parte London School Board*, [1914] 2 Ch. 547; 80 J. P. 35.

See also s. 42, Law of Property Act, 1925.

Taxation of costs of conveyances.

83. If the promoters of the undertaking and the party entitled to any such costs shall not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the Court of Chancery, upon an order of the same court, to be obtained upon petition in a summary way by either of the parties; and the promoters of the undertaking shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an order of the said court, or the same may be recovered by distress in the manner hereinbefore provided in other cases of costs; and the expense of taxing such costs shall be borne by the promoters of the undertaking, unless upon such taxation one-sixth part of the amount of such costs shall be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of such taxation (*a*).

(*a*) The promoters cannot tax these costs after payment (*Ex parte Somerville* (1883), 23 Ch. D. 167).

Rule 11 of Sched. I., Part 1, of the General Order under the Solicitors Remuneration Act, 1881, does not apply to vendor's costs under this section (*In re Stewart* (1889), 41 Ch. D. 494). And see *In re Burdekin & Co.*, [1895] 2 Ch. 136; *In re Middlesex Light Railways Order*, 1903, [1908] W. N. 167.

Entry on lands.

And with respect to the entry upon lands by the promoters of the undertaking, be it enacted as follows (*a*):

(*a*) The provisions of this group of sections need not be complied with in the case of land acquired for purposes of the Housing Act. See the Housing Act, 1925, s. 106, *ante*, p. 1465. See also s. 127, *ibid.*, *ante*, p. 1475, which gives a power of entry similar to that given by this Act for purposes of the Housing Act. See also the Unemployment (Relief Works) Act, 1920, *post*, p. 2819, for an even more speedy method of obtaining possession of lands to be compulsorily purchased.

Payment of price to be made previous to entry, except to survey, etc.

84. The promoters of the undertaking shall not, except by consent of the owners and occupiers, enter upon any lands which shall be required to be purchased or permanently used for the purposes and under the powers of this or the special Act, until they shall either have paid to every party having any interest in such lands, or deposited in the Bank, in the manner herein mentioned, the purchase money or compensation agreed or awarded to be paid to such parties respectively for their respective interests therein: Provided always, that for the purpose merely of surveying and taking levels of such lands, and of probing or boring to ascertain the nature of the soil, and of setting out the line of the works, it shall be lawful for the promoters of the undertaking, after giving not less than three nor more than fourteen days notice to the owners or occupiers thereof, to enter upon such lands without previous consent, making compensation for any damage thereby occasioned to the owners or occupiers thereof (*a*).

(*a*) It is to be observed that the promoters are empowered to enter upon the lands for the purpose of "probing or boring." They are not apparently enabled to sink and keep open for a time trial holes such as are required by the M. of H. in cases of sewage disposal schemes. A local authority should endeavour in these cases to obtain the consent of the owners and to pay for any damage that may be done. In cases of compulsory purchase, this power of entry for examination of soil does not seem to arise until the compulsory purchase powers in respect of the land have been obtained.

Promoters to be allowed to enter on lands before purchase, on making deposit by way of security and giving bond.

85. Provided also, that if the promoters of the undertaking shall be desirous of entering upon and using any such lands before an agreement shall have been come to or an award made or verdict given for the purchase money or compensation to be paid by them in respect of such lands, it shall be lawful for the promoters of the undertaking to deposit in the Bank by way of security, as hereinafter mentioned, either the amount of purchase money or compensation claimed by any party interested in or entitled to sell and convey such lands, and who shall not consent to such entry, or such a sum as shall, by a surveyor appointed by two justices in the manner hereinbefore provided (*a*) in the case of parties who cannot be found, be determined to be the value of such lands (*b*), or of the interest therein which such party is entitled to or enabled to sell and convey, and also to give to such party a bond, under the common seal of the promoters if they be a corporation, or if they be not a corporation under the hands and seals of the said promoters, or any two of them, with two sufficient sureties, to be approved of by two justices in case the parties differ, in a penal sum equal to the sum so to be deposited, conditioned for payment to such party, or for deposit in the Bank for the benefit of the parties interested in such lands as the case may require, under the provisions herein contained, of all such purchase money or compensation as may in manner hereinbefore provided be determined to be payable by the promoters of the undertaking in respect of the lands so entered upon, together with interest thereon at the rate of five pounds per centum per annum from the time of entering on such lands until such purchase money or compensation shall be paid to such party, or deposited in the Bank for the benefit of the parties interested in such lands, under the provisions herein contained; and upon such deposit by way of security being made as aforesaid, and such bond being delivered or tendered to such non-consenting party as aforesaid, it shall be lawful for the promoters of the undertaking to enter upon and use such lands, without having first paid or deposited the purchase money or compensation in other cases required to be paid or deposited by them before entering upon any lands to be taken by them under the provisions of this or the special Act (*c*).

(*a*) Section 59, *ante*, p. 2106.

(*b*) Including compensation for severance, etc. (*Field* v. *Carnarvon and Llanberis Rail. Co.* (1868), L. R. 5 Eq. 190).

(*c*) If no actual entry be made after deposit of security, then the lands cannot be considered to have been taken under this section (*R.* v. *Manley Smith* (1892), 56 J. P. 729; 67 L. T. (N.S.) 197). As to entry under this section when the time for the execution of the

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works was about to expire, see *Loosemore* v. *Tiverton, etc. Rail. Co.* (1884), 9 App. Cas. 480; 48 J. P. 372, which was explained and followed in *G. W. Rail. Co.* v. *Midland Rail. Co.*, [1909] A. C. 445. As to entry on land when the promoters were entitled to acquire only an easement of tunnelling, see *Hill* v. *Midland Rail. Co.* (1882), 21 Ch. D. 143.

Under the corresponding section of the Lands Clauses Consolidation (Scotland) Act, 1845, it was held that where the owner of lands entered upon under that section dispensed with the giving of a bond, he was nevertheless entitled to 5 per cent. interest upon the compensation from the date of the promoters entering upon his land till the compensation was paid; and was entitled to payment of such interest out of the sum deposited by the promoters (*West Highland Rail. Co.* v. *Place* (1894), 21 Ct. of Sess. Cas. (4th ser.) 576).

If lands are taken under this section for an unauthorised purpose the landowner can recover possession with damages for any injury done to the premises (*Batson* v. *London School Board* (1903), 67 J. P. 457; 20 T. L. R. 22).

Entry by mistake on lands not included in the notice to treat is a trespass, although notice to treat is subsequently given in respect of such lands (*Cardwell* v. *Midland Rail Co.* (1904), 21 T. L. R. 22).

Upon deposit being made cashier to give receipt.

86. The money so to be deposited as last aforesaid shall be paid into the Bank in the name and with the privity of the Accountant-General of the Court of Chancery (*a*), to be placed to his account there to the credit of the parties interested in or entitled to sell and convey the lands so to be entered upon, and who shall not have consented to such entry, subject to the control and disposition of the said court; and upon such deposit being made the cashier of the Bank shall give to the promoters of the undertaking, or to the party paying in such money by their direction, a receipt for such money specifying therein for what purpose and to whose credit the same shall have been paid in.

(*a*) Now the Accountant-General of the Supreme Court (15 & 16 Geo. 5, c. 49, s. 133).

Deposit to remain as a security, and to be applied under the direction of the court.

87. The money so deposited as last aforesaid shall remain in the Bank, by way of security to the parties whose lands shall so have been entered upon for the performance of the condition of the bond to be given by the promoters of the undertaking, as hereinbefore mentioned, and the same may, on the application by petition of the promoters of the undertaking, be ordered to be invested in Bank annuities or Government securities, and accumulated; and upon the condition of such bond being fully performed it shall be lawful for the Court of Chancery, upon a like application, to order the money so deposited, or the funds in which the same shall have been invested, together with the accumulation thereof, to be repaid or transferred to the promoters of the undertaking, or if such condition shall not be fully performed it shall be lawful for the said court to order the same to be applied, in such manner as it shall think fit, for the benefit of the parties for whose security the same shall so have been deposited (*a*).

(*a*) On proof that the condition of the bond has been fulfilled by payment to the party to whom it was given, and that it has been delivered up to the promoters, the promoters are entitled upon petition by themselves and the obligee of the bond, to have the deposit paid out to them without showing that payment of the purchase-money of the land has been made to the persons really entitled to it (*Ex parte Midland Rail. Co.*, [1904] 1 Ch. 61).

The company may pay the deposit-money into the Bank by way of security during the time that the office of the Accountant-General is closed.

88. If at any time the company be unable, by reason of the closing of the office of the Accountant-General of the Court of Chancery, to obtain his authority in respect of the payment of any sum of money so authorised to be deposited in the Bank by way of security as aforesaid, it shall be lawful for the company to pay into the Bank to the credit of such party or matter as the case may require (subject nevertheless to being dealt with as hereinafter provided, and not otherwise,) such sum of money as the promoters of the undertaking shall, by some writing signed by their secretary or solicitors for the time being addressed to the Bank in that behalf, request, and upon any such payment being made the cashier of the Bank shall give a certificate thereof; and in every such case, within ten days after the re-opening of the said Accountant-General's office, the solicitor for the promoters of the undertaking shall there bespeak the direction for the payment of such sum into the name of the Accountant-General, and upon production of such direction at the Bank of England the money so previously paid in shall be placed to the credit of the said Accountant-General accordingly, and the receipt for the said payment be given to the party making the same in the usual way, for the purpose of being filed at the Report Office.

Penalty on the promoters of the undertaking entering upon lands without consent before payment of the purchase-money.

89. If the promoters of the undertaking or any of their contractors shall, except as aforesaid, wilfully (*a*) enter upon and take possession of any lands which shall be required to be purchased or permanently used for the purposes of the special Act, without such consent as aforesaid, or without having made such payment for the benefit of the parties interested in the lands or such deposit by way of security as aforesaid, the promoters of the undertaking shall forfeit to the party in possession of such lands the sum of ten pounds, over and above the amount of any damage done to such lands by reason of such entry and taking possession as aforesaid, such penalty and damage respectively to be recovered before two justices (*b*); and if the promoters of the undertaking or their contractors shall, after conviction in such penalty as aforesaid, continue in unlawful possession of any such lands, the promoters of the undertaking shall be liable to forfeit the sum of twenty-five pounds for every day they or their contractors shall so remain in possession as aforesaid, such penalty to be recoverable by the party in possession of such lands, with costs, by action in any of the superior courts: Provided always, that nothing herein contained shall be held to subject the promoters of the undertaking to the payment of any such penalties as aforesaid, if they shall bonâ fide and without collusion have paid the compensation agreed or awarded to be paid in respect of the said lands to any person whom the promoters of the undertaking may have reasonably believed to be entitled thereto, or shall have deposited the same in the Bank for the benefit of the parties interested in the lands, or made such deposit by way of security in respect thereof as herein-before mentioned, although such person may not have been legally entitled thereto.

(*a*) This does not include an entry under a mistaken belief of right (*Steele* v. *Midland Rail. Co.* (1869), 21 L. T. (N.S.) 387). See also *Hutchinson* v. *Manchester, Bury, and Rossendale Rail. Co.* (1846), 15 M. & W. 314; 15 L. J. Ex. 293.

(*b*) See s. 136, *post*, p. 2136.

Decision of justices not conclusive as to the right of the promoters.

90. On the trial of any action for any such penalty as aforesaid the decision of the justices under the provision hereinbefore contained shall not be held conclusive as to the right of entry on any such lands by the promoters of the undertaking.

Proceedings in case of refusal to deliver possession of lands.

91. If in any case in which, according to the provisions of this or the special Act, or any Act incorporated therewith, the promoters of the undertaking are authorised to enter upon and take possession of any lands required for the purposes of the undertaking, the owner or occupier of any such lands or any other person refuse to give up the possession thereof, or hinder the promoters of the undertaking from entering upon or taking possession of the same, it shall be lawful for the promoters of the undertaking to issue their warrant to the sheriff to deliver possession of the same to the person appointed in such warrant to receive the same, and upon the receipt of such warrant the sheriff shall deliver possession of any such lands accordingly; and the costs accruing by reason of the issuing and execution of such warrant, to be settled by the sheriff, shall be paid by the person refusing to give possession; and the amount of such costs shall be deducted and retained by the promoters of the undertaking from the compensation, if any, then payable by them to

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such party, or if no such compensation be payable to such party, or if the same be less than the amount of such costs, then such costs, or the excess thereof beyond such compensation, if not paid on demand, shall be levied by distress, and upon application to any justice for that purpose he shall issue his warrant accordingly (*a*).

(*a*) The aid of the sheriff is not necessary unless the entry is actually resisted (*Loosemore* v. *Tiverton, etc. Rail. Co.*). See also *In re Way and London United Tramways, Ltd.* (1908), 125 L. T. Jo. 594, the facts of which are set out at p. 2095, *ante; Piggott* v. *Middlesex C. C.*, [1909] 1 Ch. 134; 72 J. P. 461.

Parties not to be required to sell part of a house, etc.

92. And be it enacted, that no party shall at any time be required to sell or convey to the promoters of the undertaking a part only of any house or other building or manufactory, if such party be willing and able to sell and convey the whole thereof (*a*).

(*a*) House includes curtilage and garden (*Grosvenor* v. *Hampstead Junction Rail. Co.* (1857), 1 De G. & J. 446; 26 L. J. Ch. 731; *Governors of St. Thomas's Hospital* v. *Charing Cross Rail. Co.* (1860), 30 L. J. Ch. 395; 4 L. T. (N.S.) 13). In one case it was held that a paddock was part of a house within this section (*Barnes* v. *Southsea Rail. Co.* (1884), 27 Ch. D. 536). So, also, two houses which communicated internally, and were used as one (*Seigenberg* v. *Metropolitan District Rail. Co.* (1883), 49 L. T. (N.S.) 554; 32 W. R. 333). But not two houses at one of which a manufacture is carried on, and at the other of which, in another street, the goods are sold (*Benington* v. *Metropolitan Board of Works* (1886), 50 J. P. 740; 54 L. T. (N.S.) 837). See *Reddin* v. *Metropolitan Board of Works* (1862), 4 De G. F. & J. 532; 27 J. P. 4. A structure built at one time and architecturally one building although divided by party walls into fourteen parts let separately is one building within this section (*Greswolde-Williams* v. *Newcastle-upon-Tyne Corporation* (1927), 92 J. P. 13; 26 L. G. R. 26). If a structure is a building within this section, it is immaterial whether if part is acquired the remainder will be of less or equal value after truncation (*ibid.*). The acceptance by a company's solicitor of a notice under this section to take property, which the company is not compellable to take is not binding on the company (*Treadwell* v. *L. & S. W. Rail. Co.* (1885), 54 L. J. Ch. 565). As to what is a manufactory, see *Richards* v. *Swansea Improvement and Tramways Co.* (1878), 9 Ch. D. 425; *Brook* v. *Manchester, Sheffield and Lincolnshire Rail. Co.*, [1894] 2 Ch. 571. The case of *Richards* v. *Swansea Improvement and Tramways Co., supra*, was considered in *Regent's Canal and Dock Co.* v. *London C. C.*, [1912] 1 Ch. 583; 76 J. P. 353, where it was held that the words "other building" mean other building in the nature of a house, although in ordinary language it would not be described as a house. They do not include the entire undertaking of a canal and dock company. The test whether the undertakers are compellable to take along with a garden, stables, etc., for which they have given notice to treat, a house enjoyed therewith but separated therefrom by a road, is whether the garden, stables, etc. would have passed by a conveyance of the house simply (*Kerford* v. *Seacombe Rail. Co.* (1888), 57 L. J. Ch. 270; 52 J. P. 487; *Allhusen* v. *Ealing and South Harrow Rail. Co.* (1897), 78 L. T. (N.S.) 396; 46 W. R. 483; *Low* v. *Staines Reservoir Joint Committee* (1902), 64 J. P. 212). A notice referring to one tenement and part of another tenement, but abandoned altogether when the owner demands that the whole of the other tenement shall be taken, cannot be treated as still existing in respect of the first-mentioned tenement (*Thompson* v. *Tottenham and Forest Gate Rail. Co.* (1893), 57 J. P. 181; 67 L. T. (N.S.) 416). On receipt of a counter-notice under this section, a notice to treat may be withdrawn, and thereupon the promoters of the undertaking will be put in the same position as if no notice to treat had ever been given by them. They may issue fresh notice to treat, and withdraw that also with the like result, as often as counter-notice is given (*Ashton Vale Iron Co.* v. *Bristol Corporation*, [1901] 1 Ch. 591). A notice under this section may be given even after notice of claim has been made in answer to the notice to treat, and after prolonged negotiations as to such claim (*Lavers* v. *London C. C.* (1905), 69 J. P. 362; 93 L. T. (N.S.) 233; *Pollard* v. *Middlesex C. C.* (1907), 71 J. P. 85). And a notice under this section may even be given after the surveyors on both sides have agreed on the compensation under the notice to treat (*Pollard* v. *Middlesex C. C.* (1907), 71 J. P. 85; 95 L. T. (N.S.) 870). When on the compulsory sale of part of a property the owner may require the promoters to purchase the whole and does so, this does not constitute a compulsory sale of the whole so as to entitle the owner to the extra allowance for compulsory sale (*Jervis* v. *Newcastle and Gateshead Water Co.* (1896), 13 T. L. R. 14).

In issuing Provisional Orders under s. 176 of the P. H. A., 1875, *ante*, p. 436, for the compulsory purchase of lands by local authorities, the Ministry of Health decline to insert any provision releasing the authority from their obligation to purchase whole properties if so required under this section, but in recent legislation it has, in cases of compulsory purchase by local authorities, in many cases been left to the arbitrator to decide whether part of a

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building can be severed without material detriment to the remainder, and if he so decides, an owner cannot insist on the whole being taken, *e.g.* Development and Road Improvement Funds Act, 1909, Sch. r. 4, *ante*, p. 1209, and Housing Act, 1925, Sch. II., r. 2, *ante*, p. 1484.

Intersected lands.

And with respect to small portions of intersected land, be it enacted as follows (*a*) :

(*a*) See *Genders* v. *L. C. C.*, [1915] 1 Ch. 1, a case which arose on the construction of a special Act which enabled the L. C. C. to acquire part of any property but so as not to interfere with the main structure of any house or building.

Owners of intersected lands may insist on sale.

93. If any lands, not being situate in a town (*a*) or built upon, shall be so cut through and divided by the works as to leave, either on both sides or on one side thereof, a less quantity of land than half a statute acre, and if the owner of such small parcel of land require the promoters of the undertaking to purchase the same along with the other land required for the purposes of the special Act, the promoters of the undertaking shall purchase the same accordingly, unless the owner thereof have other land adjoining to that so left into which the same can be thrown, so as to be conveniently occupied therewith ; and if such owner have any other land so adjoining, the promoters of the undertaking shall, if so required by the owner, at their own expense, throw the piece of land so left into such adjoining land, by removing the fences and levelling the sites thereof, and by soiling the same in a sufficient and workmanlike manner.

Exception.

(*a*) *Falkner* v. *Somerset and Dorset Rail. Co.* (1873), L. R. 16 Eq. 458. See *L. & S. W. Rail. Co.* v. *Blackmore* (1870), L. R. 4 H. L. 610 ; *Carrington* v. *Wycombe Rail. Co.* (1868), L. R. 3 Ch. 377.

Promoters of the undertaking may insist on purchase where expense of bridges, etc exceeds the value.

94. If any such land shall be so cut through and divided as to leave on either side of the works a piece of land of less extent than half a statute acre, or of less value than the expense of making a bridge, culvert, or such other communication between the land so divided as the promoters of the undertaking are, under the provisions of this or the special Act, or any Act incorporated therewith, compellable to make, and if the owner of such lands (*a*) have not other lands adjoining such piece of land, and require the promoters of the undertaking to make such communication, then the promoters of the undertaking may require such owner to sell to them such piece of land ; and any dispute as to the value of such piece of land, or as to what would be the expense of making such communication, shall be ascertained as herein provided for cases of disputed compensation ; and on the occasion of ascertaining the value of the land required to be taken for the purposes of the works the jury or the arbitrators, as the case may be, shall, if required by either party, ascertain by their verdict or award the value of any such severed piece of land, and also what would be the expense of making such communication.

(*a*) Whether situate in a town or elsewhere (*Eastern Counties Rail. Co.* v. *Marriage* (1861), 9 H. L. Cas. 32).

Copyhold.

And with respect to copyhold lands, be it enacted as follows (*a*) :

(*a*) It may be noticed here that by the Law of Property Act, 1922, all copyhold and customary tenure is abolished and all copyhold lands are enfranchised subject to compensation. See that Act.

Conveyances of copyhold lands to be enrolled.

95. Every conveyance to the promoters of the undertaking of any lands which shall be of copyhold or customary tenure, or of the nature thereof, shall be entered on the rolls of the manor of which the same shall be held or parcel ; and on payment to the steward of such manor of such fees as would be due to him on the surrender (*a*) of the same lands to the use of a purchaser thereof he shall make such enrolment ; and every such conveyance, when so enrolled, shall have the like effect, in respect of such copyhold or customary lands, as if the same had been of freehold tenure, nevertheless, until such lands shall have been enfranchised by virtue of the powers hereinafter contained, they shall continue subject to the same fines, rents, heriots, and services as were theretofore payable and of right accustomed.

(a) Not also any fee on admittance (*Cooper* v. *Norfolk Rail. Co.* (1849), 3 Exch. 546). A lord of a manor, entitled by custom to fines on surrender and admittance, is not entitled to any fine on the execution of the conveyance, nor upon the enrolment, nor to any compensation for the loss (*Ecclesiastical Commissioners* v. *L. & S. W. Rail. Co.* (1854), 14 C. B. 743; 23 L. J. C. P. 177). But until enfranchisement he is entitled to the same fines as would have accrued payable but for the taking of the land (*Lord Leconfield* v. *L. & N. W. Rail. Co.*, [1907] 1 Ch. 38).

Where trustees of a will agreed to sell a strip of subsoil under three copyhold houses to the London County Council, who were by the contract to pay the vendor's costs of title and conveyance as allowed by the Lands Clauses Consolidation Act, 1845, and on investigating the title it appeared that there had been no surrender or admission since April, 1870, and the vendors, at the request of the council, obtained the admission of the customary co-heirs of the last-surviving tenant on the court roll who had been a former trustee, it was held that the steward's fees and costs of admittance must be borne by the council, but that the lord's fine was not payable by the council (*Re Thames Tunnel* (*Rotherhithe and Ratcliff*) *Act*, 1900, [1908] 1 Ch. 493; 72 J. P. 153, overruling *Re London United Tramways Act*, 1900, [1906] 1 Ch. 534)

Copyhold lands conveyed to the promoters to be enfranchised.

96. Within three months after the enrolment of the conveyance of any such copyhold or customary lands, or within one month after the promoters of the undertaking shall enter upon and make use of the same for the purposes of the works, whichever shall first happen, or if more than one parcel of such lands holden of the same manor shall have been taken by them, then within one month after the last of such parcels shall have been so taken or entered on by them, the promoters of the undertaking shall procure the whole of the lands holden of such manor so taken by them to be enfranchised, and for that purpose shall apply to the lord of the manor whereof such lands are holden to enfranchise the same, and shall pay to him such compensation in respect thereof as shall be agreed upon between them and him, and if the parties fail to agree respecting the amount of the compensation to be paid for such enfranchisement the same shall be determined as in other cases of disputed compensation; and in estimating such compensation the loss in respect of the fines, heriots, and other services payable on death, descent, or alienation, or any other matters which would be lost by the vesting of such copyhold or customary lands in the promoters of the undertaking, or by the enfranchisement of the same, shall be allowed for (a).

Compensation for enfranchisement.

(a) The compensation must be assessed on the value of the land when taken, not on the improved value of the land by reason of the undertakers' works, no step having been taken for thirteen years by the company to obtain enfranchisement (*Lowther* v. *Caledonian Rail. Co.*, [1892] 1 Ch. 73). The compensation is to be assessed as on the expiration of a month after entry and not as when the enfranchisement is completed (*Re Salisbury* (*Marquis*) *and L. & N. W. Rail. Co.*, [1892] 1 Ch. 75).

The lord of a manor conveyed certain copyholds to a corporation and negotiations followed for their enfranchisement. In arbitration proceedings the lord claimed compensation for loss of quittances, which were customary charges of 4*d.* for every receipt demanded by a copyholder for any payment made by him. It was held that the quittances came within the section so as to be a matter for compensation, and that interest at 4 per cent. on the compensation money, calculated from the date of the obligation to enfranchise, was payable by the corporation after deducting any rents paid to the lord by the corporation (*In re Duke of Northumberland and Tynemouth Corporation*, [1909] 2 K. B. 374; 73 J. P. 326). See also *Ecclesiastical Commissioners* v. *L. & S. W. Rail. Co.*, *supra*.

A town council proposed to purchase copyhold land for market purposes and the L. G. B. drew attention to ss. 95 and 96 of the Lands Clauses Consolidation Act, 1845, which require enrolment and subsequent enfranchisement of copyhold lands. The Board pointed out that it seemed to be fully established in *Lowther* v. *Caledonian Rail. Co.*, *supra*, that s. 96, so far as it requires enfranchisement, is distinctly obligatory in effect. See hereon the Law of Property Act, 1922, ss. 128 *et seq.*, referred to in note (a), *ante*, p. 2122.

Lord of the manor to enfranchise on

97. Upon payment or tender of the compensation so agreed upon or determined, or on deposit thereof in the Bank in any of the cases hereinbefore

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payment of compensation.

Enfranchisement by deed poll in certain cases.

in that behalf provided, the lord of the manor whereof such copyhold or customary lands shall be holden shall enfranchise such lands, and the lands so enfranchised shall for ever thereafter be held in free and common soccage; and in default of such enfranchisement by the lord of the manor, or if he fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner herein-before provided in the case of the purchase of lands by them, and thereupon the lands in respect of the enfranchisement whereof such compensation shall have been deposited as aforesaid shall be deemed to be enfranchised, and shall be for ever thereafter held in free and common soccage.

Apportionment of copyhold rents.

98. If any such copyhold or customary lands be subject to any customary or other rent, and part only of the land subject to any such rent be required to be taken for the purposes of the special Act, the apportionment of such rent may be settled by agreement between the owner of the lands and the lord of the manor on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement, then the same shall be settled by two justices; and the enfranchisement of any copyhold or customary lands taken by virtue of this or the special Act, or the apportionment of such rents, shall not affect in other respects any custom by or under which any such copyhold or customary lands not taken for such purposes shall be held; and if any of the lands so required be released from any portion of the rents to which they were subject jointly with any other lands, such last-mentioned lands shall be charged with the remainder only of such rents; and with reference to any such apportioned rents, the lord of the manor shall have all the same rights and remedies over the lands to which such apportioned rent shall have been assigned or attributed as he had previously over the whole of the lands subject to such rents for the whole of such rents.

Common lands.

And with respect to any such lands being common or waste lands, be it enacted as follows (*a*):

(*a*) This part of the Act has been amended in some important particulars by the Commonable Rights Compensation Act, 1882, *post*, p. 2410.

Commonable rights in respect of copyhold land, enfranchised by the Law of Property Act, 1922, are expressly saved by Sched. XII., para. (4), *ibid.*

Compensation for common lands, where held of a manor, etc. how to be paid.

99. The compensation in respect of the right in the soil of any lands subject to any rights of common shall be paid to the lord of the manor, in case he shall be entitled to the same, or to such party, other than the commoners, as shall be entitled to such right in the soil; and the compensation in respect of all other commonable and other rights in or over such lands, including therein any commonable or other rights to which the lord of the manor may be entitled other than his right in the soil of such lands, shall be determined and paid and applied in manner hereinafter provided with respect to common lands the right in the soil of which shall belong to the commoners; and upon payment or deposit in the Bank of the compensation so determined all such commonable and other rights shall cease and be extinguished.

Lord of the manor, etc. to convey to the promoters of the undertaking, on receiving compensation for his interest.

100. Upon payment or tender to the lord of the manor, or such other party as aforesaid, of the compensation which shall have been agreed upon or determined in respect of the right in the soil of any such lands, or on deposit thereof in the Bank in any of the cases hereinbefore in that behalf provided, such lord of the manor, or such other party as aforesaid, shall convey such lands to the promoters of the undertaking, and such conveyance shall have the effect of vesting such lands in the promoters of the undertaking, in like manner as if such lord of the manor, or such other party as aforesaid, had been

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Deed poll to be executed in certain cases.

seised in fee simple of such lands at the time of executing such conveyance; and in default of such conveyance it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect whereof such last-mentioned compensation shall have been deposited as aforesaid shall vest absolutely in the promoters of the undertaking, and they shall be entitled to immediate possession thereof, subject nevertheless to the commonable and other rights theretofore affecting the same, until such rights shall have been extinguished by payment or deposit of the compensation for the same in manner hereinafter provided.

Compensation for common lands where not held of a manor, how to be ascertained.

101. The compensation to be paid with respect to any such lands, being common lands, or in the nature thereof, the right to the soil of which shall belong to the commoners, as well as the compensation to be paid for the commonable and other rights in or over common lands the right in the soil whereof shall not belong to the commoners, other than the compensation to the lord of the manor, or other party entitled to the soil thereof, in respect of his right in the soil thereof, shall (*a*) be determined by agreement between the promoters of the undertaking and a committee of the parties entitled to commonable or other rights in such lands, to be appointed as next hereinafter mentioned.

(*a*) Nevertheless an agreement entered into for the determination of the compensation otherwise than as hereinafter provided is valid and may be enforced (*Bee* v. *Stafford and Uttoxeter Rail. Co.* (1875), 23 W. R. 863).

A meeting of the parties interested to be convened.

102. It shall be lawful for the promoters of the undertaking to convene a meeting of the parties entitled to commonable or other rights over or in such lands to be held at some convenient place in the neighbourhood of the lands, for the purpose of their appointing a committee (*a*) to treat with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable or other rights; and every such meeting shall be called by public advertisement, to be inserted once at least in two consecutive weeks in some newspaper circulating in the county or in the respective counties and in the neighbourhood in which such lands shall be situate, the last of such insertions being not more than fourteen nor less than seven days prior to any such meeting; and notice of such meeting shall also, not less than seven days previous to the holding thereof, be affixed upon the door of the parish church where such meeting is intended to be held, or if there be no such church some other place in the neighbourhood to which notices are usually affixed; and if such lands be parcel or holden of a manor, a like notice shall be given to the lord of such manor.

(*a*) The court has no jurisdiction to inquire whether the committee are properly constituted. It is sufficient that it is a *de facto* committee (*Salmon* v. *Edwards*, [1910] 1 Ch. 552; 74 J. P. 177).

Meeting to appoint a committee.

103. It shall be lawful for the meeting so called to appoint a committee, not exceeding five in number, of the parties entitled to any such rights; and at such meeting the decision of the majority of the persons entitled to commonable rights present shall bind the minority and all absent parties.

Committee to agree with the promoters of the undertaking.

104. It shall be lawful for the committee so chosen to enter into an agreement with the promoters of the undertaking for the compensation to be paid for the extinction of such commonable and other rights, and all matters relating thereto, for and on behalf of themselves and all other parties interested therein; and all such parties shall be bound by such agreement; and it shall be lawful for such committee to receive the compensation so agreed to be paid, and the receipt of such committee, or of any three of them, for such

Section 104. compensation shall be an effectual discharge for the same; and such compensation, when received, shall be apportioned by the committee among the several persons interested therein, according to their respective interests (*a*), but the promoters of the undertaking shall not be bound to see to the apportionment or to the application of such compensation, nor shall they be liable for the misapplication or non-application thereof.

(*a*) See *Fox* v. *Amherst* (1875), L. R. 20 Eq. 403; *Nash* v. *Coombs* (1868), L. R. 6 Eq. 51. As to apportionment in case the majority think this provision inadequate, see ss. 15—17 of the Inclosure Act, 1854. Special provision being thereby made for the apportionment of claims, no action lies for an apportionment (*Richards* v. *De Winton*, [1901] 2 Ch. 566; 65 J. P. 696; settled on appeal, [1903] 1 Ch. 507; and see *Salmon* v. *Edwards, supra*).

As to the application of compensation money for recreation grounds and field gardens, see the Commonable Rights Compensation Act, 1882, s. 3, *post*, p. 2411.

Disputes to be settled as in other cases.

105. If upon such committee being appointed they shall fail to agree with the promoters of the undertaking as to the amount of the compensation to be paid as aforesaid, the same shall be determined as in other cases of disputed compensation.

If no committee be appointed, the amount to be determined by a surveyor.

106. If, upon being duly convened by the promoters of the undertaking, no effectual meeting of the parties entitled to such commonable or other rights shall take place, or if, taking place, such meeting fail to appoint such committee, the amount of such compensation shall be determined by a surveyor, to be appointed by two justices, as hereinbefore provided in the case of parties who cannot be found.

Upon payment of compensation payable to commoners the lands to vest.

107. Upon payment or tender to such committee, or any three of them, or if there shall be no such committee then upon deposit in the Bank in the manner provided in the like case of the compensation which shall have been agreed upon or determined in respect of such commonable or other rights, it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the lands in respect of which such compensation shall have been so paid or deposited shall vest in the promoters of the undertaking freed and discharged from all such commonable or other rights, and they shall be entitled to immediate possession thereof (*a*); and it shall be lawful for the Court of Chancery, by an order to be made upon petition, to order payment of the money so deposited to a committee to be appointed as aforesaid, or to make such other order in respect thereto, for the benefit of the parties interested, as it shall think fit.

(*a*) Compliance with these provisions is a condition precedent to the right to interfere with the rights of the commoners, and if the rights of any commoner are disturbed before such compliance he may maintain an action (*Stoneham* v. *L. B. and S. C. Rail. Co.* (1872), L. R. 7 Q. B. 1).

Lands in mortgage.

And with respect to lands subject to mortgage, be it enacted as follows (*a*):

(*a*) As to equitable mortgagees and their rights, see *Martin* v. *L. C. and D. Rail. Co.* (1866), L. R. 1 Ch. 501; *R.* v. *Middlesex* (*Clerk of the Peace of*, [1914] 3 K. B. 259, and *ante*, p. 2094. As to a mortgagee's rights when promoters have obtained possession without notice to him, see *Cooke* v. *London C. C.*, p. 2133, *post*.

Power to redeem mortgages.

108. It shall be lawful for the promoters of the undertaking to purchase or redeem the interest of the mortgagee of any such lands which may be required for the purposes of the special Act, and that whether they shall have previously purchased the equity of redemption of such lands or not, and whether the mortgagee thereof be entitled thereto in his own right or in trust for any other party, and whether he be in possession of such lands by virtue of such mortgage or not, and whether such mortgage affect such lands solely, or jointly with any other lands not required for the purposes of the special Act; and in order thereto the promoters of the undertaking may pay or tender to such mortgagee the principal and interest due on such mortgage, together with his costs and charges, if any, and also six months additional interest, and thereupon such mortgagee shall immediately convey his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct; or the promoters of the undertaking may give notice in writing to such mortgagee that they will pay off the principal and interest due on such mortgage at the end of six months, computed from the day of giving such notice; and if they shall have given any such notice, or if the party entitled to the equity of redemption of any such lands shall have given six months notice of his intention to redeem the same, then at the expiration of either of such notices, or at any intermediate period, upon payment or tender by the promoters of the undertaking to the mortgagee of the principal money due on such mortgage, and the interest which would become due at the end of six months from the time of giving either of such notices, together with his costs and expenses, if any, such mortgagee shall convey or release his interest in the lands comprised in such mortgage to the promoters of the undertaking, or as they shall direct (*a*).

(*a*) Interest is payable under this section from the time when possession might have been taken if a good title could be shown. In the case of land subject to mortgage interest is payable by the vendor to the mortgagee in lieu of notice (*Spencer Bell* v. *L. & S. W. Rail. Co.* (1885), 33 W. R. 771).

Deposit of mortgage money on refusal to accept.

109. If, in either of the cases aforesaid, upon such payment or tender any mortgagee shall fail to convey or release his interest in such mortgage as directed by the promoters of the undertaking, or if he fail to adduce a good title thereto to their satisfaction, then it shall be lawful for the promoters of the undertaking to deposit in the Bank, in the manner provided by this Act in like cases, the principal and interest, together with the costs, if any, due on such mortgage, and also, if such payment be made before the expiration of six months notice as aforesaid, such further interest as would at that time become due; and it shall be lawful for them, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon, as well as upon such conveyance by the mortgagee, if any such be made, all the estate and interest of such mortgagee, and of all persons in trust for him, or for whom he may be a trustee, in such lands, shall vest in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession.

Sum to be paid when mortgage exceeds the value of the lands.

110. If any such mortgaged lands shall be of less value than the principal, interest, and costs secured thereon, the value of such lands, or the compensation to be made by the promoters of the undertaking in respect thereof, shall be settled by agreement between the mortgagee of such lands and the party entitled to the equity of redemption thereof on the one part, and the promoters of the undertaking on the other part; and if the parties aforesaid fail to agree respecting the amount of such value or compensation, the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to the mortgagee, in satisfaction of his mortgage debt, so far as the same will extend; and upon payment or tender thereof the mortgagee shall convey or release all his interest in such mortgaged lands to the promoters of the undertaking, or as they shall direct.

Deposit of such sum when refused on tender.

111. If upon such payment or tender as aforesaid being made any such mortgagee fail so to convey his interest in such mortgage, or to adduce a good

Section 111. title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such value or compensation in the Bank, in the manner provided by this Act in like cases; and every such payment or deposit shall be accepted by the mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of such mortgaged lands from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, shall become absolutely vested in the promoters of the undertaking, and they shall be entitled to immediate possession thereof in case such mortgagee were himself entitled to such possession; nevertheless all rights and remedies possessed by the mortgagee against the mortgagor, by virtue of any bond or covenant or other obligation, other than the right to such lands, shall remain in force in respect of so much of the mortgage debt as shall not have been satisfied by such payment or deposit.

Sum to be paid where part only of mortgaged lands taken.

112. If a part only of any such mortgaged land be required for the purposes of the special Act, and if the part so required be of less value than the principal money, interest, and costs secured on such lands, and the mortgagee shall not consider the remaining part of such lands a sufficient security for the money charged thereon, or be not willing to release the part so required, then the value of such part, and also the compensation (if any) to be paid in respect of the severance thereof or otherwise, shall be settled by agreement between the mortgagee and the party entitled to the equity of redemption of such land on the one part, and the promoters of the undertaking on the other; and if the parties aforesaid fail to agree respecting the amount of such value or compensation the same shall be determined as in other cases of disputed compensation; and the amount of such value or compensation, being so agreed upon or determined, shall be paid by the promoters of the undertaking to such mortgagee (*a*) in satisfaction of his mortgage debt, so far as the same will extend; and thereupon such mortgagee shall convey or release to them, or as they shall direct, all his interest in such mortgaged lands the value whereof shall have been so paid; and a memorandum of what shall have been so paid shall be indorsed on the deed creating such mortgage, and shall be signed by the mortgagee; and a copy of such memorandum shall at the same time (if required) be furnished by the promoters of the undertaking, at their expense, to the party entitled to the equity of redemption of the lands comprised in such mortgage deed.

(*a*) An arbitrator cannot determine that the money should be paid to any one other than the mortgagee (*Ex parte Strabane R. D. C.* (*No.* 1), [1910] 1 I. R. 135).

Deposit of such sum when refused on tender.

113. If upon payment or tender to any such mortgagee of the amount of the value or compensation so agreed upon or determined such mortgagee shall fail to convey or release to the promoters of the undertaking, or as they shall direct, his interest in the lands in respect of which such compensation shall so have been paid or tendered, or if he shall fail to adduce a good title thereto to the satisfaction of the promoters of the undertaking, it shall be lawful for the promoters of the undertaking to pay the amount of such value or compensation into the Bank, in the manner provided by this Act in the case of moneys required to be deposited in such Bank; and such payment or deposit shall be accepted by such mortgagee in satisfaction of his mortgage debt, so far as the same will extend, and shall be a full discharge of the portion of the mortgaged lands so required from all money due thereon; and it shall be lawful for the promoters of the undertaking, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them; and thereupon such lands shall become absolutely vested in the promoters of the undertaking, as to all such estate and interest as were then vested in the mortgagee, or any person in trust for him, and in case such mortgagee were himself entitled to such possession they shall be entitled to immediate possession thereof; nevertheless every such mortgagee shall have the same powers and remedies for recovering or compelling payment of the mortgage money, or the residue thereof, (as the case may be,) and the interest thereof respectively, upon and out of the residue of such mortgaged lands, or the portion thereof not required for the purposes of the special Act, as he would otherwise have had or been entitled to for recovering or compelling payment thereof upon or out of the whole of the lands originally comprised in such mortgage.

Powers of mortgagee for recovery of residue of mortgage debt.

114. Provided always, that in any of the cases hereinbefore provided with respect to lands subject to mortgage, if in the mortgage deed a time shall have been limited for payment of the principal money thereby secured, and under the provisions hereinbefore contained the mortgagee shall have been required to accept payment of his mortgage money, or of part thereof, at a time earlier than the time so limited, the promoters of the undertaking shall pay to such mortgagee, in addition to the sum which shall have been so paid off, all such costs and expenses as shall be incurred by such mortgagee in respect of or which shall be incidental to the re-investment of the sum so paid off, such costs, in case of difference, to be taxed, and payment thereof enforced, in the manner herein provided with respect to the cost of conveyances; and if the rate of interest secured by such mortgage be higher than at the time of the same being so paid off can reasonably be expected to be obtained on re-investing the same, regard being had to the then current rate of interest, such mortgagee shall be entitled to receive from the promoters of the undertaking, in addition to the principal and interest hereinbefore provided for, compensation in respect of the loss to be sustained by him by reason of his mortgage money being so prematurely paid off, the amount of such compensation to be ascertained, in case of difference, as in other cases of disputed compensation; and until payment or tender of such compensation as aforesaid the promoters of the undertaking shall not be entitled, as against such mortgagee, to possession of the mortgaged lands under the provision hereinbefore contained (*a*).

Compensation to be made in certain cases if mortgage paid off before the stipulated time.

(*a*) The promoters will be restrained by injunction from proceeding until the value of the mortgagee's interest has been ascertained and paid or secured (*Ranken* v. *East and West India Docks* (1849), 19 L. J. Ch. 153; 12 Beav. 298).

And with respect to lands charged with any rent service, rent-charge, or chief or other rent, or other payment or incumbrance not hereinbefore provided for, be it enacted as follows:

Rent-charges.

115. If any difference shall arise between the promoters of the undertaking and the party entitled to any such charge upon any lands required to be taken for the purposes of the special Act, respecting the consideration to be paid for the release of such lands therefrom, or from the portion thereof affecting the lands required for the purposes of the special Act, the same shall be determined as in other cases of disputed compensation.

Consideration to be paid for release of lands from rent-charges.

116. If part only of the lands charged with any such rent service, rent-charge, chief or other rent, payment, or incumbrance, be required to be taken for the purposes of the special Act, the apportionment of any such charge may be settled by agreement between the party entitled to such charge and

Release of part of land from charge.

the owner of the lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement the same shall be settled by two justices; but if the remaining part of the lands so jointly subject be a sufficient security for such charge, then, with consent of the owner of the lands so jointly subject, it shall be lawful for the party entitled to such charge to release therefrom the lands required, on condition or in consideration of such other lands remaining exclusively subject to the whole thereof.

Deposit in case of refusal to release.

117. Upon payment or tender of the compensation so agreed upon or determined to the party entitled to any such charge as aforesaid, such party shall execute to the promoters of the undertaking a release of such charge; and if he fail so to do, or if he fail to adduce good title to such charge, to the satisfaction of the promoters of the undertaking, it shall be lawful for them to deposit the amount of such compensation in the Bank, in the manner hereinbefore provided in like cases, and also, if they think fit, to execute a deed poll, duly stamped, in the manner hereinbefore provided in the case of the purchase of lands by them, and thereupon the rent service, rent-charge, chief or other rent, payment or incumbrance or the portion thereof in respect whereof such compensation shall so have been paid, shall cease and be extinguished.

Charge to continue on lands not taken.

118. If any such lands be so released from any such charge or incumbrance or portion thereof, to which they were subject jointly with other lands, such last-mentioned lands shall alone be charged with the whole of such charge, or with the remainder thereof, as the case may be, and the party entitled to the charge shall have all the same rights and remedies over such last-mentioned lands, for the whole or for the remainder of the charge, as the case may be, as he had previously over the whole of the lands subject to such charge; and if upon any such charge or portion of charge being so released the deed or instrument creating or transferring such charge be tendered to the promoters of the undertaking for the purpose, they or two of them shall subscribe, or if they be a corporation shall affix their common seal to a memorandum of such release endorsed on such deed or instrument, declaring what part of the lands originally subject to such charge shall have been purchased by virtue of the special Act, and if the lands be released from part of such charge, what proportion of such charge shall have been released, and how much thereof continues payable, or if the lands so required shall have been released from the whole of such charge, then that the remaining lands are thenceforward to remain exclusively charged therewith; and such memorandum shall be made and executed at the expense of the promoters of the undertaking, and shall be evidence in all courts and elsewhere of the facts therein stated, but not so as to exclude any other evidence of the same facts.

Leases.

And with respect to lands subject to leases, be it enacted as follows:

Where part only of lands under lease taken, the rent to be apportioned.

119. If any lands shall be comprised in a lease for a term of years unexpired, part only of which lands shall be required for the purposes of the special Act, the rent payable in respect of the lands comprised in such lease shall be apportioned between the lands so required and the residue of such lands; and such apportionment may be settled by agreement between the lessor and lessee of such lands on the one part, and the promoters of the undertaking on the other part, and if such apportionment be not so settled by agreement between the parties such apportionment shall be settled by two justices; and after such apportionment the lessee of such lands shall, as to all future accruing rent, be liable only to so much of the rent as shall be so apportioned in respect of the lands not required for the purposes of the special Act; and as to the lands not so required, and as against the lessee, the lessor shall have all the same rights and remedies for the recovery of such portion of rent as previously to such apportionment he had for the recovery of the whole rent reserved by such lease; and all the covenants, conditions, and agreements of such lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which shall not be required for the purposes of the special Act, in the same manner as they would have done in case such part only of the land had been included in the lease (*a*).

(*a*) An interest created by an owner after notice to treat is not a subject for compensation (*Re Marylebone Improvement Act* (1871), L. R. 12 Eq. 389; *Wilkins* v. *Birmingham Corporation* (1884), 25 Ch. D. 78; 48 J. P. 231), even if created in land adjoining the land purchased which may be injuriously affected (*Mercer* v. *Liverpool, St. Helen's and South Lancashire Rail. Co.*, [1904] A. C. 461; 68 J. P. 533; *Wilkins* v. *Birmingham Corporation* was considered in *L. C. C.* v. *Wilson's Executors*, [1916] 1 K. B. at p. 844). See, however, *Cardiff Corporation* v. *Cook*, [1923] 2 Ch. 115; 87 J. P. 90, the facts of which are set out at p. 2095, *ante*.

Agreement to an apportionment of rent under this section does not preclude the party from requiring the whole to be taken (*Lavers* v. *London C. C.* (1905), 69 J. P. 362; 93 L. T. (N.S.) 233).

If reversion to the whole has been acquired by the undertakers by private agreement before obtaining their Act they may exercise their compulsory powers afterwards against the tenant in respect of part only without the tenant being able to insist on his interest in the whole being taken (*Stevenson* v. *North British Rail. Co.* (1902), 4 F. 244).

As to the date from which the apportioned rent becomes payable, see *Ball* v. *Graves* (1887), 18 L. R. Ir. 224. It runs from the date of the apportionment (*Re Secretary of State for War and Hurley's Contract*, [1904] 2 I. R. 354).

Tenants to be compensated.

120. Every such lessee as last aforesaid shall be entitled to receive from the promoters of the undertaking compensation for the damage done to him in his tenancy by reason of the severance of the lands required from those not required or otherwise by reason of the execution of the works.

Compensation to be made to tenants from year to year, etc.

121. If any such lands shall be in the possession of any person having no greater interest therein than as tenant for a year or from year to year, and if such person be required to give up possession of any lands so occupied by him before the expiration of his term or interest therein, he shall be entitled to compensation for the value of his unexpired term or interest in such lands, and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury he may sustain, or if a part only of such lands be required, compensation for the damage done to him in his tenancy by severing the lands held by him, or otherwise injuriously affecting the same; and the amount of such compensation shall be determined by two justices (*a*), in case the parties differ about the same; and upon payment or tender of the amount of such compensation all such persons shall respectively deliver up to the promoters of the undertaking, or to the person appointed by them to take possession thereof, any such lands in their possession required for the purposes of the special Act.

(*a*) That is, if the land be taken (*R.* v. *Manchester, Sheffield and Lincolnshire Rail. Co.* (1855), 4 El. & Bl. 88; 2 W. R. 591; *Knapp* v. *L. C. & D. Rail. Co.* (1863), 32 L. J. Ex. 236; 8 L. T. (N.S.) 541); but if the lands are injuriously affected, the proceedings are under s. 68, *ante*, p. 2108 (*R.* v. *Sheriff of Middlesex* (1862), 31 L. J. Q. B. 261; and see *R.* v. *Stone* (1866), L. R. 1 Q. B. 529; 30 J. P. 488; *Bexley Heath Rail. Co.* v. *North*, [1894] 2 Q. B. 579; 58 J. P. 832). The complaint need not be made within six months under 11 & 12 Vict. c. 43, s. 11 (*R.* v. *Hannay* (1875), 44 L. J. M. C. 27; 39 J. P. 534; *R.* v. *Edwards*, *ante*, p. 2097). The jurisdiction of the justices is limited to determining the amount of the compensation on the basis of the interest alleged by the tenant, and does not extend to inquiring whether that interest is his true interest; but in determining the compensation the justices have jurisdiction to inquire, and are bound to inquire, whether the claimant has been required to give up possession of the land before the expiration of his term or interest, that being a condition precedent to the right to compensation (*G. N. Rail. Co.* v. *Tillett*, [1902] 1 K. B. 874; 66 J. P. 742). Compensation for the residue of a lease which will expire in less than a year must be determined by justices under this section,

Note to Section 121.

and not by arbitration (*R.* v. *G. N. Rail. Co.* (1877), 2 Q. B. D. 151; 41 J. P. 197). It is otherwise with regard to the interest of a tenant having an agreement for a lease for years void at law, but equivalent to a lease in equity (*Sweetman* v. *Metropolitan Rail. Co.* (1864), 10 L. T. (N.S.) 156; 1 H. & M. 543; *Rogers* v. *Hull Dock Co.* (1865), 34 L. J. Ch. 165; 10 Jur. (N.S.) 1245; *In re King* (1873), L. R. 16 Eq. 521).

If a notice to treat be given, but nothing done thereunder, and the lands are afterwards taken under s. 85, then the interest of the tenant at the time when the lands are so taken is to be considered, and not his interest at the time when the notice to treat was given (*R.* v. *Kennedy,* [1893] 1 Q. B. 533; 57 J. P. 346). See *Bexley Heath Rail. Co.* v. *North, ante*, p. 2131.

Where greater interest claimed than from year to year, lease or grant to be produced.

122. If any party, having a greater interest than as tenant at will, claim compensation in respect of any unexpired term or interest under any lease or grant of any such lands, the promoters of the undertaking may require such party to produce the lease or grant in respect of which such claim shall be made, or the best evidence thereof in his power, and if, after demand made in writing by the promoters of the undertaking, such lease or grant, or such best evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

Limit of time for compulsory purchase.

123. And be it enacted, that the powers of the promoters of the undertaking for the compulsory purchase or taking of lands for the purposes of the special Act shall not be exercised after the expiration of the prescribed period, and if no period be prescribed not after the expiration of three years from the passing of the special Act (*a*).

(*a*) It is sufficient if notice to treat is given within the three years. See *Salisbury* v. *G. N. Rail. Co.* (1852), 17 Q. B. 840. In computing the time, the date on which the special Act received the Royal Assent must be excluded, but the day on which the notice to treat is given must be included (*Goldsmiths' Co.* v. *West Metropolitan Rail. Co.*, [1904] 1 K. B. 1; 68 J. P. 41). The M. of H. do not ordinarily allow a longer period than three years in cases of compulsory purchase under s. 176 of the P. H. A., 1875. See notes to that section in Vol. I. at p. 439.

Interests omitted to be purchased.

And with respect to interests in lands which have by mistake been omitted to the purchased, be it enacted as follows:

Purchase by promoters of the undertaking after entry on lands, of interests the purchase whereof may have been omitted by mistake.

124. If at any time after the promoters of the undertaking shall have entered (*a*) upon any lands which under the provisions of this or the special Act, or any Act incorporated therewith, they were authorised to purchase, and which shall be permanently required for the purposes of the special Act, any party shall appear to be entitled to any estate, right, or interest in or charge affecting such lands which the promoters of the undertaking shall through mistake or inadvertence (*b*) have failed or omitted duly to purchase or to pay compensation for, then, whether the period allowed for the purchase of lands shall have expired or not, the promoters of the undertaking shall remain in the undisturbed possession of such lands, provided within six months (*c*) after notice of such estate, right, interest, or charge, in case the same shall not be disputed by the promoters of the undertaking, or in case the same shall be disputed then within six months after the right thereto shall have been finally established by law in favour of the party claiming the same, the promoters of the undertaking shall purchase or pay compensation for the same, and shall also pay to such party, or to any other party who may establish a right thereto, full compensation for the mesne profits or interest which would have accrued to such parties respectively in respect thereof during the interval between the entry of the promoters of the undertaking thereon and the time of the payment of such purchase-money or compensation by the promoters of the undertaking, so far as such mesne profits or interest may be recoverable in law or equity; and such purchase-money or com-

Mesne profits to be accounted for.

pensation shall be agreed on or awarded and paid in like manner as according to the provisions of this Act, the same respectively would have been agreed on or awarded and paid in case the promoters of the undertaking had purchased such estate, right, interest, or charge before their entering upon such land, or as near thereto as circumstances will admit.

(*a*) The mere fact that the promoters have already taken possession of the property does not preclude them from their statutory right to give notice to treat (*Cooke* v. *London C. C.*, [1911] 1 Ch. 604; 75 J. P. 309).

(*b*) As to what amounts to mistake or inadvertence within the meaning of this section, see *Martin* v. *L. C. & D. Rail. Co.* (1866), L. R. 1 Ch. 501; *Stretton* v. *G. W. and Brentford Rail. Co.* (1870), L. R. 5 Ch. 751; *Hyde* v. *Manchester Corporation* (1852), 16 Jur. 180; *Thomas* v. *Barry Dock and Rail. Co.* (1888), 5 T. L. R. 360; *Omagh U. D. C.* v. *Henderson*, [1907] 2 I. R. 310. As to the effect of the section, see *Salisbury* (*Marquis*) v. *G. N. Rail. Co.* (1859), 28 L. J. C. P. 40; 5 C. B. (N.S.) 174; *Jolly* v. *Wimbledon and Dorking Rail. Co.* (1862), 1 B. & S. 807; 31 L. J. Q. B. 85.

(*c*) The six months do not run from a judgment referring the matter to arbitration, but from the award in the arbitration (*Caledonian Railway* v. *Davidson*, [1903] A. C. 22).

It has been held that the corresponding section of the Lands Clauses Consolidation (Scotland) Act, 1845, does not apply to cases in which the promoters do not, prior to the expiry of the period allowed for compulsory purchase, intend to acquire the omitted estate, right, interest or charge (*Davidson's Trustees* v. *Caledonian Rail. Co.* (1894), 21 Ct. of Sess. Cas. (4th ser.) 1060).

How value of such interests and *mesne* profits shall be estimated.

125. In estimating the compensation to be given for any such last-mentioned lands, or any estate or interest in the same, or for any mesne profits thereof, the jury, or arbitrators, or justices, as the case may be, shall assess the same according to what they shall find to have been the value of such lands, estate or interest, and profits, at the time such lands were entered upon by the promoters of the undertaking, and without regard to any improvements or works made in the said lands by the promoters of the undertaking, and as though the works had not been constructed.

Promoters of the undertaking to pay the costs of litigation as to such interests.

126. In addition to the said purchase-money, compensation, or satisfaction, and before the promoters of the undertaking shall become absolutely entitled to any such estate, interest, or charge, or to have the same merged or extinguished for their benefit, they shall, when the right to any such estate, interest or charge shall have been disputed by the company, and determined in favour of the party claiming the same, pay the full (*a*) costs and expenses of any proceedings at law or in equity for the determination or recovery of the same to the parties with whom any such litigation in respect thereof shall have taken place; and such costs and expenses shall, in case the same shall be disputed, be settled by the proper officer of the court in which such litigation took place.

(*a*) As between solicitor and client (*Hyde* v. *Manchester Corporation* (1862), 12 C. B. 475).

Sale of superfluous land.

And with respect to lands acquired by the promoters of the undertaking under the provisions of this or the special Act, or any Act incorporated therewith, but which shall not be required for the purposes thereof, be it enacted as follows (*a*):

(*a*) Section 127 is not incorporated with the P. H. A., 1875. See s. 176 of that Act, *ante*, p. 436, and note (*d*), *ante*, p. 440. As to what are superfluous lands, see *Betts* v. *G. E. Rail. Co.* (1880), 49 L. J. Ex. 197; 44 J. P. 281; *In re Metropolitan District Rail. Co. and Cosh* (1879), 13 Ch. D. 607; 44 J. P. 393; *Hooper* v. *Bourne* (1879), 5 App. Cas. 1; 44 J. P. 327; *L. & S. W. Rail. Co.* v. *Gomm* (1882), 20 Ch. D. 562; *Hobbs* v. *Midland Rail. Co.* (1882), 20 Ch. D. 418; *Thackwray and Young's Contract* (1889), 40 Ch. D. 34; *Ray* v. *Walker*, [1892] 2 Q. B. 88; *Dunhill* v. *N. E. Rail. Co.*, [1896] 1 Ch. 121; 60 J. P. 228; *Brown* v. *North British Railway* (1906), 8 F. 534; *In re L. & Y. Rail. Co. and Earl of Derby's Contract* (1909), 100 L. T. 44. The vesting of superfluous lands under s. 127 takes place by way of conditional limitation and not of forfeiture (*Miller* v. *Waterford Harbour Commissioners*, [1904] 2 I. R. 421).

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Lands not in a town or built upon, etc. to be offered to owner of lands from which they were originally taken or to adjoining owners.

128. Before the promoters of the undertaking dispose of any such superfluous lands they shall, unless such lands be situate within a town (*a*), or be lands built upon or used for building purposes, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold, such persons being capable of entering into a contract for the purchase of such lands; and where more than one such person shall be entitled to such right of pre-emption such offer shall be made to such persons in succession, one after another, in such order as the promoters of the undertaking shall think fit (*b*).

(*a*) See s. 93, note (*a*), *ante*, p. 2122; also note (*h*) to s. 175 of the P. H. A., 1875, *ante*, p. 434, as to right of pre-emption. The present section apparently applies to lands purchased by a district council under s. 175 of the P. H. A., 1875, as well as to land acquired compulsorily under s. 176 of that Act, *ante*, p. 436.

"All statutory and other rights of pre-emption affecting a legal estate shall be and be "deemed always to have been capable of release and unless released shall remain in force "as equitable interests only" (Law of Property Act, 1925 (15 Geo. 5, c. 20), s. 186).

(*b*) For a case in which the right of pre-emption was held to be abrogated by the provisions of a special Act, see *North British Railway* v. *Birrell's Trustees* (1918), S. C. (H. L.) 33.

Right of pre-emption to be claimed within six weeks from offer.

129. If any such persons be desirous of purchasing such lands, then within six weeks after such offer of sale they shall signify their desire in that behalf to the promoters of the undertaking; or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease; and a declaration in writing made before a justice by some person not interested in the matter in question, stating that such offer was made, and was refused, or not accepted within six weeks from the time of making the same, or that the person or all the persons entitled to the right of pre-emption were out of the country, or could not after diligent inquiry be found, or were not capable of entering into a contract for the purchase of such lands, shall in all courts be sufficient evidence of the facts therein stated.

Evidence of refusal, etc. to exercise right.

Differences as to price to be settled by arbitration.

130. If any person entitled to such pre-emption be desirous of purchasing any such lands, and such person and the promoters of the undertaking do not agree as to the price thereof, then such price shall be ascertained by arbitration and the costs of such arbitration shall be in the discretion of the arbitrators.

Lands to be conveyed to the purchasers.

131. Upon payment or tender to the promoters of the undertaking of the purchase money so agreed upon or determined as aforesaid they shall convey such lands to the purchasers thereof, by deed under the common seal of the promoters of the undertaking if they be a corporation, or if not a corporation under the hands and seals of the promoters of the undertaking, or any two of the directors or managers thereof acting by the authority of the body; and a deed so executed shall be effectual to vest the lands comprised therein in the purchaser of such lands for the estate which shall so have been purchased by him; and a receipt under such common seal, or under the hands of two of the directors or managers of the undertaking, as aforesaid, shall be a sufficient discharge to the purchaser of any such lands for the purchase money in such receipt expressed to be received (*a*).

(*a*) The promoters may insert restrictive covenants in the conveyance (*In re Higgins and Hickman* (1882), 21 Ch. D. 95; 46 J. P. 805).

Section 132.

Effect of the word "grant" in conveyances.

132. In every conveyance of lands to be made by the promoters of the undertaking under this or the special Act the word "grant" shall operate as express covenants by the promoters of the undertaking, for themselves and their successors, or for themselves, their heirs, executors, administrators, and assigns, as the case may be, with the respective grantees therein named, and the successors, heirs, executors, administrators, and assigns of such grantees, according to the quality or nature of such grants, and of the estate or interest therein expressed to be thereby conveyed, as follows, except so far as the same shall be restrained or limited by express words contained in any such conveyance; (that is to say,)

A covenant that, notwithstanding any act or default done by the promoters of the undertaking, they were at the time of the execution of such conveyance seised or possessed of the lands or premises thereby granted for an indefeasible estate of inheritance in fee simple, free from all incumbrances done or occasioned by them, or otherwise for such estate or interest as therein expressed to be thereby granted, free from incumbrances done or occasioned by them:

A covenant that the grantee of such lands, his heirs, successors, executors, administrators, and assigns, (as the case may be,) shall quietly enjoy the same against the promoters of the undertaking, and their successors, and all other persons claiming under them, and be indemnified and saved harmless by the promoters of the undertaking, and their successors, from all incumbrances created by the promoters of the undertaking:

A covenant for further assurance of such lands, at the expense of such grantee, his heirs, successors, executors, administrators, or assigns, (as the case may be,) by the promoters of the undertaking, or their successors, and all other persons claiming under them:

And all such grantees, and their several successors, heirs, executors, administrators, and assigns respectively, according to their respective quality or nature, and the estate or interest in such conveyance expressed to be conveyed, may in all actions brought by them assign breaches of covenants, as they might do if such covenants were expressly inserted in such conveyances.

Until completion of works promoters shall make good any deficiency of land tax and poor's rate caused by lands being taken.

133. And be it enacted, that if the promoters of the undertaking become possessed by virtue of this or the special Act, or any Act incorporated therewith, of any lands charged with the land tax, or liable to be assessed to the poor's rate, they shall from time to time, until the works shall be completed and assessed to such land tax or poor's rate, be liable to make good the deficiency in the several assessments for land tax and poor's rate by reason of such lands having been taken or used for the purposes of the works; and such deficiency shall be computed according to the rental at which such lands, with any building thereon, were valued or rated at the time of the passing of the special Act; and on demand of such deficiency the promoters of the undertaking, or their treasurer, shall pay all such deficiencies to the collector of the said assessments respectively; nevertheless, if at any time the promoters of the undertaking think fit to redeem such land tax, they may do so, in accordance with the powers in that behalf given by the Acts for the redemption of the land tax (*a*).

Land tax may be redeemed.

(*a*) This section is to have effect as though references to the general rate were substituted for the poor rate and as though the amount required to be made good by the promoters were in the case of land situated in an urban rating area, one-half of the deficiency in the several assessments to the general rate. The assessment on which any payment made by the promoters under the section in the text is based is to be inserted in the valuation list and any such payment is to be taken into account for the purpose of ascertaining the proceeds of any rate (R. and V. Act, 1925, s. 2 (7), *ante*, p. 1642). But the promoters are not liable to be rated (*London Corporation* v. *St. Andrew's, Holborn* (1867), L. R. 2 C. P. 574). As to this section, see *East London Rail. Co.* v. *Whitechurch* (1874), L. R. 7 H. L. 81; 38

Note to Section 133.

J. P. 484; *Stratton* v. *Metropolitan Board of Works* (1875), L. R. 10 C. P. 76; 39 J. P. 167. Where the works consisted in making new streets, it was held that the works were completed within the meaning of this section when the streets were fully made, and such of the lands taken as might be liable to assessment had become assessable, and that the deficiency was to be computed from time to time by comparing the assessed value at the time of the special Act of the lands taken with the assessed value at the time of computation of such of the lands taken as might have again become assessable (*Governor, etc. of Poor of City of Bristol* v. *Bristol Corporation* (1887), 18 Q. B. D. 549; 51 J. P. 676). In the county of London it includes only so much of the general rate as represents the poor rate (*Islington Borough Council* v. *London School Board*, [1903] 2 K. B. 354; 68 J. P. 35). Where a company purchased houses beyond the limits of deviation to obtain the withdrawal of opposition by the owners to the passing of the special Act, it was held that the deficiency in the poor rate in respect of the houses must be made good, and that it was immaterial that some of them were unoccupied (*Putney Overseers* v. *L. & S. W. Rail. Co.*, [1891] 1 Q. B. 440; 55 J. P. 422). For the construction of a similar clause in a local Act, see *Burrup* v. *L. & S. W. Rail. Co.* (1890), 63 L. T. (N.S.) 112; *St. Stephen's Churchwardens* v. *Great Northern & City Rail. Co.* (1902), 66 J. P. 373; 86 L. T. (N.S.) 390. Where the promoters of an undertaking took land and pulled down the houses thereon and were called upon under this section to make good the deficiency in the rates caused by their works, it was held that they were liable to pay the rates according to the full rateable value of the houses and lands taken, notwithstanding the fact that the former owners of some of the houses had made agreements with the rating authority of the district under s. 3 of the 32 & 33 Vict. c. 41 (*cf.* s. 11 of the R. and V. Act, 1925, *ante*, p. 1662), to pay the rates instead of the occupiers subject to a deduction of 25 per cent., and that the promoters were not entitled to make a similar deduction (*St. Leonard's, Shoreditch, Vestry* v. *London C. C.*, [1895] 2 Q. B. 104; 59 J. P. 423). It is doubtful whether the section has any application at all on a purchase of lands by agreement. See *Barony Parish Council* v. *Glasgow School Board* (1896), 23 Ct. of Sess. Cas. (4th ser.) 221.

This section does not apply to lands acquired by a local authority under the Housing Act, 1925, or any enactment repealed by that Act (s. 131, *ibid.*, *ante*, p. 1477).

Notices.

Service of notices upon promoters.

134. And be it enacted, that any summons or notice (*a*), or any writ or other proceeding at law or in equity, requiring to be served upon the promoters of the undertaking, may be served by the same being left at or transmitted through the post directed to the principal office of the promoters of the undertaking, or one of the principal offices where there shall be more than one, or being given or transmitted through the post directed to the secretary, or in case there be no secretary the solicitor of the said promoters.

(*a*) For any purpose, and not only in an action (*In re South Yorkshire, etc. Rail. Co.* (1849), 18 L. J. Q. B. 333; 7 D. & L. 36). But see, as to the service of notices on local authorities, the P. H. A., 1875, ss. 266, 267, *ante*, pp. 592, 593.

Tender of amends.

135. And be it enacted, that if any party shall have committed any irregularity, trespass, or other wrongful proceeding in the execution of this or the special Act, or any Act incorporated therewith, or by virtue of any power or authority thereby given, and if, before action brought in respect thereof, such party make tender of sufficient amends to the party injured, such last-mentioned party shall not recover in any such action; and if no such tender shall have been made it shall be lawful for the defendant, by leave of the court where such action shall be pending, at any time before issue joined, to pay into court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into court.

Payment into court.

Recovery of penalties.

And with respect to the recovery of forfeitures, penalties, and costs, be it enacted as follows (*a*):

(*a*) This part of the Act is printed as it is left unrepealed by the S. L. R. Acts, and by the S. J. A., 1884, which substitutes for the repealed sections the corresponding provisions of the S. J. Acts.

Penalties to be summarily recovered before two justices.

136. Every penalty or forfeiture imposed by this or the special Act, or by any byelaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceeding before two justices . . .

137. [*Penalties to be levied by distress.*]

Distress, how to be levied.

138. Where in this or the special Act, or any Act incorporated therewith, any sum of money, whether in the nature of penalty, costs, or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Application of penalties.

139. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one-half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed to be applied in aid of the poor's rate of such parish, . . . (*a*).

(*a*) See the Overseers Order, 1927, Art. 13, in App. II., *post*, p. 3684. The remainder of this section was repealed by the S. L. R. A., 1875.

Distress against the treasurer.

140. If any such sum shall be payable by the promoters of the undertaking, and if sufficient goods of the said promoters cannot be found whereon to levy the same, it may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the said promoters, and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the promoters of the undertaking coming into his custody or control, or he may sue them for the same.

Notice to treasurer.

Reimbursement of treasurer.

Distress not unlawful for want of form, etc.

141. No distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

142. [*Penalties to be sued for within six months*] (*a*).

(*a*) Repealed by the S. L. R. A., 1892. See now the S. J. A., 1848, s. 11.

Penalty on witnesses making default.

143. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction, under the provisions of this or the special Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence (*a*).

(*a*) This section is repealed as to England so far as it relates to any matter to which the S. J. Acts apply (47 & 48 Vict. c. 43).

144. [*Form of conviction*] (*a*).

(*a*) This section and Schedule (C.) containing the form of conviction were repealed by the S. L. R. A., 1892.

Section 145.

Proceedings not to be quashed for want of form, etc.

145. No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts (*a*).

(*a*) See the notes to the corresponding section of the P. H. A., 1875, as to *certiorari*, s. 262, *ante*, p. 581. This section does not apply in cases where acts are done without jurisdiction. See *South Wales Rail. Co.* v. *Richards* (1844), 13 L. J. Q. B. 310; *R.* v. *Edmundson* (1851), 17 Q. B. 67; *R.* v. *L. & N. W. Rail. Co.* (1863), 12 W. R. 208. As to the time within which a *certiorari* will be granted, see *R.* v. *Stewart* (1880), 5 Q. B. D. 179. As to the setting aside a verdict on the ground that the jury were treated to a champagne luncheon, see *Tanner* v. *Swindon, etc. Rail. Co.* (1881), 45 L. T. (N.S.) 209.

Appeal.

Parties allowed to appeal to quarter sessions on giving security.

146. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special Act, or any Act incorporated therewith, such party may appeal to the general quarter sessions . . . (*a*).

(*a*) The remainder of this section is repealed as to England by the S. J. A., 1884, s. 4.

Court to make such order as they think reasonable.

147. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs both of the adjudication and of the appeal, as they may think reasonable.

Receiver of the metropolitan police district to receive penalties incurred within his district.

148. Provided always, that notwithstanding any thing herein or in the special Act, or any Act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal and upon the same terms as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses, as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

2 & 3 Vict. c. 71.

149. [*False evidence*] (*a*).

* * * * * * (*b*)

(*a*) Repealed by the Perjury Act, 1911.

(*b*) The remaining sections of the Act relating to access to the special Act are not incorporated with the P. H. A., 1875. See s. 176, *ante*, p. 436.

SCHEDULES REFERRED TO IN THE FOREGOING ACT.

Schedule A.

SCHEDULE (A.).

FORM OF CONVEYANCE (a).

I , of , in consideration of the sum of paid to me [*or, as the case may be*, into the Bank of England [*or* Bank of Ireland] in the name and with the privity of the Accountant-General of the Court of Chancery, ex parte "the promoters of the undertaking [*naming them*], or to *A.B.*, of , and *C.D.*, of , two trustees appointed to receive the same], pursuant to the [*here name the special Act*], by the [*here name the company or other promoters of the undertaking*], incorporated [*or* constituted] by the said Act, do hereby convey to the said company [*or other description*], their successors and assigns, all [*describing the premises to be conveyed*] together with all ways, rights, and appurtenances thereto belonging, and all such estate, right, title, and interest in and to the same as I am or shall become seised or possessed of, or am by the said Act empowered to convey, to hold the premises to the said company [*or other description*], their successors and assigns, for ever, according, to the true intent and meaning of the said Act.

In witness whereof I have hereunto set my hand and seal, the day of in the year of our Lord .

(a) As to the use of the Forms in this and the next Schedule, see s. 81, *ante*, p. 2116.

SCHEDULE (B.).

FORM OF CONVEYANCE ON CHIEF RENT.

I , of , in consideration of the rentcharge to be paid to me, my heirs and assigns, as hereinafter mentioned, by "the promoters of the undertaking" [*naming them*], incorporated [*or* constituted] by virtue of the [*here name the special Act*], do hereby convey to the said company [*or other description*], their successors and assigns, all [*describing the premises to be conveyed*], together with all ways, rights, and appurtenances thereunto belonging, and all my estate, right, title, and interest in and to the same and every part thereof, to hold the said premises to the said company [*or other description*], their successors and assigns, for ever, according to the true intent and meaning of the said Act, they the said company [*or other description*], their successors and assigns, yielding and paying unto me, my heirs and assigns, one clear yearly rent of by equal quarterly [*or* half-yearly, *as agreed upon*], portions, henceforth, on the [*stating the days*], clear of all taxes and deductions.

In witness whereof I hereunto set my hand and seal, the day of , in the year of our Lord .

THE RAILWAYS CLAUSES CONSOLIDATION ACT, 1845.

(8 & 9 VICT. c. 20) (a).

An Act for consolidating in one Act certain provisions usually inserted in Acts authorising the making of Railways. [8th May, 1845.]

* * * * * *

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows (b):

(a) The following sections of this Act are here set out as being incorporated with the Gasworks Clauses Act, 1847, s. 40, *post*, p. 2176, and the Waterworks Clauses Act, 1847, s. 85.

(b) This part of the Act is printed as it is left unrepealed by the S. J. A., 1884, which substitutes for the repealed sections the corresponding provisions of the S. J. Acts. Most of the same sections are again repealed by the S. L. R. A., 1892.

Provision for ascertainment of damages not otherwise provided for.

140. In all cases where any damages, costs, or expenses are by this or the special Act, or any Act incorporated therewith, directed to be paid, and the method of ascertaining the amount or enforcing the payment thereof is not

Section 140.

Enforcement by distress.

provided for (*a*), such amount, in case of dispute, shall be ascertained and determined by two justices; and if the amount so ascertained be not paid by the company or other party liable to pay the same within seven days after demand the amount may be recovered by distress of the goods of the company or other party liable as aforesaid; and the justices by whom the same shall have been ordered to be paid, or either of them, or any other justice on application, shall issue their or his warrant accordingly (*b*).

(*a*) See *Swansea Corporation* v. *Harpur*, [1913] A. C. 597; 77 J. P. 381.

(*b*) These damages, costs, and expenses are now apparently civil debts within the S. J. A., 1879, ss. 6, 35, as being sums recoverable on complaint to a court of summary jurisdiction.

Distress against the treasurer.

141. If sufficient goods of the company cannot be found whereon to levy any such damages, costs, and expenses payable by the company, the same may, if the amount thereof do not exceed twenty pounds, be recovered by distress of the goods of the treasurer of the company; and the justices aforesaid, or either of them, on application, shall issue their or his warrant accordingly; but no such distress shall issue against the goods of such treasurer unless seven days previous notice in writing, stating the amount so due, and demanding payment thereof, have been given to such treasurer, or left at his residence; and if such treasurer pay any money under such distress as aforesaid, he may retain the amount so paid by him, and all costs and expenses occasioned thereby, out of any money belonging to the company coming into his custody or control, or he may sue the company for the same.

Notice to treasurer.

Reimbursement of treasurer.

Method of proceeding before justices in questions of damages, etc.

142. Where in this or the special Act any question of compensation, expenses, charges, or damages, or other matter, is referred to the determination of any one justice, or more, it shall be lawful for any justice, upon the application of either party, to summon the other party to appear before one justice, or before two justices, as the case may require, at a time and place to be named in such summons; and upon the appearance of such parties, or in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such one justice, or such two justices, as the case may be, to hear and determine such question, and for that purpose to examine such parties or any of them, and their witnesses, on oath; and the cost of every such inquiry shall be in the discretion of such justices, and they shall determine the amount thereof.

Publication of penalties.

143. The company shall publish the short particulars of the several offences for which any penalty is imposed by this or the special Act, or by any byelaw of the company affecting other persons than the shareholders, officers, or servants of the company, and of the amount of every such penalty, and shall cause such particulars to be painted on a board, or printed upon paper and pasted thereon, and shall cause such board to be hung up or affixed on some conspicuous part of the principal place of business of the company, and where any such penalties are of local application shall cause such boards to be affixed in some conspicuous place in the immediate neighbourhood to which such penalties are applicable or have reference; and such particulars shall be renewed as often as the same or any part thereof is obliterated or destroyed; and no such penalty shall be recoverable unless it shall have been published and kept published in the manner hereinbefore required.

Penalty for defacing boards used for such publication.

144. If any person pull down or injure any board put up or affixed as required by this or the special Act for the purpose of publishing any byelaw or penalty, or shall obliterate any of the letters or figures thereon, he shall forfeit for every such offence a sum not exceeding five pounds and shall defray the expenses attending the restoration of such board.

145. Every penalty or forfeiture imposed by this or the special Act, or by any byelaw made in pursuance thereof, the recovery of which is not otherwise provided for, may be recovered by summary proceedings (*a*) before two justices (*b*).

Penalties to be summarily recovered before two justices.

(*a*) See *Metropolitan Water Board* v. *Bunn*, [1913] 3 K. B. 181; 77 J. P. 353.

(*b*) The remainder of this section and the whole of the two following sections are repealed by the S. J. A., 1884, s. 4, and Schedule, and again by the S. L. R. A., 1892.

146. [*Penalties to be levied by distress.*]

147. [*Imprisonment in default of distress.*]

148. Where in this or the special Act, or any Act incorporated therewith any sum of money, whether in the nature of penalty or otherwise, is directed to be levied by distress, such sum of money shall be levied by distress and sale of the goods and chattels of the party liable to pay the same; and the overplus arising from the sale of such goods and chattels, after satisfying such sum of money, and the expenses of the distress and sale, shall be returned, on demand, to the party whose goods shall have been distrained.

Distress how to be levied.

149. No distress levied by virtue of this or the special Act, or any Act incorporated therewith, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser ab initio on account of any irregularity afterwards committed by him, but all persons aggrieved by such defect or irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not unlawful for want of form etc.

150. The justices by whom any such penalty or forfeiture shall be imposed may, where the application thereof is not otherwise provided for, award not more than one half thereof to the informer, and shall award the remainder to the overseers of the poor of the parish in which the offence shall have been committed, to be applied in aid of the poor's rate of such parish, . . . (*a*).

Application of penalties.

(*a*) The remainder of this section relating to extra-parochial places is repealed as obsolete by the S. L. R. A., 1875. Overseers having been abolished by s. 62, R. and V. Act, 1925, see now as to the application of these penalties the Overseers Order, 1927 (S. R. & O., 1927, No. 55), Art. 13 (1) (*b*), in App. II., *post*, p. 3684.

151. [*Penalties to be sued for within six months*] (*a*).

(*a*) This section is repealed by the S. J. A., 1884, s. 4, and Schedule, and again by the S. L. R. A., 1892. See now the S. J. A., 1848, s. 11.

152. If, through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this or the special Act, any damage to the property of the company shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty; and the amount of such damages shall, in case of dispute, be determined by the justices by whom the party incurring such penalty shall have been convicted; and on non-payment of such damages, on demand, the same shall be levied by distress, and such justices, or one of them, shall issue their or his warrant accordingly.

Damage to be made good in addition to penalty.

153. It shall be lawful for any justice to summon any person to appear before him as a witness in any matter in which such justice shall have jurisdiction under the provisions of this or the special Act, at a time and place mentioned in such summons, and to administer to him an oath to testify the truth in such matter; and if any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed

Penalty on witnesses making default.

Section 153. for that purpose, having been paid or tendered a reasonable sum for his expenses, or if any person appearing shall refuse to be examined upon oath or to give evidence before such justice, every such person shall forfeit a sum not exceeding five pounds for every such offence (*a*).

(*a*) This section is repealed so far as relates to any matter to which the S. J. Acts apply (47 & 48 Vict. c. 43).

Transient offenders.

154. It shall be lawful for any officer or agent of the company, and all persons called by him to his assistance, to seize and detain any person who shall have committed any offence against the provisions of this or the special Act, and whose name and residence shall be unknown to such officer or agent, and convey him with all convenient despatch before some justice, without any warrant or other authority than this or the special Act; and such justice shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

155. [*Form of conviction*] (*a*).

(*a*) This section is repealed by the S. J. A., 1884, s. 4, and Schedule, and again by the S. L. R. A., 1892.

Proceedings not to be quashed for want of form, etc.

156. No proceeding in pursuance of this or the special Act, or any Act incorporated therewith, shall be quashed or vacated for want of form, nor shall the same be removed by certiorari or otherwise into any of the superior courts (*a*).

(*a*) See the notes to s. 262 of the P. H. A., 1875, *ante*, p. 581.

Appeal.

Parties allowed to appeal to quarter sessions, on giving security.

157. If any party shall feel aggrieved by any determination or adjudication of any justice with respect to any penalty or forfeiture under the provisions of this or the special Act, or any Act incorporated therewith, such party may appeal to the general quarter sessions . . . (*a*).

(*a*) The remainder of this section is repealed as to England by the S. J. A., 1884, s. 4, and Schedule. See now s. 6 of that Act, and the S. J. A., 1879, s. 31.

Court to make such order as they think reasonable.

158. At the quarter sessions for which such notice shall be given the court shall proceed to hear and determine the appeal in a summary way, or they may, if they think fit, adjourn it to the following sessions; and upon the hearing of such appeal the court may, if they think fit, mitigate any penalty or forfeiture, or they may confirm or quash the adjudication, and order any money paid by the appellant, or levied by distress upon his goods, to be returned to him, and may also order such further satisfaction to be made to the party injured as they may judge reasonable; and they may make such order concerning the costs, both of the adjudication and of the appeal, as they may think reasonable.

Receiver of metropolitan police district to receive penalties incurred within his district.

159. Provided always, that notwithstanding anything herein or in the special Act, or any Act incorporated therewith, contained, every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, 2 & 3 Vict. c. 71.

and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined, and such witnesses shall be entitled to the same allowance of expenses, as he or they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

160. [*False evidence*] (*a*).

(*a*) Repealed by the Perjury Act, 1911.

THE BATHS AND WASHHOUSES ACT, 1846.

(9 & 10 VICT. c. 74) (*a*).

An Act to encourage the Establishment of Public Baths and Washhouses.

[26th August, 1846.]

This Act may be adopted in boroughs and in parishes not within boroughs.

5 & 6 Will. 4, c. 76.

[**1.**] This Act may be adopted for any incorporated borough in England which is regulated under an Act passed in the sixth year of the reign of his late Majesty, to provide for the regulation of municipal corporations, or any charter granted in pursuance of the said Act, or any Act passed for the amendment thereof, and also, with the approval of one of her Majesty's principal Secretaries of State (*b*), for any parish in England not within any such incorporated borough (*c*).

(*a*) As to the adoption of this Act and the exercise of the powers conferred by it upon urban authorities, see the P. H. A., 1875, s. 10, *ante*, p. 44. This Act is amended by 10 & 11 Vict. c. 61; 41 & 42 Vict c. 14; 45 & 46 Vict. c. 30; and 62 & 63 Vict. c. 29, all of which are set out, *post*, pp. 2213, 2402, 2413, 2601, and by Part IX. of the P. H. A., 1925, *ante*, p. 1627.

In some places the provision of public bathing places and drying grounds is regulated by ss. 136—141 of the Towns Improvement Clauses Act, 1847. See also the P. H. A., 1907, s. 92, *ante*, p. 1159, as to the provision of bathing sheds.

(*b*) The powers and duties of the Secretary of State under these Acts were transferred to the Local Government Board by 34 & 35 Vict. c. 70, and are now vested in the Minister of Health by 9 & 10 Geo. 5, c. 21, s. 3, *post*. Approval is now only required in the case of rural parishes. There is no provision in the Act for the rescission of a resolution of adoption. See, however, s. 32, *post*, p. 2151.

(*c*) But see the P. H. A., 1875, s. 10, *ante*, p. 44, which gives the urban authority power to adopt an Act under the statute to the exclusion of any other authority within their district, and as to rural parishes, see the L. G. A., 1894, s. 7.

Interpretation.

2. In this Act the following words and expressions shall have the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; that is to say,

["*Parish*" . . .] (*a*).

"Borough" shall mean city, borough, port, cinque port, or town corporate: "Borough."

["*Ratepayers*" . . .] (*b*).

"Churchwardens" shall mean also chapelwardens or other persons discharging the duties of churchwardens: "Churchwardens."

"Overseers" shall mean also any persons authorised and required to make and collect or cause to be collected the rate for the relief of the poor of the parish, and acting instead of overseers of the poor: (*c*) "Overseers."

"Vestry" shall mean the inhabitants of the parish lawfully assembled in vestry, or for any of the purposes for which vestries are holden, except in those parishes in which there is a select vestry . . . (*d*) elected under the Vestries Act, 1831, or elected under the provisions of any local "Vestry." 1 & 2 Will. 4, c. 60.

Act of Parliament for the government of any parish by vestries, in which parishes it shall mean such select vestry :

"Commissioners."

"Commissioners" shall mean the commissioners appointed in accordance with this Act for any parish, and for the time being in office and acting as such commissioners :

"Clerk."

"Clerk" shall mean, as regards an incorporated borough, the town clerk of such borough ; and, as regards a parish, the clerk appointed pursuant to this Act by the commissioners :

"Justice."

"Justice" shall mean justice of the peace for the county, riding, division, liberty, borough, or place, where the matter requiring the cognizance of justices shall arise :

"Lands."

"Lands" shall mean lands, tenements, and hereditaments, of whatsoever nature or tenure :

Gender.

Words importing the masculine gender shall include the feminine :

Number.

Words of the plural number shall include the singular, and words of the singular number shall include the plural (*e*).

(*a*) The definition of parish was repealed by the S. L. R. A., 1875. The word parish now shall, unless the contrary intention appears and subject to any alteration of area made on or after April 1, 1927, by or in pursuance of any Act, mean a place for which immediately before April 1, 1927, a separate poor rate was or could be made or a separate overseer was or could be appointed (R. and V. Act, 1925, s. 68 (4), *ante*, p. 1752).

(*b*) This definition was also repealed by the S. L. R. A., 1875. It is replaced by 10 & 11 Vict. c. 61, *post*, p. 2213.

(*c*) Overseers were abolished by the R. and V. Act, 1925, s. 62. The poor rate is now levied as a part of the general rate by the rating authority under that Act, *q.v.*, *ante*, p. 1633.

(*d*) The S. L. R. A., 1875, repealed the part of this clause which, as originally enacted, contained a reference to 59 Geo. 3, c. 17. See also the amendment of the definition in 10 & 11 Vict. c. 61, *post*, p. 2213.

(*e*) Section 3, authorising councils of boroughs to adopt this Act, is repealed by the S. L. R. A., 1875 ; as also is the whole of s. 4 except the part set out in the text.

* * * * * *

Income to be carried to borough fund, and separate accounts kept.

4. The income arising from the baths and washhouses and open bathing places in any borough shall be paid to the credit of the borough fund (*a*) thereof, and the council shall keep distinct accounts of their receipts, payments, credits, and liabilities, with reference to the execution of this Act, to be called "The Public Baths and Washhouses Account" (*b*).

(*a*) As from the date of the first new valuation under the R. and V. Act, 1925, the borough fund was absorbed in the "general rate fund" (s. 10, *ibid.*, *ante*, p. 1660).

(*b*) This section is printed as in part repealed by the S. L. R. A., 1875. Expenses in the case of a borough are now paid out of the general rate fund and general rate as in the case of other urban districts, see s. 207 of the P. H. A., 1875, as amended by the R. and V. Act, 1925, *ante*, p. 495.

With respect to the application of the income arising from the baths, etc. the L. G. B. stated that they were advised that the word "income" as here used may probably be construed as meaning the net proceeds and not the gross receipts.

Adoption of Act by vestry of parish not within a borough.

5. (*a*) Upon the requisition in writing of ten or more ratepayers of any such parish as aforesaid, not being within any such incorporated borough, the churchwardens or other persons to whom it belongs to convene meetings of the vestry in such parish (*b*) shall convene a meeting of the vestry for the special purpose of determining whether this Act shall be adopted for the parish, after public notice of such vestry, and the place and hour of holding the same, and the special purpose thereof, given in the usual manner in which notice of the meetings of the vestry is given, at least seven days before the day to be appointed for holding such vestry ; and if thereupon it shall be resolved by the vestry that this Act ought to be adopted for the parish, a copy of such resolution extracted from the minutes of the vestry, and signed by the chairman, shall be sent to one of her Majesty's principal Secretaries of State (*c*) for his approval, and as soon as such approval shall have been

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signified in writing under the hand of any such Secretary of State, such of the provisions of this Act as are applicable in that behalf shall thenceforth take effect and come into operation in the parish: Provided always, that no such resolution of the vestry shall be deemed to be carried, unless at least two-thirds of the number of votes given on the question, according to the usual manner of voting at such vestry, shall have been given for such resolution.

(a) These provisions are not affected with respect to parishes in a rural sanitary district.
(b) The Act is now adopted in rural parishes by the parish meeting, which is convened in manner provided by the L. G. A., 1894, s. 45 (3).
(c) See note (b), *ante*, p. 2143.

Appointment of commissioners for carrying Act into execution.

6. In such case the vestry shall appoint not less than three nor more than seven persons, being ratepayers of the parish, commissioners for carrying this Act into execution in the parish, of whom one-third, or as nearly as may be one-third, (to be determined among themselves,) shall go out of office yearly, but shall be eligible for immediate re-appointment.

Resignation of commissioners.

7. Any commissioner may at any time resign his office as a commissioner, on giving seven days notice in writing of his intention to resign to the clerk, and also to the churchwardens.

Vacancies.

8. Any vacancies in the commissionership may be filled up by the vestry, when and as the vestry shall think fit.

Meetings of commissioners.

9. The commissioners shall meet at least once in every calendar month at their office, or some other convenient place previously publicly notified.

Special meetings of commissioners.

10. The commissioners may meet at such other time as at any previous meeting shall be determined upon, and it shall be at all times competent for any one commissioner, by writing under his hand, to summon, with at least forty-eight hours notice, the commissioners for any special purpose therein named, and to meet at such times as shall be therein named.

Quorum of meetings of commissioners.

11. At all meetings of the commissioners any number not less than one-third of the whole number when more than three commissioners shall have been appointed, and when only three commissioners shall have been appointed then any number not less than two commissioners, shall be a sufficient number for transacting business, and for exercising all the powers of the commissioners.

Commissioners may appoint and remove officers, and pay their salaries, and may hire an office.

12. The commissioners shall appoint, and may remove at pleasure, a clerk and such other officers and servants as shall be necessary for effecting the purposes of this Act, and, with the approval of the vestry, may appoint reasonable salaries, wages, and allowances for such clerk, officers, and servants, and, when necessary, may hire and rent a sufficient office for holding their meetings and transacting their business, and may agree for and pay a reasonable rent for such office.

Minutes of proceedings of commissioners.

13. All orders and proceedings of the commissioners shall be entered in books, to be kept by them for that purpose, and shall be signed by the commissioners, or any two of them; and all such orders and proceedings so entered and purporting to be so signed, shall be deemed to be original orders and proceedings; and such books may be produced and read as evidence of all such orders and proceedings upon any appeal, trial, information, or other proceeding, civil or criminal, and in any court of law or equity whatsoever.

Commissioners to keep accounts.

14. The commissioners shall provide and keep books in which shall be entered true and regular accounts of all sums of money received and paid for or on account of the purposes of this Act in the parish, and of all liabilities

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incurred by them for such purposes, and of the several purposes for which such sums of money shall have been paid and such liabilities shall have been incurred; and such books shall at all reasonable times be open to the examination of every commissioner, churchwarden, overseer, and ratepayer, without fee or reward, and they respectively may take copies of or extracts from such books, or any part thereof, without paying for the same; and in case the commissioners, or any of them, or any of their officers or servants having the custody of the said books, being thereunto reasonably requested, shall refuse to permit or shall not permit any churchwarden, overseer, or ratepayer to examine the same, or take any such copy or extract, every commissioner, officer, or servant so offending shall for every such offence forfeit any sum not exceeding five pounds.

Auditors to be appointed yearly, who shall examine the accounts, and report to vestry.

15. The vestry shall yearly appoint two persons, not being commissioners, to be auditors of the accounts of the commissioners, and at such time in the month of March in every year after the adoption of this Act for the parish as the vestry shall appoint the commissioners shall produce to the auditors their accounts, with sufficient vouchers for all moneys received and paid, and the auditors shall examine such accounts and vouchers, and report thereon to the vestry (*a*).

(*a*) These auditors are superseded by the P. H. A., 1875, ss. 247 and 248, *ante*, pp. 540, 546.

Expenses of executing Act to be paid out of the poor rate.

16. The expenses of carrying this Act into execution in any parish not within any such incorporated borough, to such amount as shall be from time to time sanctioned by the vestry, shall be chargeable upon and paid out of the moneys to be raised or applicable for the relief of the poor of the parish (*a*).

(*a*) Out of the general rate, when the urban authority are the commissioners. See the P. H. A., 1875, s. 207, *ante*, p. 495; and see notes to s. 4 of this Act, *ante*, p. 2144.

Overseers to levy, as part of the poor rate, such sums as vestry shall deem necessary to pay expenses and pay the same to person appointed by commissioners.

17. For defraying the expenses which shall have been or shall be incurred in carrying this Act into execution in the parish the vestry may and shall from time to time order the overseers to levy with and as part of the rate for the relief of the poor of the parish such sums as the vestry shall deem necessary, and the amount thereof shall accordingly be assessed, levied, paid, and recovered in like manner, and with the like powers and remedies in all respects, as such rate, and shall be paid by the overseers, according to the order of the vestry, to such person as shall be appointed by the commissioners to receive the same, and his receipt shall be a sufficient discharge to the overseers for the same, and shall be allowed accordingly in passing their accounts.

See, now, the R. and V. Act, 1925, *ante*, p. 1633.

Moneys raised, and the income arising from baths, etc. in the parish, to be applied towards defraying expenses.

18. The money raised for defraying the expenses of carrying this Act into execution, and the income arising from the baths and washhouses and open bathing places in the parish, shall be applied by the commissioners in or toward defraying the expenses of carrying this Act into execution in the parish; and whenever, after repayment of all moneys borrowed for the purpose of carrying this Act into execution in the parish, and the interest thereof, and after satisfying all the liabilities of the commissioners with reference to the execution of this Act in the parish, and providing such a balance as shall be deemed by the commissioners sufficient to meet their probable liabilities during the then next year, there shall be at the time of holding the meeting of the vestry at which the yearly report of the auditors shall be produced any surplus money at the disposal of the commissioners they shall pay the same to the overseers in aid of the rate for the relief of the poor of the parish (*a*).

Surplus to be paid to overseers in aid of poor rate.

(*a*) As to the effect of this provision in view of the R. and V. Act, 1925, see the Overseers Order, 1927 (S. R. & O., 1927, No. 55), Art. 13 (1) in App. II., *post*, p. 3684.

19. The vestries of any two or more neighbouring parishes (*a*) which shall have respectively adopted this Act may concur in carrying this Act into execution in such parishes in such manner, not inconsistent with the provisions of this Act, and for such time, as they shall mutually agree; and for that purpose it may, with the approval of such Secretary of State (*b*), be agreed on between such vestries that any public baths and washhouses and open bathing places shall be erected and made in any one of such parishes, to be vested in the commissioners thereof, and that the expenses of carrying this Act into execution with reference to the same shall be borne by such parishes in such proportions as such vestries shall mutually agree, and the proportion for each of such parishes of such expenses shall be chargeable upon and paid out of the moneys to be raised for the relief of the poor of the same respective parish accordingly; and, according and subject to the terms which shall have been so agreed on, the commissioners appointed for each of such parishes shall, in the management of the said baths and washhouses and open bathing places, form one body of commissioners, and shall act accordingly in the execution of this Act, and the accounts and vouchers of such commissioners shall be examined and reported on by the auditors of each of such parishes; and the surplus money at the disposal as aforesaid of such commissioners shall be paid to the overseers of such parishes respectively, in the same proportions as those in which such parishes shall be liable to such expenses (*c*).

Section 19.

Vestries of two or more parishes may concur in carrying this Act into execution, subject to the approval of Secretary of State.

(*a*) It is doubtful whether a district and parish council may combine. See P. H. A., 1875, s. 285, *ante*, p. 620, and L. G. A., 1894, s. 57, *ante*, p. 1022.

(*b*) See note (*b*), *ante*, p. 2143.

(*c*) See note (*a*) to s. 18, *ante*, p. 2146.

20. The commissioners of every such parish shall be a body corporate, with perpetual succession, which shall not be deemed to be interrupted by any partial or total vacancy from time to time in their office, by the name of "The Commissioners for Public Baths and Washhouses in the Parish of ( ) in the County of ( )," and by that name may sue and be sued in all courts, and before all justices and others, and may have and use a common seal, and by that name may take, hold, and convey any lands vested in them for the purposes of this Act.

Incorporation of commissioners.

21. For carrying this Act into execution in any borough or parish respectively, the council, with the approval of the Treasury (*a*), and the commissioners, with the sanction of the vestry, and also with the approval of the Treasury, may from time to time borrow at interest, on the security of a mortgage, as the case may be, of the borough fund, or of the rates for the relief of the poor of the parish (*b*), the money which may be by them respectively required, and shall apply the moneys so borrowed accordingly.

Councils and commissioners etc. may borrow money for the purposes of the Act, with the approval of the Treasury.

(*a*) The L. G. B. was substituted for the Commissioners of the Treasury by 41 & 42 Vict. c. 14, s. 9, *post*, and the powers and duties of the L. G. B. are now vested in the Minister of Health by 9 & 10 Geo. 5, c. 21, s. 3, *post*.

(*b*) See further, the P. H. A., 1875, s. 233, *ante*, p. 519. As to repayment out of moneys paid into court under s. 69 of the Lands Clauses Consolidation Act, 1845, *ante*, p. 2109, see *Re Derby Municipal Estates* (1876), 3 Ch. D. 289. References to the borough fund and poor rate must now be read as referring to the general rate fund and general rate (R. and V. Act, 1925, ss. 10, 69 (2), *ante*, pp. 1660, 1752).

Application to the M. of H. for sanction to the borrowing of money for the purposes of the Baths and Washhouses Acts should be made by resolution of the council, of which a copy should be forwarded by the clerk, together with plans and elevations of the proposed buildings, detailed estimates of cost, and particulars (in prescribed form) of existing debt for all purposes of the district. Proof will also be required of the due adoption of the Acts. It is advisable also to forward a plan of the town showing the situation of the site, and to explain whether terms have provisionally been come to with the owner. The Minister usually allows the following periods for the repayment of loans for purposes of public baths: sixty years for land; thirty years for buildings and swimming baths; twenty years for slipper baths and Turkish baths; fifteen years for a movable floor in a swimming bath; ten years for heating apparatus and fittings; and five years for towels, mats, etc. on first establishment.

Section 22.

The Public Works Loan Commissioners may advance money for the purposes of this Act.

5 & 6 Vict. c. 9.

22. The commissioners for carrying into execution an Act passed in the second session of the fifth year of the reign of her Majesty, intituled "An Act to authorise the advance of money out of the consolidated fund to a limited amount for carrying on public works and fisheries, and employment of the poor; and to amend the Acts authorising the issue of Exchequer bills for the like purposes," may from time to time make to the . . . commissioners of any such parish respectively, for the purposes of this Act, any loan under the provisions of the recited Act or the several Acts therein recited or referred to, upon security of . . . the rates for the relief of the poor of the parish . . . (*a*).

(*a*) References in the section to the council of the borough and the borough fund were repealed by the S. L. R. A., 1875. The statute referred to is 5 & 6 Vict. c. 9. The reference to the poor rates must now be read as relating to the general rate, see s. 69 (2), R. and V. Act, 1925, *ante*, p. 1752. The Public Works Loan Commissioners may lend money for purposes of public baths and washhouses. See First Schedule to Public Works Loans Act, 1875, *post*, p. 2373.

Provisions of 8 & 9 Vict. c. 16, as to borrowing money, accountability of officers, byelaws, damages, and penalties, incorporated with this Act.

23. The provisions of the Companies Clauses Consolidation Act, 1845 (*a*), with respect to the borrowing of money by any company on mortgage, and the provisions of the same Act with respect to the accountability of the officers of the company, and the provisions of the same Act with respect to the making of byelaws, subject to the provisions hereinafter contained, and the provisions of the same Act with respect to the recovery of damages not specially provided for, and penalties, so far as such provisions may respectively be applicable to the purposes of this Act, shall be respectively incorporated with this Act; and the expressions in such provisions applicable to the company and the directors shall apply, as regards a borough, to the council and, as regards a parish, to the commissioners; and all deeds and writings which under such provisions are required or directed to be made or executed under the common seal of the company shall in the application of such provisions to this Act be deemed to be required or directed to be made or executed, as regards a borough, under the common seal of the mayor, aldermen, and burgesses, and, as regards a parish, under the common seal of the commissioner; and so much of such provisions as are applicable to the "secretary of the company" shall apply to the clerk; and in such of the said provisions as relate to the inspection of accounts, as regards a borough, the burgesses, and, as regards a parish, the ratepayers, shall have the privileges of shareholders.,

(*a*) See these provisions, *ante*, p. 2078.

Council may appropriate, with consent of the Treasury, lands vested in the mayor, etc.

Commissioners may, with approval of vestry etc., appropriate lands belonging to parish.

Council or commissioners may contract for purchase or hire of lands.

24. In any such borough the council, with the approval of the Treasury (*a*) may from time to time appropriate for the purposes of this Act in the borough any lands vested in the mayor, aldermen and burgesses; and in any such parish the commissioners appointed under this Act, with the approval of the vestry and of the guardians of the poor of the parish (if any), and of the Poor Law Commissioners for England and Wales (*b*), may from time to time appropriate for the purposes of this Act in the parish any lands vested in such guardians, or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others, for the general benefit of the parish; and in any such parish the commissioners, with the approval of the vestry, and in any such borough the council, may from time to time contract (*c*) for the purchasing or renting of any lands necessary for the purposes of this Act, and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish (*d*).

(*a*) Now the M. of H. See the Local Authorities (Treasury Powers) Act, 1906, *ante*, p. 1091. The L. G. B. (predecessors of the M. of H.) expressed the opinion that the section did not enable them to approve the appropriation of corporate land outside the borough. Probably procedure under the Municipal Corporations Acts would meet the difficulty in such a case.

The above-mentioned procedure is made available to urban district councils other than town councils by the P. H. A., 1875, s. 10, *ante*, p. 44.

See also the P. H. A., 1907, s. 95, *ante*, p. 1161, for a general provision as to appropriating lands vested in district councils to purposes other than those for which such lands were acquired. An urban district council proposed to erect a swimming bath in a public park which had been presented to them, and applied for sanction to a loan for the purpose. Upon an inspection of the deed of gift, however, the L. G. B. stated that it was not clear to them that the council could, without the consent of the donor, use the proposed site for the purposes of a swimming bath.

(*b*) The powers and duties of the Poor Law Commissioners were transferred to the L. G. B. by 34 & 35 Vict. c. 70, and are now vested in the Minister of Health by 9 & 10 Geo. 5, c. 21, s. 3, *post*.

(*c*) Land cannot be acquired compulsorily for the purposes of these Acts (s. 4 of the 1847 Act, *post*, p. 2214) except by Metropolitan Borough Councils (19 & 20 Geo. 5, c. lxxxvii, s. 60).

(*d*) The power conferred by this section to purchase or rent lands is extended to lands in the immediate neighbourhood of the borough or parish by 45 & 46 Vict. c. 30, s. 3, *post*, p. 2413. In urban districts these powers must be exercised by the urban district council. See the P. H. A., 1875, s. 10, *ante*, p. 44. Compare generally the powers of s. 136 of the Towns Improvement Clauses Act, 1847, and s. 114 of the Education Act, 1921.

Councils and commissioners may erect, etc. public baths and washhouses and open bathing places.

25. The council and commissioners respectively may from time to time, on any lands so appropriated, purchased, or rented, or contracted so to be respectively, erect any buildings suitable for public baths and washhouses, and as to such washhouses either with or without open drying grounds, and make any open bathing places (*a*), and convert any buildings into public baths and washhouses, and may from time to time alter, enlarge, repair, and improve the same respectively, and fit up, furnish, and supply the same respectively with all requisite fittings, furniture, and conveniences (*b*).

(*a*) Extended to covered swimming baths by 41 & 42 Vict. c. 14, s. 3, *post*, p. 2402. The Act cannot be adopted for the purpose of providing baths only, but when adopted, the council may exercise their powers only to the extent of providing such baths as are authorised by the Act.

The L. G. B. once informed an urban district council that the provision of public baths for medical purposes would appear to be outside their powers under the Baths and Washhouses Acts.

The L. G. B. also stated that the letting of baths by an urban district council for an annual rent in consideration of their receiving the fees was not a legal arrangement. A town council proposed to purchase the exclusive right of using bathing vans on foreshore which was held by private persons, together with vans and other equipment:—*Held*, by the L. G. B., that ss. 21 and 25 did not authorise purchase, and that there was no authority enabling them to sanction a loan.

(*b*) A metropolitan borough council inaugurated a scheme whereby the inhabitants generally, instead of bringing and washing and taking away their clothes themselves, were invited to have their clothes collected and mechanically washed for them by employees of the council, and delivered by a van to the customers at a low rate of charge, in relief of any personal labour, attention or care on their part. It was held that the new undertaking was in the nature of an ordinary laundry business, and was not authorised by the Acts, nor was the undertaking, according to the principle laid down in *Att.-Gen.* v. *G. E. Ry.* (1880), 5 App. Cas. 473, incidental to or consequential upon the system authorised by the Acts, of providing facilities for the public to come and do their own washing, and further that "convenience" and "materials" mentioned in the above sections are limited to convenience and materials for the purposes of the Acts, namely, the providing of facilities for persons to do their own washing (*Att.-Gen.* v. *Fulham Corporation*, [1921] 1 Ch. 440; 85 J. P. 213).

Councils and commissioners may enter into contracts for the purposes of this Act.

26. The council and commissioners respectively may from time to time enter into any contract with any persons or companies for building and making, and for altering, enlarging, repairing, and improving, such public baths and washhouses and open bathing places, and for supplying the same respectively with water, and for lighting the same respectively, and for fitting up the same respectively, and for furnishing any materials (*a*) and things, and for executing and doing any other works and things necessary for the purposes

Section 26. of this Act; which contracts respectively shall specify the several works and things to be executed, furnished, and done, and the prices to be paid for the same, and the times when the works and things are to be executed, furnished, and done, and the penalties to be suffered in cases of non-performance; and all such contracts, or true copies thereof, shall be entered in books to be kept for that purpose: Provided always, that no contract above the value or sum of one hundred pounds shall be entered into by the council or the commissioners for the purposes of this Act, unless previous to the making thereof fourteen days notice shall be given in one or more of the public newspapers published in the county in which the borough or parish shall be situated, expressing the intention of entering into such contract in order that any person willing to undertake the same may make proposals, for that purpose, to be offered to the council or commissioners at a certain time and place in such notice to be mentioned; but it shall not be incumbent on the council or commissioners to contract with the person offering the lowest price.

No contract above £100 to be entered into without notice enabling persons to make tenders.

(*a*) See note (*b*) to s. 25, p. 2149, *ante*.

Council or commissioners may purchase existing baths, etc.

Trustees of such baths, etc. empowered to sell or lease them.

27. The council of any such borough, and the commissioners, with the approval of the vestry, of any such parish, may, if they shall think fit, contract for the purchase or lease of any baths and washhouses already or hereafter to be built and provided in any such borough or parish (*a*), and appropriate the same to the purposes of this Act, with such additions or alterations as they shall respectively deem necessary; and the trustees of any public baths and washhouses which have been already or may hereafter be built or provided in any such borough or parish (*a*), by private subscriptions or otherwise, may, with the consent of the council of any such borough, or with the consent of the commissioners and approval of the vestry of any such parish, and with the consent of the majority of the committee or other persons by whom they were appointed trustees, sell or lease the said baths and washhouses to the said council or commissioners respectively, or make over to them the management of such baths and washhouses; and in all such cases the baths and washhouses so purchased or leased, or of which the management has been so made over, shall be deemed to be within the provisions of this Act as fully as if they had been built or provided by the said council or commissioners; and the property therein shall be vested in the mayor, aldermen, and burgesses in the case of a borough, or in the commissioners in the case of a parish (*b*).

(*a*) Or in the immediate neighbourhood of such borough or parish (45 & 46 Vict. c. 30, s. 2, *post*, p. 2413).

(*b*) In an Irish case decided upon 9 & 10 Vict. c. 87, s. 27, which is similar to this clause in the text, it was held by the Lord Chancellor of Ireland, confirming the decision of the Master of the Rolls, that where a town council contracted to purchase baths and washhouses commenced by a private society on lands held under a sub-lease, being portion of lands comprised in a demise from the owner in fee, so that they were subject to a rent above that in the sub-lease as well as to the covenants and conditions in the original lease, they were not compellable to complete their contract, as it would have been a breach of trust on their part to purchase lands the interest in which might be lost by the default of others (*Mulholland* v. *Belfast Corporation* (1859), 9 Ir. Ch. R. 204, 292).

Power to water and gas companies to supply water and gas to baths, etc either without charge or on reduced terms.

28. Any commissioners of waterworks, trustees of waterworks, water companies, canal companies, gas companies, and other corporations, bodies and persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water, and gasworks respectively, may in their discretion grant and furnish supplies of water or gas for such public baths and washhouses and open bathing places, either without charge or on such other favourable terms as they shall think fit (*a*).

(*a*) See the P. H. A., 1875, ss. 52 and 65, and notes thereto in Vol. I. (*ante*, pp. 133, 151). It is competent to a council exercising the powers of this Act to sink a well to supply public baths with water, although the district is within the limits of a water company having parliamentary powers.

Section 29.

Councillors and commissioners not to be personally liable.

29. Nothing in this Act contained shall render any member of the council of any borough or any commissioner personally, or any of their lands, goods, chattels, or moneys, (other than such lands, goods, chattels, or moneys as may be vested in or under the management or control of the council or commissioners respectively in pursuance of this Act,) liable to the payment of any sum of money as or by way of compensation or satisfaction for or in respect of any thing done or suffered in due pursuance of this Act (*a*).

(*a*) See the notes to s. 265 of the P. H. A., 1875, *ante*, p. 583.

Appeals against orders of councils and commissioners.

8 & 9 Vict. c. 16.

30. Every person who shall feel aggrieved by any byelaw, order, direction, or appointment of or by the council or commissioners shall have the like power of appeal to the general quarter sessions as, under the provisions of the Companies Clauses Consolidation Act, 1845, incorporated with this Act, he might have if feeling aggrieved by any determination of any justice with respect to any penalty (*a*).

(*a*) See s. 23, *ante*, p. 2148.

Councils, etc. empowered to make sale and exchange of lands, with consent of Treasury, etc.

31. The council, with the approval of the Treasury (*a*), and the commissioners appointed under this Act, with the approval of the vestry and of the Treasury, respectively, may from time to time make sale and dispose of any lands vested in the mayor, aldermen, and burgesses, or in the commissioners respectively for the purposes of this Act, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any other lands better adapted for such purposes; and the mayor, aldermen, and burgesses, or the commissioners, may convey the lands so sold or exchanged accordingly.

(*a*) See note (*a*) to s. 24, *ante*, p. 2148. In a case in which washhouses were found to be unremunerative, the L. G. B. advised a metropolitan vestry (before the passing of the London Government Act, 1899), that it was apparently competent to them to close the washhouses and appropriate the buildings for other purposes of the Baths and Washhouses Acts, or, after obtaining the required approval, to sell the washhouses if they were considered to be unnecessary or too expensive. At the same time, the Board stated that the advice must not be understood as implying that the unremunerative character of washhouses would necessarily in itself constitute a sufficient reason for such a step. The *maximum* charges are now entirely within the discretion of the local authority (s. 85, P. H. A., 1925, *ante*, p. 1627), but until a scale under s. 85 has been authorised by the local authority the maxima in 10 & 11 Vict. c. 61, s. 7, and Sched., and 41 & 42 Vict. c. 14, ss. 4 and 14, and Sched., remain in force.

When baths, etc. are considered unnecessary or too expensive, they may, with approval of Treasury, be sold, and proceeds of sale carried to borough fund or poor rate.

32. Whenever any public baths or washhouses or open bathing places which shall have been for seven years or upwards established under the authority of this Act shall be determined by the council or by the vestry, in accordance with a previous recommendation of the commissioners, to be unnecessary, or too expensive to be kept up, the council or commissioners, with the approval of the Treasury (*a*), may sell the same for the best price that can reasonably be obtained for the same; and the mayor, aldermen, and burgesses, or the commissioners, shall convey the same accordingly; and the purchase money shall be paid to such person as the council or commissioners shall appoint, and his receipt shall be a sufficient discharge for the same; and the net proceeds of such sale shall be paid to the credit of the borough fund, or of the rate for the relief of the poor of the parish (*b*).

(*a*) See note (*a*) to s. 31 above.

(*b*) To the general rate fund account in the case where the authority has been transferred to the urban authority under 21 & 22 Vict. c. 98, s. 47, or the P. H. A., 1875, s. 10, *ante*, p. 44. Similar provisions as to sale are contained in s. 141 of the Towns Improvement Clauses Act, 1847.

Management to be vested in councils and parish commissioners.

33. The general management, regulation, and control of the public baths and washhouses and open bathing places established under this Act shall, subject to the provisions of this Act, be, as to any borough, vested in and exercised by the council, and, as to any parish, vested in and exercised by the commissioners (*a*).

(*a*) But see now the P. H. A., 1875, s. 10, *ante*, p. 44.

Byelaws for regulating baths and washhouses.

34. The byelaws which the council and commissioners respectively may from time to time make, alter, repeal, and enforce, shall include such byelaws for the management, use, and regulation of the public baths and washhouses and open bathing places, and of the persons resorting thereto respectively, *and for determining from time to time the charges for the use of such baths and washhouses and open bathing places respectively* (*a*) as the council and commissioners respectively shall think fit; and they respectively may appoint any penalty not exceeding five pounds for any and every breach, whether by their officers or servants, or by other persons, of any byelaw made by them respectively; . . . (*b*) Provided always, that no byelaw made under the authority of this Act shall be of any legal force until the same shall have received the approval of one of her Majesty's principal Secretaries of State (*c*).

(*a*) The words in italics will be repealed in any district from the date on which a scale of charges under s. 85 of the P. H. A., 1925, *post*, p. 1627, is authorised by the local authority. The model byelaws did not contain any clauses for determining the charges. It was considered that byelaws on the subject were rendered practically unnecessary by the provisions of s. 7 of 10 & 11 Vict. c. 61, *post*, p. 2214, and ss. 4 and 14 of 41 & 42 Vict. c. 14, *post*, p. 2402, and the Schedules to those Acts.

A local authority asked the L. G. B. whether, if they provided swimming baths or an open bathing place, they would be under an obligation to charge for admission. The Board replied that the question was one which they had no jurisdiction to decide, but it appeared to them that the Baths and Washhouses Act, 1846, contemplated that charges should be made by the authority for the use of baths provided by them.

(*b*) Words requiring byelaws to be made for the specific purposes mentioned in the Schedule are here omitted as repealed by s. 86 and Sched. V. of the P. H. A., 1925, *ante*, p. 1628.

(*c*) Now the Minister of Health. See note (*b*) to s. 1, *ante*, p. 2143. Model byelaws were issued by the L. G. B. under this section and s. 6 of 41 & 42 Vict. c. 14 (now repealed).

The M. of H. expressed the opinion that a local authority could not by byelaws or regulations limit the use, at certain hours, of a swimming bath to children attending public elementary schools. If, however, a bath were part of a pleasure ground, the powers of the P. H. A., 1907, s. 76 (1) (b), *ante*, p. 1147, might possibly be used to set apart for the purpose for a reasonable time that portion of the pleasure ground forming the bath.

Copies or abstracts of byelaws to be hung up in every bathroom, etc.

35. A printed copy or sufficient abstract of the byelaws relating to the use of the baths and open bathing places respectively shall be put up in every bath room and open bathing place respectively; and a printed copy or sufficient abstract of the byelaws relating to the use of the washhouses shall be put up in some convenient place near every washing tub or trough, or every pair of washing tubs or troughs, in every washhouse (*a*).

(*a*) Similar provisions are contained in s. 140 of the Towns Improvement Clauses Act, 1847.

Proportion of baths for the labouring classes.

36. The number of baths for the labouring classes in any building or buildings under the management of the same council or commissioners shall not be less than twice the number of the baths of any higher class, if but one, or of all the baths of any higher classes, if more than one, in the same building or buildings (*a*).

(*a*) The M. of H. have in some cases required urban district councils to reconstruct their scheme when it has been proposed to erect buildings which will contravene the requirements of this section. See further, as to the proportion of washing accommodation for the labouring classes, 10 & 11 Vict. c. 61, s. 5, *post*, p. 2214, and compare s. 137 of the

Note to Section 36.

Towns Improvement Clauses Act, 1847. Sections 37 and 41, and Sched. (B.) to this Act, were repealed by the S. L. R. A., 1875. Section 37 and Sched. (B.) had also been repealed by 10 & 11 Vict. c. 61, s. 6. As to charges for use of baths, etc., see 10 & 11 Vict. c. 61, s. 7, *post*, p. 2214, and 41 & 42 Vict. c. 14, ss. 4 and 14, *post*, p. 2402; all these sections are repealed by the P. H. A., 1925, Sched. V., as from the date that a scale of charges is authorised by the local authority under s. 85 of that Act, *ante*, p. 1627.

* * * * * *

Recovery of charges at washhouses.

38. For the recovery of the charges at such washhouses the officers, servants, and others having the management thereof may detain the clothes brought to be washed, or other goods and chattels, of any person refusing to pay the charge to which such person may be liable, or any part thereof, till full payment thereof be made, and in case such payment be not made within seven days may sell such clothes, goods, and chattels, or any of them, returning the surplus proceeds of such sale, after deducting the unpaid charge and the expenses of such detention and sale, and the unsold articles, if any, on demand, to such person (*a*).

(*a*) Similar provisions are contained in s. 139 of the Towns Improvement Clauses Act, 1847.

Penalty on officers taking fees beyond salaries, or being interested in contracts;

also on councillors or commissioners taking fees or accepting offices or being interested in contracts.

39. If any clerk or other officer, or any servant who shall be in anywise employed by any council or commissioners in pursuance of this Act, shall exact or accept any fee or reward whatsoever for or on account of any thing done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to putting this Act into execution, other than such salaries, wages, or allowances as shall have been appointed by the council or commissioners, or shall in anywise be concerned or interested in any bargain or contract made by the council or commissioners for or on account of anything done or forborne or to be done or forborne in pursuance of this Act, or on any account whatsoever relative to the putting of this Act into execution, or if any person during the time he holds the office of member of the council or commissioner shall exact or accept any such fee or reward, or shall accept or hold any office or place of trust created by virtue of this Act, or be concerned directly or indirectly in any such bargain or contract, every such person, so offending shall be incapable of ever serving or being employed under this Act, and shall for every such offence also forfeit the sum of fifty pounds (*a*).

(*a*) See the P. H. A., 1875, s. 193, *ante*, p. 481. See also, as to members of district councils, the provisions of the L. G. A., 1894, s. 46, *ante*, p. 1002, and the Public Bodies Corrupt Practices Act, 1889, *ante*, p. 841.

Application of penalties.

40. Such part of any penalty recovered under this Act as shall not be awarded to the informer shall be paid to the credit, as regards a borough, of the borough fund, and, as regards a parish, of the rate for the relief of the poor thereof (*a*).

(*a*) See the R. and V. Act, 1925, *ante*, p. 1633, and the Overseers Order, 1927 (S. R. & O., 1927, No. 55), Art. 13 (1), in App. II., *post*, p. 3684, made thereunder.

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SCHEDULES REFERRED TO BY THE FOREGOING ACT.

SCHEDULE (A.) (*a*)

(*a*) This Schedule was repealed by the P. H. A., 1925, Sched. V. See s. 86, *ibid.*, *ante*, p. 1628.

Section 1.

THE MARKETS AND FAIRS CLAUSES ACT, 1847.

(10 & 11 VICT. c. 14) (*a*).

An Act for consolidating in one Act certain provisions usually contained in Acts for contructing or regulating Markets and Fairs.

[23rd April, 1847.]

This Act to extend to such markets or fairs as shall be authorised by Acts hereafter to be passed which shall declare that this Act shall be incorporated therewith.

[**1.**] This Act shall extend only to such markets or fairs as shall be authorised by any Act of Parliament hereafter (*b*) to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

(*a*) The sections of this Act hereinafter set out, 12—16, 21—30, 31—41, are (in so far as they relate to markets) incorporated with the P. H. A., 1875, by s. 167, *ante*, p. 404. The Fairs Act, 1871, *post*, p. 2315, as affected by s. 27 of the L. G. A., 1894, *ante*, p. 992, enacts that the Secretary of State, on the representation of the district council, or the owner of any *fair* or of the district council, with the consent of the owner of such *fair* or the tolls payable in respect thereof, may order any *fair* to be abolished. His order is to be published in the London Gazette, and some local newspaper, and then the fair is to be abolished. By the Fairs Act, 1873, s. 6, *post*, p. 2338, which repealed 31 & 32 Vict. c. 51, he may order the day of holding the fair to be altered. Reference should be made to the Diseases of Animals Act, 1894, as amended by later Acts, and to the Orders made under those Acts, as affecting markets and fairs.

(*b*) See *M'Call* v. *Mitchell*, [1911] S. C. (J.) 1.

Interpretation.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

"The special Act."

2. The expression "the special Act," used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction or regulation of a market or fair, and with which this Act shall be incorporated; "Prescribed." and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed," the expression "prescribed for that purpose in the special Act" had been used; and the "The lands." expression "the lands" shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "The undertaking." "the undertaking" shall mean the market or fair (*a*) and, the works connected therewith, by the special Act authorised to be constructed or regulated; and "The undertakers." the expression "the undertakers" shall mean the persons authorised by the special Act to construct or regulate the market or fair.

(*a*) The P. H. A., 1875, s. 167, *ante*, p. 404, does not extend to a *fair*. As to what constitutes a fair, see *Collins* v. *Cooper* (1893), 57 J. P. 248; 68 L. T. (N.S.) 450; *Walker* v. *Murphy*, [1915] 1 Ch. 71; 79 J. P. 137. See also the notes to ss. 166 and 168 of the Act of 1875, *ante*, pp. 394, 407.

Interpretation.

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) (*a*)

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include also the singular number:

Section 3.

Gender. Words importing the masculine gender shall include females :

"Person." The word "person" shall include a corporation, whether aggregate or sole :

"Lands." The word "lands" shall include messuages, lands, tenements, and hereditaments, or heritages, of any tenure :

"Lease." The word "lease" shall include (*b*) . . . an agreement for a lease :

"The market or fair." The expression "the market or fair" shall mean the market or fair, and the works connected therewith, by the special Act authorised to be constructed or regulated (*c*) :

"Cart." The word "cart" shall include waggon, and also any carriage used wholly or chiefly for the conveyance of goods :

"Driver." The word "driver" shall include the carter or other person having the care of any cart :

"Cattle." The word "cattle" shall include horse, ass, mule, ram, ewe, wether, lamb, goat, kid, or swine :

"Collector." The expression "the collector" shall mean the person appointed by the undertakers to collect the stallages, rents, or tolls authorised by the special Act, and shall include the assistants of the collector :

"Month." The word "month" shall mean calendar month :

"Superior courts." The expression "superior courts," when the matter submitted to the cognisance of the court arises in England . . . shall mean Her Majesty's superior courts of record at Westminister . . . (*b*).

"Oath." The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath :

"County." The word "county" shall include riding or other division of a county having a separate commission of the peace (*b*) . . . and it shall also include county of a city or county of a town :

"Justice." "Two justices." The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognisance of any such justice arises ; and if such matter arise in respect of lands situated not wholly in any one jurisdiction, shall mean a justice acting for the place where any part of such lands shall be situated ; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices assembled and acting together (*b*) :

. . . . . .

"Quarter sessions." The expression "quarter sessions" shall mean quarter sessions as defined in the special Act ; and if such expression be not there defined it shall mean the general or quarter sessions of the peace which shall be held at the place nearest to the market or fair, or the principal office thereof, for the county or place in which the market or fair is situate, or for some division of such county having a separate commission of the peace.

(*a*) See the P. H. A., 1875, s. 316, *ante*, p. 655, as to the interpretation of terms in incorporated statutes. Sections 1—5 of this Act are not incorporated, but reference to them may be necessary to explain the terms used in later incorporated sections. They are, therefore, included here.

(*b*) Words relating to Scotland and Ireland only are here omitted.

(*c*) As to the meaning of "fair" under local Acts, see *Walker* v. *Murphy*, cited in note (*a*) to s. 2, *ante*, p. 2154.

Citing the Act. And with respect to citing this Act, or any part thereof, be it enacted as follows :

Short title. **4.** In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Markets and Fairs Clauses Act, 1847."

Section 5.

Form in which portions of this Act may be incorporated in other Acts.

5. For the purposes of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they shall be expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

* * * * * *

Holding of market, etc.

And with respect to the holding of the market or fair, and the protection thereof, be it enacted as follows (*a*):

(*a*) These clauses are incorporated by the P. H. A., 1875, s. 167, *ante*, p. 404.

Before the market or fair shall be opened notice to be given by undertakers.

12. Before the market or fair shall be opened for public use the undertakers shall give not less than ten days' notice of the time when the same will be opened, and such notice shall be given by the publication thereof in some newspaper circulating within the limits of the special Act, and by printed handbills posted on some conspicuous place within those limits.

Sales elsewhere than in market, or in shops, etc., prohibited.

13. After the market place is opened for public use, every person other than a licensed hawker (*a*) who shall sell or expose for sale in any place within the prescribed limits (*b*), except in his own dwelling place or shop (*c*), any articles in respect of which tolls are by the special Act authorised to be taken in the market (*d*), shall for every such offence be liable to a penalty not exceeding forty shillings (*e*).

(*a*) A licensed hawker is within this exemption, although he is selling goods for which a hawker's licence is not required (*Llandudno U. D. C.* v. *Hughes*, [1900] 1 Q. B. 472; 64 J. P. 357). A licensed pedlar who sold potatoes and fruit outside the market, but within the limits, was held to be protected by the provisions, though he had a horse and waggon, and was thus acting rather as a hawker than as a pedlar (*Howard* v. *Lupton* (1875), L. R. 10 Q. B. 598; 40 J. P. 7). But that case was disapproved of, and the contrary held, subsequently to the passing of 44 & 45 Vict. c. 45 in the meantime, in *Woolwich L. B.* v. *Gardiner*, [1895] 2 Q. B. 497; 59 J. P. 597. See as to hawkers' licences, the Hawkers Act, 1888; *O'Dea* v. *Crowhurst* (1899), 68 L. J. Q. B. 655; 63 J. P. 424; *Holland* v. *Hall* (1902), 66 J. P. 424; 86 L. T. (N.S.) 355; *Philpott* v. *Allright* (1906), 70 J. P. 287; 94 L. T. (N.S.) 540; see also the Pedlars Acts, 34 & 35 Vict. c. 96, s. 6, and 44 & 45 Vict. c. 45.

The provision in the Hawkers Act, 1888, that it shall not be necessary for a licence to be taken out by any person selling fruit, victuals, or coal, relates only to the Excise licence under that Act, and was held not to enable a person to hawk fish in a town subject to a local Act, which contained a provision similar to that in the text, and a further provision enabling the corporation to grant licences for the sale of marketable commodities in the street (*Openshaw* v. *Oakley* (1889), 53 J. P. 740; 60 L. T. (N.S.) 929). Under a similar clause, in a local Act, it was held that a pedlar, who had a pedlar's licence, did not require to have a licence from the corporation to sell hat-guards in the street, as these were not tollable articles (*Loftos* v. *Gleave* (1891), 55 J. P. 149). So also where fish were exempt from toll under another Act, a corporation licence was held not to be necessary (*Loftos* v. *Kiggins* (1891), 55 J. P. 151). A local Act provided that if any person sold save in his own dwelling place or shop any tollable article he should be liable to a penalty unless he had a licence under the Act. It further provided that nothing in the Act should interfere with the lawful exercise of their calling by duly licensed hawkers. The respondent who had taken out a licence under the Hawkers Act, 1888, but had no licence under the local Act sold tomatoes (which were tollable articles) from a hand barrow in the street. It was held that he was not exempt from the necessity of having a licence under the local Act, for he was not acting under his hawker's licence, and the Act did not exempt hawkers as a class but only hawkers lawfully exercising their calling as such (*Lee* v. *Wallocks* (1914), 78 J. P. 365).

(*b*) As to the *prescribed limits*, see the P. H. A., 1875, s. 316, *ante*, p. 655. In *Caswell* v. *Cook*, *post*, p. 2158, the term was held to mean the limits to which the local Act applied, in that case to the boundaries of the borough. A farmer residing at B., ten miles from T., a district under the P. H. A., contracted at B., with a butcher living in T., to sell some

Note to Section 13.

pigs to him, which were to be killed at B., and delivered at T. It was held that no offence was committed within this section (*Bourne* v. *Lowndes* (1858), 22 J. P. 354; 31 L. T. (o.s). 114). A sale is not within the section unless the bulk of the goods sold is, at the time of such sale, substantially within the prescribed limits (*Newtownards Town Commissioners* v. *Woods* (1877), Ir. R. 11 C. L. 506). But a sale by sample, the bulk being within the limits, is within the section (*Londonderry Corporation* v. *McElhinney* (1874), Ir. R. 9 C. L. 71). As to a sale in a part of a town not in existence at the time of the passing of a local Act, see *Collier* v. *Worth* (1876), 1 Ex. D. 464; 40 J. P. 342; *Killmister* v. *Fitton* (1886), 53 L. T. (n.s.) 959. H. delivered certain carcases at a door within the limits, and the carcases were then weighed and paid for, but it was alleged that they were delivered in pursuance of a previous contract entered into between the same parties at the same place a week previously. It was held that the sale was within the section (*Exeter Corporation* v. *Heaman* (1877), 42 J. P. 503; 37 L. T. (n.s.) 534). And where a greengrocer, within the limits, used to order vegetables from B., a farmer outside, and paid for them monthly, it was held that B. was liable to be convicted of selling in a place within the limits other than his own shop (*Torquay Market Co.* v. *Burridge* (1883), 48 J. P. 71). These cases may be distinguished from *Bourne* v. *Lowndes*, *supra*, on the ground that there the sale was made beyond the limits; but they cannot be reconciled with *Stretch* v. *White* (1861), 25 J. P. 485, where a farmer living without the limits was held not to offend by sending all his butter from time to time to a shop within the limits, and being allowed the market price for it. As to *Stretch* v. *White*, the observations of the judges in *Pletts* v. *Campbell*, [1895] 2 Q. B. 229; 59 J. P. 502, may be referred to, though the former decision was followed in *Newtownards U. D. C.* v. *Tweedie* (1907), 41 Ir. L. T. 23. All these cases were discussed in *Lambert* v. *Rowe*, [1914] 1 K. B. 38; 78 J. P. 20. In that case a farmer at his own dwelling-house agreed to sell to a butcher two specified pigs at a certain price per score. By the terms of the contract, the pigs were to be killed and delivered by the seller and were to be at his risk until delivery. A few days later he killed and delivered the pigs at the purchaser's shop which was within the market limits. Dead pigs were tollable articles. It was held that the word "sell" in the above section is to be understood in a popular and not its strict legal sense, that for the purposes of the section the pigs were sold where the agreement was made, notwithstanding that the property in them did not pass, and that the seller had consequently not committed an offence against the section. And see *Quilligan* v. *Limerick Market Trustees* (1883), 14 L. R. Ir. 265; *Lisburn U. D. C.* v. *Shortt* (1912), 46 Ir. L. T. 132. The T. Market Act prohibited the sale within certain limits of corn, grain, fish, meat, poultry, or other provisions, or any bulls, sheep, swine, or other live cattle which was usually sold in public markets. It was held that a shopkeeper selling potatoes came within the statute, these being "provisions," and also "usually sold within markets" (*Shepherd* v. *Folland* (1884), 49 J. P. 165). A cattle salesman was convicted under this section for selling cattle in a yard which he held under lease from the urban authority, containing covenant for quiet enjoyment, the urban authority having established their market after the date of the leases (*Spurling* v. *Bantoft*, [1891] 2 Q. B. 384; 56 J. P. 132). G. was charged on a summons with having sold and exposed for sale on June 13th, 1904, within the limits of a market, a quantity of potatoes which were tollable articles. It appeared that on June 9th, G. had agreed with M., within the limits of the market, to supply him with one hundredweight of potatoes, no price being agreed on. The potatoes were not at the time within the limits of the market, but were delivered within such limits on June 13th:—*Held*, that G. was not guilty of any offence against this section (*Gracey* v. *Banbridge U. D. C.*, [1905] 2 I. R. 209).

A local Act imposed tolls on waggons and carts used for the exposure of goods on any market day. A baker, who was not a licensed hawker, had a customer within the limits of the market, whom he supplied with bread three times a week. It was held that he could not be convicted of exposing bread for sale so as to be within the above section (*White* v. *Yeovil Corporation* (1892), 61 L. J. M. C. 213). Under a similar local Act the use of a cart for the delivery of mineral waters from a distant manufactory to customers within the limits was held not to be a using for exposing for sale (*Newton-in-Makerfield U. D. C.* v. *Lyon* (1900), 69 L. J. Q. B. 230; 81 L. T. (n.s.) 756). Where a right to take tolls was imposed by a local Act, it was held that no right to sell without paying toll could be acquired by non-payment of tolls for a considerable period, and such selling might be restrained by injunction (*Woolwich Corporation* v. *Gibson* (1905), 69 J. P. 361; 92 L. T. (n.s.) 538).

(*c*) A vessel moored to a wharf on a canal within the limits is not a shop (*Wiltshire* v. *Baker* (1861), 11 C. B. (n.s.) 237). In order to be within the exemption, the shop need not be attached to a dwelling-house; but a sale by auction in a shop attached to and being part of a dwelling-house is privileged (*Wiltshire* v. *Willett* (1861), 26 J. P. 312; 11 C. B. (n.s.) 240). A structure which resembled a booth or stall, having no stable or substantial character, no room for customers within it, nor means of sheltering or protecting goods from the weather or from depredators, was held not to be a shop (*Pope* v. *Whalley* (1865), 29 J. P. 134; 6 B. & S. 303). A stall with a canvas roof standing upon a vacant piece of land and from which the goods were removed each day was held not to be a "shop"

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within a similar provision in a local Act (*Pike* v. *Jones* (1923), 87 J. P. 36). But the business carried on wholesale in the ground floor of a building, the other floors of which are used for warehouse and storage business, is carried on in a shop (*Haynes* v. *Ford*, [1911] 2 Ch. 237; 75 J. P. 401). A sale by auction of horses in a yard attached to a dwelling-house is not a sale in a shop (*Llandaff and Canton Market Co.* v. *Lyndon* (1860), 25 J. P. 295; 8 C. B. (N.S.) 515). A piece of ground outside a dwelling-house, which had been used for many years as the site of a wooden shed in which articles had been sold, was held to be an accessory to the shop, and within this exception (*Ashworth* v. *Heyworth* (1869), L. R. 4 Q. B. 316; 33 J. P. 565). An agricultural hall with land containing pens and sheds for the sale of cattle and sheep by auction, though adjoining the auctioneer's dwelling-place, was held not to be a shop (*Fearon* v. *Mitchell* (1872), L. R. 7 Q. B. 690; 36 J. P. 804; *McHole* v. *Davies* (1876), 1 Q. B. D. 59; 40 J. P. 548). A sale in a skittle ground let for two days for the occasion was held not to be a sale in a shop (*Hooper* v. *Kenshole* (1877), 2 Q. B. D. 127; 41 J. P. 142; and see also *Perkins* v. *Arber* (1873), 37 J. P. 406). A sale of marketable commodities from carts and van standing in the street opposite a shop is not a sale in the shop (*Horner* v. *Freeman*, W. N. (1884), p. 223). A room on the first floor of a building in the City of London where goods are regularly put up for auction is not a shop—so held by SCRUTTON, J., in *Clayton* v. *Le Roy*, [1911] 2 K. B. 1031; 75 J. P. 229. This point was not questioned in the Court of Appeal, see [1911] 2 K. B. 1046; 75 J. P. 521.

Commissioners were, by a local Act incorporating this Act, empowered to set up a market and take toll. Section 47 of the local Act imposed tolls upon all persons selling marketable commodities, except on premises in their own occupation. An auctioneer held sales in a field in his own occupation, and it was held that he was not liable for penalties (*Rutherford* v. *Straker* (1889), 42 Ch. D. 85 n.). It was further held that he could not be sued for disturbance of the market (*Abergavenny Improvement Commissioners* v. *Straker* (1889), 42 Ch. D. 83). In another case a local Act prohibited sales by a person "except on any land or in any building belonging to him or in his occupation." It was held that this provision superseded the enactment in the text (*Hailsham Cattle Market Co.* v. *Tolman*, [1915] 2 Ch. 1; 79 J. P. 420).

There may be a right by immemorial enjoyment or prescription to exclude persons from selling marketable articles in shops on market days. See *Mosley* v. *Walker* (1827), 7 B. & C. 40; 5 L. J. K. B. 358; *Macclesfield Corporation* v. *Pedley* (1833), 4 B. & Ad. 397; 1 Nev. & M. 708; *Shepherd* v. *Folland*, *ante*, p. 1213; but the grant of a market with all liberties and free customs to such market belonging, does not imply such a right (*Macclesfield Corporation* v. *Chapman* (1844), 12 M. & W. 18; 13 L. J. Ex. 32; *Penryn Corporation* v. *Best* (1878), 3 Ex. D. 292; 42 J. P. 629). A local Act stated that for preventing encroachments on the markets, any person who shall sell, among other things, roots, fruit, or garden stuff in any other places within the town than in the market should be liable to a penalty. A. bought vegetables from a dealer in the market, and then offered them for sale in the streets of the town:—*Held*, that he had incurred the penalty (*Black* v. *Sackett* (1870), 10 B. & S. 639).

By a local Act it was necessary to obtain a licence to sell (*inter alia*) mutton. The defendant, who had no licence to sell mutton, had some mutton on his premises for storage purposes only. His wife, contrary to his express instructions, sold some mutton. It was held that the wife had exceeded her general authority, and that the defendant was not liable (*Wake* v. *Dyer* (1911), 75 J. P. 210; 104 L. T. 448).

As to what amounts to disturbance of a market, see *Prince* v. *Lewis* (1826), 5 B. & C. 363; 4 L. J. K. B. 188; *In re Islington Market Bill* (1835), 3 C. & F. 513; *Holcroft* v. *Heel* (1799), 1 B. & P. 400; *Mosley* v. *Chadwick* (1782), 7 B. & C. 47 n.; 3 Doug. 117; *De Rutzen* v. *Lloyd* (1836), 5 A. & E. 456; 6 Nev. & M. 776; *Brecon Corporation* v. *Edwards* (1862), 26 J. P. 614; 1 H. & C. 51; *Dorchester Corporation* v. *Ensor* (1869), L. R. 4 Ex. 335; 34 J. P. 167; *London Corporation* v. *Low* (1880), 49 L. J. Q. B. 144; 44 J. P. 169; *Elwes* v. *Payne* (1879), 12 Ch. D. 468; *Manchester Corporation* v. *Lyons* (1882), 22 Ch. D. 287; 47 L. T. (N.S.) 677; *G. E. Rail. Co.* v. *Goldsmid* (1884), 9 App. Cas. 927; 49 J. P. 260; *Wilcox* v. *Steel*, [1904] 1 Ch. 212; 68 J. P. 146. See also the cases cited in the notes to s. 166 of the P. H. A., 1875, *ante*, p. 402, and *Stevens* v. *Chown*, [1901] 1 Ch. 894.

(*d*) Where a local Act imposed a toll upon the shops or stalls in the market, and not on the commodities sold there, it was held that a person who sold fruit and fish, which were marketable commodities, from door to door within the prescribed limits was not liable under this section (*Caswell* v. *Cook* (1863), 27 J. P. 183; 11 C. B. (N.S.) 637). A horse is an article within this section (*Llandaff and Canton Market Co.* v. *Lyndon*, *supra*). And see *Shepherd* v. *Folland*, *ante*, p. 2157.

A market Act provided that no person should sell or expose for sale in a certain district, except in the market place, any provisions or other goods mentioned in the schedule. The schedule, among other things, contained this item: "For every stallion exposed to view, one shilling." It was held that the Act did not so incorporate the words of the schedule as to make it an offence to expose to view a stallion within the district, for it applied only to exposing for sale (*Luke* v. *Charles* (1861), 25 J. P. 148). An Act authorised a corporation to take a toll "for every cartload of hay, straw, grass, vetches or other article, commodity or thing exposed for public sale." It was held that coal was not included in the general words "other article, commodity or thing" (*Johnson* v. *Atkinson* (1909), 73 J. P. 510; 101 L. T. 637). A toll was imposed "for every cart containing milk, fish, or other goods, provisions, marketable commodities or articles" brought to the market for sale or exposure for sale. The respondent sold milk from a cart within the prescribed limits of the borough, but not in the authorised market, and was summoned under this section (which was incorporated in the local Act) for unlawfully selling milk within the prescribed limit. It was held that the toll was a toll on every cart containing milk and not on the sale of milk, and that the respondent could not be convicted (*Jenkins* v. *Thomas* (1911), 75 J. P. 87; 104 L. T. 74). See also *Londonderry Corporation* v. *Osborne*, [1926] N. I. 58.

It is to be observed that the section does not enable a person to sell elsewhere than in the market or in a shop on payment of the tolls. Sometimes in local Acts, however, there is provision for selling in the streets, etc., upon obtaining a licence or on paying the prescribed tolls. See *Carter* v. *Parkhouse* (1870), 34 J. P. 438; 22 L. T. (N.S.) 788.

As to what are marketable commodities within the provisions of a local Act, see *Morgan* v. *Kingdon* (1875), 39 J. P. 471; *Johnson* v. *Atkinson*, *supra*.

(*e*) An association of retail dealers, many of whom dealt in tollable articles in a place in which this Act was applicable under s. 167 of the P. H. A., 1875, was held entitled by their servant to take proceedings as a party aggrieved within the meaning of s. 253 of that Act, *ante*, p. 558, for the recovery of penalties for selling tollable articles in that place contrary to the text (*Ross* v. *Taylerson* (1898), 62 J. P. 181).

14. After the market place or place for fairs is opened for public use the undertakers shall hold markets and fairs therein on the prescribed days (if any), and on such other days as the undertakers shall appoint from time to time by any byelaw to be made in pursuance of this or the special Act (*a*). Market days.

(*a*) See s. 42, *post*, p. 2164. It is doubtful whether 27 Hen. 6, c. 5, as amended by 13 & 14 Vict. c. 23, is applicable to prevent the holding of markets belonging to a local authority on Sundays, feast days, etc. Section 1 of the Sunday Observance Act, 1677, prohibits the exposure for sale of any wares, merchandise, fruit, herbs, goods, or chattels whatsoever, upon the Lord's Day, under pain of forfeiture of the wares, etc. Cf. *Clifton* v. *Holborn B. C.* (1929), 27 L. G. R. 658. The owner of a market may remove not only the whole, but a part of it, from one place to another within the compass of his district (*Wortley* v. *Nottingham L. B.* (1869), 21 L. T. (N.S.) 582). And see *Edinburgh Magistrates* v. *Blackie* (1886), 11 App. Cas. 665.

A byelaw that no auctioneer should sell cattle by auction in the market before twelve o'clock on the market day was held to be valid (*Collins* v. *Wells Corporation* (1885), 1 T. L. R. 328).

15. Every person who shall sell or expose for sale any unwholesome meat or provisions in the market or fair shall be liable to a penalty not exceeding five pounds for every such offence; and any inspector of provisions appointed by the undertakers may seize such unwholesome meat or provisions, and carry the same before a justice, and thereupon such proceedings shall be had as are hereinafter directed to be had in the case of any cattle or carcase seized in any slaughter-house and carried before a justice; and every person who shall obstruct or hinder the inspector of provisions from seizing or carrying away such unwholesome meat or provisions shall be liable to a penalty not exceeding five pounds for every such offence (*a*). Penalty for selling or exposing for sale unwholesome meat, &c.

(*a*) See the provisions of the P. H. A., 1875, ss. 116–119, *ante*, pp. 231–239, as to unsound meat, etc. See also s. 20, *infra*, as to cattle, etc., seized in a slaughter-house, and ss. 125—131 of 10 & 11 Vict. c. 34, *post*, pp. 2210 *et seq.*

16. Every person who shall assault or obstruct any person appointed by the undertakers to superintend the market or fair, or to keep order therein, whilst in the execution of his duty, shall for every such offence be liable to a penalty not exceeding forty shillings. Penalty for obstructing market or fair keeper.

And with respect to slaughter-houses, be it enacted as follows: *Slaughter-houses.*

* * * * * *

20. The inspector of provisions, or any officer appointed by the undertakers for that purpose, may at all times of the day, with or without assistants, Inspection of slaughter-houses.

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enter into and inspect all buildings erected or set apart by the undertakers for slaughtering cattle, and examine whether any cattle or the carcase of any cattle is deposited there; and in case such officer shall find any cattle, or the carcase or part of the carcase of any such cattle, which shall appear unfit for the food of man, he may seize and carry the same before a justice, and such justice shall forthwith order the same to be further inspected and examined by competent persons; and in case upon such inspection and examination such cattle, carcase, or part of a carcase shall be found unfit for the food of man, such justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man; and every person who shall obstruct or hinder such inspector or other officer in the discharge of any of the duties aforesaid shall be liable to a penalty not exceeding five pounds for every such offence (*a*).

(*a*) This section is not incorporated in the P. H. A., 1875, but is inserted as being referred to in s. 15, *ante*, p. 2159.

Weighing of goods and carts.

And with respect to weighing goods and carts, be it enacted as follows (*a*):

(*a*) Incorporated by the P. H. A., 1875, s. 167, *ante*, p. 404. As to the purchase, adjusting, and testing of these weighing machines, see 22 & 23 Vict. c. 56, ss. 6—8, 12, re-enacted by the Weights and Measures Act, 1878, Sched. VI., Part 2, the Revenue Act, 1889, s. 29, the Weights and Measures Act, 1889, the Weights and Measures Act, 1904, the Weights and Measures (Amendment) Act, 1926, and the cases of *Hayley* v. *Taylor* (1900), 82 L. T. (N.S.) 803; *Lane* v. *Rendall*, [1899] 2 Q. B. 673; 63 J. P. 757; *London C. C.* v. *Payne*, [1904] 1 K. B. 194; 68 J. P. 21; *Anglo-American Oil Co.* v. *Manning*, [1908] 1 K. B. 536; 72 J. P. 35, as to false and unjust weights. As to the weighing of cattle, see 50 & 51 Vict. c. 27; 54 & 55 Vict. c. 70; and 16 & 17 Geo. 5, c. 21, *post*, pp. 2490, 2534, 2908.

Weights and measures for weighing commodities sold at markets and fairs.

21. The undertakers shall provide sufficient and proper weighing houses or places for weighing or measuring the commodities sold in the market or fair, and shall keep therein proper weights, scales, and measures, according to the standard weights and measures for the time being, for weighing such commodities as aforesaid, and shall appoint proper persons to attend to the weighing or measuring such commodities at all times during which the market or fair is holden (*a*).

(*a*) See also 41 & 42 Vict. c. 49, Sched. VI., Part 2, re-enacting 22 & 23 Vict. c. 56, ss. 6—8, 12.

Articles to be weighed if requested by the buyer.

22. Every person selling or offering for sale any articles in the market or fair shall, if required so to do by the buyer, cause the same to be weighed or measured by the weights and scales or measures provided by the undertakers; and any such person who shall refuse, on demand, to cause such articles to be weighed or measured in manner aforesaid shall be liable to a penalty not exceeding forty shillings.

Penalty for refusal to weigh.

23. Every person appointed by the undertakers to weigh or measure any articles sold in the market or fair who shall refuse or neglect to weigh or measure the same when required shall be liable to a penalty not exceeding forty shillings (*a*).

(*a*) See also 41 & 42 Vict. c. 49, Sched. VI., Part 2, re-enacting 22 & 23 Vict. c. 56, ss. 6–8, 12.

Machines for weighing carts, etc.

24. The undertakers shall provide sufficient and proper buildings or places for weighing carts in which goods are brought for sale within the market or fair or the prescribed limits, and shall keep therein machines and weights proper for that purpose, and shall from time to time appoint a person in every such building or place to afford the use of such machines to the public by weighing such carts with or without their loading, as may be required.

Weighing of carts with their loads, and after discharge.

25. The driver of every such cart shall, at the request of the buyer or seller of such goods, or his agent, take such cart, with or without the loading thereof, to the nearest of the said weighing machines, and shall permit the same to be weighed; and if such cart be weighed with its load thereupon the driver shall, if required, take such cart after its load has been discharged to the weighing machine nearest to such place of discharge, and permit it to be reweighed without such load; and if any such driver shall for the purposes aforesaid be required to take such cart a greater distance than half a mile, including the going to and returning from such machines respectively, the owner of the cart shall be paid for every horse which shall be used in drawing such cart twopence for the first half mile, and a like sum for every additional half mile; and such payment shall be made by the person requiring such cart to be weighed as aforesaid before the driver thereof shall be obliged to take it as aforesaid for the purpose of having it weighed.

Penalty on drivers for refusing to take carts to be weighed, &c.

26. The driver of any such cart who shall not, upon being so requested as aforesaid, and having such payment made or tendered as aforesaid, take the same to such weighing machine as hereinbefore directed, or who shall refuse to assist in the weighing of the same, shall forfeit to the person requiring such cart to be weighed a sum not exceeding twenty shillings.

Penalties on drivers committing frauds in weighing.

27. Every driver of any such cart weighed at any weighing machine to be provided in pursuance of this or the special Act who shall commit any of the following offences shall be liable to a penalty not exceeding five pounds for each offence; (that is to say,)

If he at the time of weighing any such cart knowingly have anything in or about the same other than the proper loading thereof:

If he alter any ticket denoting the weight of any such cart, or the loading of the same:

If he make or use, or be privy to making or using, any ticket falsely stating the weight of any such cart or the loading thereof:

If he, after the weighing of any such cart with the loading thereof, remove any part of such loading, and afterwards dispose of or attempt to dispose of or represent the residue of such loading as being the full loading denoted by such ticket:

If he between the time when the cart and the loading thereof have been so weighed and the time when such cart is weighed without such loading change the wheels of such cart, or make any other change upon it after being required to allow such cart to be weighed without the loading thereof:

If he be guilty of any other fraudulent contrivance to misrepresent the weight of any such cart or the loading thereof.

Penalty on buyers or sellers for committing frauds in weighing.

28. If the buyer or seller of any goods brought in any cart for sale within the market or fair, and which shall be required to be weighed as aforesaid, shall do anything to such cart or its loading whereby the true weight thereof respectively shall be altered before such weighing, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalties for frauds committed by the machine keeper.

29. The person for the time being appointed to keep any weighing machine provided in pursuance of this or the special Act shall be liable to a penalty not exceeding five pounds in any of the following cases; (that is to say,)

If he wilfully neglect, on application, duly to weigh any cart, with or without its loading, as the case may be, that is brought to the machine kept by him to be weighed:

If he do not fairly weigh every such cart, with or without loading, as the case may be:

If he do not deliver to the buyer or seller of any such loading, or to any person interested therein, on application, a ticket or account specifying

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the true weight of such cart, with or without such loading, as may be required:

If he give to the driver of any such cart a false ticket or account of the weight of such cart, with or without the loading thereof:

If he weigh any cart, with or without its loading, knowing that anything had been done to such cart or to the loading thereof, to alter the true weight thereof respectively:

If he knowingly assist in or connive at any fraud concerning the weighing of any cart or the loading thereof, or make or connive at making any false representation of the weight of the same respectively.

Penalty on other parties committing frauds as to weighing.

30. Every person who shall knowingly act or assist in committing any fraud respecting the weighing or weight of any cart, or the loading thereof in pursuance of this or the special Act, shall for every such offence be liable to a penalty not exceeding five pounds.

Tolls.

And with respect to the stallages, rents, and tolls to be taken by the undertakers, be it enacted as follows (*a*):

(*a*) Incorporated with the P. H. A., 1875, by s. 167, *ante*, p. 404. No tolls are leviable by the authority unless, as regards such as were established between 1858 and 1872, they were approved of by the Secretary of State. As regards such as have been or shall be approved of by the M. of H., see 21 & 22 Vict. c. 98, s. 50; 34 & 35 Vict. c. 70; and the P. H. A., 1875, s. 167, *ante*, p. 404. The tolls therein referred to were interpreted by the L. G. B. to be tolls on buying and selling. They have no power to approve of stallages, rents, or pickage tolls under the section last mentioned.

As to the return of tolls which must be made under the Local Taxation Returns Act, 1860, see the Act, *post*, p. 2257.

Tolls, etc. not to be demanded until market or fair completed.

31. Unless it be otherwise provided by the special Act, the undertakers shall not demand or receive any stallage, rent, or toll until the market place or place for a fair or slaughter-house in respect of the use of which the same shall be demanded shall be completed and fit for the use of the persons resorting thereunto (*a*).

(*a*) Where the undertakers receive toll and invite persons to come to market with their cattle, a duty is imposed on them at common law to keep the market in a safe condition for the cattle as regards the construction of the market place (*Lax* v. *Darlington Corporation* (1880), 5 Ex. D. 28; 44 J. P. 312). The L. G. B. once stated that they were not aware of any provision in the general law enabling a district council to levy tolls upon cattle passing through the district.

Certificate of two justices to be evidence that market or fair is completed.

32. A certificate under the hand of any two justices shall be conclusive evidence that the same is completed and fit for public use as aforesaid; and any such justices shall sign such certificate on proof being adduced to them that the market place or place for a fair or slaughter-house is so completed and fit for public use.

Tolls, etc. to be paid on demand to undertakers or collector.

33. The several stallages, rents, or tolls payable in respect of the market or fair or slaughter-house shall be paid from time to time, on demand, to the undertakers, or the collector or other person authorised by the undertakers to receive the same.

Tolls for weighing, etc. to be paid before goods, etc. are weighed, etc.

34. The tolls payable in respect of weighing or measuring marketable commodities, or carts with or without goods, shall be paid to the person authorised by the undertakers to weigh or measure the same by the persons bringing such marketable commodities or carts to be weighed or measured, before the same are weighed or measured.

Tolls in respect of cattle brought to market for sale.

35. The tolls in respect of cattle brought to the market for sale shall become due as soon as the cattle in respect whereof they are demandable, are brought into the market place, and before the cattle are put into any pen, or tied up in such market place; and if the cattle be not removed within one hour after the close of the market, another toll shall become due in respect of the cattle so omitted to be removed. **Section 35.**

36 (*a*). The undertakers may from time to time change the stallages, rents, and tolls to be taken in respect of the market or fair, or for the slaughter-houses, or for weighing and measuring, provided that the stallages, rents, and tolls in no case exceed the amounts authorised by the special Act (*b*). Stallages, tolls, etc. may be varied from time to time.

(*a*) Sections 36–41 (both included) are applied to tolls for weighing cattle by s. 8 of the Markets and Fairs (Weighing of Cattle) Act, 1887, *post*, p. 2492.

(*b*) As to the construction of the Liverpool New Cattle Market Act, 1831, see *Att.-Gen.* v. *Liverpool New Cattle Market Co.*, W. N. (1896) 30 (2).

37. Every person who shall demand or receive a greater toll than that authorised to be taken under the provisions of this or the special Act, shall for every such offence be liable to a penalty not exceeding forty shillings. Penalty on taking a greater toll than authorised by this or the special Act.

38. If any person liable to the payment of any stallage, rent, or toll authorised by this or the special Act to be taken do not pay the same when demanded, the undertakers or their lessee, or any person authorised by the undertakers or their lessee to collect the same, may levy the same in England . . . by distress . . . of all or any of the cattle or other articles in respect of which such stallage, rent, or toll is payable, or of any other cattle or other articles in the market belonging to the person liable to pay such stallage, rent, or toll, or under his charge, or such tolls may be recovered in any court having competent jurisdiction (*a*). Recovery of tolls by distress, etc.

(*a*) Words relating to Ireland and Scotland are omitted from this section.

39. If any dispute arise concerning any such stallage, rent, or toll, such dispute shall be determined in England . . . by a justice, . . . and such justice . . . shall, on application made to him, determine the same, and make such order therein, and award such costs to either party, as to him shall seem proper; and in default of payment, on demand, of the money which shall be so awarded, and of the costs, the same shall be forthwith levied in England . . . by distress, . . . and the justice . . . shall issue his warrant accordingly (*a*). Disputes respecting tolls, how to be settled.

(*a*) Words relating to Ireland and Scotland are omitted from this section.

40. Every person who shall assault or obstruct any person authorised to collect any stallage, rent, or toll authorised by this or the special Act, shall for every such offence be liable to a penalty not exceeding forty shillings. Penalty for obstructing collector of rents, etc.

41. The undertakers or their lessee shall from time to time cause to be painted on boards, or to be printed and attached to boards, in large and legible characters, a list of the several stallages, rents, and tolls from time to time payable under this and the special Act, and shall cause a board containing such list to be conspicuously set up and continued in the market or fair, and in each weighing-house and slaughter-house provided by the undertakers, to which each such list shall relate, and no stallage, rent, or toll shall be payable during the time such list is not so set up, or for anything not specified therein: Provided always, that if such list shall be destroyed, injured, or obliterated, the stallages, rents, and tolls shall continue to be payable during such time as shall be reasonably required for the restoration of such list, in the same manner as if such list had continued in the state required by this Act. List of tolls, etc. to be set up and placed in conspicuous places.

Byelaws.

And with respect to the byelaws to be made by the undertakers, be it enacted as follows (*a*):

Section 42.

Byelaws may be made for all or any of the purposes herein named.

42. The undertakers may from time to time make such byelaws as they think fit for all or any of the following purposes; (that is to say,)

For regulating the use of the market place and fair, and the buildings, stalls, pens, and standings therein, and for preventing nuisances or obstructions therein, or in the immediate approaches thereto:

For fixing the days, and the hours during each day, on which the market or fair shall be held:

For inspection of the slaughter-houses (*b*), and for keeping the same in a cleanly and proper state, and for removing filth and refuse at least once in every twenty-four hours, and for requiring that they be provided with a sufficient supply of water, and preventing the exercise of cruelty therein:

For regulating the carriers resorting to the market or fair, and fixing the rates for carrying articles carried therefrom within the limits of the special Act:

For regulating the use of the weighing machines provided by the undertakers, and for preventing the use of false or defective weights, scales, or measures:

For preventing the sale or exposure for sale of unwholesome provisions in the market or fair.

(*a*) Under s. 167 of the P. H. A., 1875, *ante*, p. 404, an authority may make byelaws for any of the purposes mentioned in the above section. These byelaws will be made under the P. H. A., and the remaining sections of this Act as to byelaws need not therefore be referred to. Model byelaws under this section are issued by the Ministry of Health.

A byelaw made by a local board prevented persons from throwing skins upon any part of the ground occupied by the market, or the immediate approaches, or in any cart standing thereon without being authorised so to do by the superintendent of the market. This was held to be too general, and therefore bad, as in restraint of trade (*Wortley* v. *Nottingham L. B.* (1869), 33 J. P. 806; 21 L. T. (N.S.) 582). A byelaw that no auctioneer should sell cattle by auction in the market before 12 o'clock on the market day was held to be valid (*Collins* v. *Wells Corporation* (1885), 1 T. L. R. 328). A byelaw made under a local Act for regulating markets was held not to be unreasonable or in restraint of trade by reason of its setting apart a part of a market for sale by wholesale only, and providing a penalty for selling by retail in that part (*Strike* v. *Collins* (1886), 50 J. P. 741; 55 L. T. (N.S.) 182). A byelaw that sale rings established by the local authority shall be used only for public sales by auction on conditions equally applicable to all bidders and buyers, and not for private sales, or for sales to any limited number of persons, or for sales in which any class of the public are excluded from bidding or buying was held to be good in *Scott* v. *Glasgow Corporation*, [1899] A. C. 470; 64 J. P. 132. A byelaw prohibiting sale by auction in a public market without the consent of the superintendent of the market is *ultra vires* (*Nicholls* v. *Tavistock U. D. C.*, [1923] 2 Ch. 18; 87 J. P. 98). See also Diseases of Animals Act, 1894, ss. 22 (ix.), (xx.) and 39.

As to the confirmation of byelaws made under this section, see 47 & 48 Vict. c. 12, *ante*, p. 762.

(*b*) *I.e.*, the slaughter-houses referred to in ss. 17 and 20 of this Act which are not incorporated. Urban authorities may make byelaws for the regulation of slaughter-houses under 10 & 11 Vict. c. 34, ss. 128—130, *post*, pp. 2211 *et seq.*, incorporated by the P. H. A., 1875, s. 169, *ante*, p. 403.

* * * * * *

THE GASWORKS CLAUSES ACT, 1847.

(10 & 11 Vict. c. 15) (*a*).

An Act for consolidating in one Act certain provisions usually contained in Acts authorising the making of Gasworks for supplying Towns with Gas.

[23rd April, 1847.]

Incorporation with special Act.

[1.] This Act shall extend only to such gasworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith, and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act (*b*). **Section 1.**

(*a*) The P. H. A., 1875, s. 161, *ante*, p. 382, enabled an urban authority to obtain a Provisional Order authorising a gas undertaking under the Gas and Water Works Facilities Act, 1870, and any Act amending the same (36 & 37 Vict. c. 89). These Acts, which are set out, *post*, pp. 2272, 2339, incorporate this Act, and in consequence the amending Act of 1871, *post*, p. 2315, both of which are, therefore, included in this Appendix. Reference should, however, be made to the Gas Regulation Act, 1920, *post*, p. 2807, which contains important provisions relating to the manufacturing and sale of gas, the charges made for gas supplied, the testing of gas, etc., and the Gas Undertakings Act, 1929, *post.*, p. 3025. A Provisional Order is now replaced by a " special " order and the Board of Trade have replaced the L. G. B. as the central authority.

As to the powers of gas undertakers in relation to residuals, see *Deuchar* v. *Gas Light and Coke Co.*, [1925] A. C. 691 ; 89 J. P. 177 ; and s. 4 of the Gas Undertakings Act, 1929, *post*, p. 3026.

(*b*) As to the limits of supply, see *Gaslight and Coke Co.* v. *South Metropolitan Gas Co.* (1889), 54 J. P. 373 ; 62 L. T. (N.S.) 126, the facts of which are set out, *ante*, p. 383. A water company was authorised to give a supply of water within certain specified parishes, and extended its water main to the boundary of the district within which it was authorised to supply water, and from thence continued it at the cost of the consumer to a place beyond its district. Then they erected a hydrant and meter from which pipes were laid to the consumer's house. It was held that a " supply " of water covered the delivery of water for use at the terminals, wherever they might be, at which a consumer took possession of the water and devoted it to his own use, and that the company was not entitled to give such supply and must be restrained by injunction (*Att.-Gen.* v. *West Gloucestershire Water Co.*, [1909] 2 Ch. 338 ; 73 J. P. 453). Gas undertakers may obtain an order from the Board of Trade to supply premises outside their limits of supply under s. 5, Gas Undertakings Act, 1929, *post*, p. 3026.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows : *Interpretation.*

2. The expression " the special Act " used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of gasworks, and with which this Act shall be so incorporated as aforesaid ; and the word " prescribed," used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word " prescribed " the expression " prescribed for that purpose in the special Act " had been used ; and the expression " the lands " shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof : and the expression " the undertaking " shall mean the gasworks, and the works connected therewith, by the special Act authorised to be constructed ; and the expression " the undertakers " shall mean the persons by the special Act authorised to construct the gasworks. " The special Act." " Prescribed." " The lands." " The undertaking." " The undertakers."

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction ; (that is to say,) Interpretations.

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number : Number.

Words importing the masculine gender shall include females : Gender.

The word " person " shall include corporation, whether aggregate or sole : " Person."

The word " lands " shall include messuages, lands, tenements, and hereditaments, or heritages of any tenure : " Lands."

Section 3.

"Street." The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place, within the limits of the special Act (*a*):

"The gasworks." The expression "the gasworks" shall mean the gasworks, and the works connected therewith, by the special Act authorised to be constructed (*b*):

"Gas rate." The expression "gas rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of gas:

"Month." The word "month" shall mean calendar month:

"Superior courts." The expression "superior courts," where the matter submitted to the cognizance of the superior courts arises in England . . . shall mean Her Majesty's superior courts of record at Westminster . . . (*c*).

"Oath." The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

"County." The word "county" shall include riding or other division of a county having a separate commission of the peace . . . (*c*) and it shall also include county of a city or county of a town:

"Justice." "Two justices." The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and where any matter shall be authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together (*c*):

. . . . .

"Quarter sessions." The expression "quarter sessions" shall mean quarter sessions as defined in the special Act; and if such expression be not there defined it shall mean the court of general or quarter sessions of the peace which shall be held at the place nearest to the gasworks, or the principal office thereof, for the county or place in which the gasworks are situate, or for some division of such county having a separate commission of the peace.

(*a*) This definition was held not to include an open tract of land above mean high water-mark, which belonged to the owner of enclosed land fronting the shore. It appeared that the inhabitants of two villages on the shore had always gone to and fro between them along the shore, and at high water passed over this land as they chose, but by no defined track (*Maddock* v. *Wallasey L. B.* (1886), 55 L. J. Q. B. 267; 50 J. P. 404).

(*b*) The expression "gasworks and plant" in s. 46 of the Hamilton Gas Works Act, 1895, was held to include not only the works themselves in the material sense, but the undertaking as a going concern (*Hamilton Gas Co.* v. *Hamilton Corporation*, [1910] A. C. 300; 74 J. P. 185; *Perth Gas Co.* v. *Perth City Corporation*, [1911] A. C. 506; 27 T. L. R. 526).

(*c*) Words relating to Scotland and Ireland only are here omitted.

Citing the Act. And with respect to citing this Act, or any part thereof, be it enacted as follows:

Short title of this Act. **4.** In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The Gasworks Clauses Act, 1847."

Incorporation of parts of this Act with other Acts. **5.** For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act; and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows (*a*) :

Laying of pipes.

Power to break up streets, etc. under superintendence, and to open drains, and to lay pipes, make sewers, erect lamps, etc.

6. The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act, and may open and break up any sewers, drains, or tunnels (*b*) within or under such streets and bridges, and lay down and place within the same limits, pipes, conduits, service pipes, and other works (*c*), and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the gas, and for the purposes aforesaid may remove and use all earth and materials in and under such streets and bridges, and they may in such streets erect any pillars, lamps, and other works, and do all other acts which the undertakers shall from time to time deem necessary for supplying gas to the inhabitants of the district included within the said limits, doing as little damage as may be (*d*) in the execution of the powers hereby or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers (*e*).

(*a*) See on this subject the cases cited in the notes to the P. H. A., 1875, s. 149, *ante*, p. 300. See also s. 80 of the P. H. A., 1925, *ante*, p. 1625, and notes thereto. As to the liability of the company for an accident caused while breaking up a pavement, see *Hornby* v. *Liverpool United Gas Co.* (1883), 47 J. P. 231. As to what is a street, see *Maddock* v. *Wallasey L. B.*, *ante*, p. 2166.

(*b*) A tunnel, with brick sides and a roof of girders set in concrete, which is constructed by the owner of the soil on either side of a public highway, is not a tunnel within the meaning of the section with which the undertakers may interfere (*Schweder* v. *Worthing Gas Light and Coke Co.* (No. 1), [1912] 1 Ch. 83 ; 76 J. P. 3).

(*c*) A corporation, empowered to supply gas within a township, of which the local board, as undertakers within the meaning of this section, had the exclusive right of laying gas mains therein and was compelled to repair them and to allow the corporation to use them, was held to have a mere easement in the mains and not liable to be rated in respect of them (*Southport Corporation* v. *Ormskirk Assessment Committee*, [1894] 1 Q. B. 196 ; 58 J. P. 212). As to the meaning, in a local Act, of the term "mains," see *Whittington Gas Light and Coke Co.* v. *Chesterfield Gas and Water Board*, [1914] 2 Ch. 146 ; 78 J. P. 379.

(*d*) As to this phrase, see *R.* v. *East and West India Docks, etc. Rail. Co.* (1853), 2 El. & Bl. 466 ; 22 L. J. Q. B. 380.

(*e*) As to the assessment of compensation, see 64 J. P. 291.

Undertakers not to enter on private land without consent.

7. Provided always, that nothing herein shall authorise or empower the undertakers to lay down or place any pipe or other works into, through, or against any building (*a*), or in any land, not dedicated to public use (*b*), without the consent of the owners and occupiers thereof ; except that the undertakers may at any time enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this or the special Act or any other Act of Parliament, and may repair or alter any pipe so laid down (*c*).

(*a*) Arches in a roadway occupied as cellars are buildings (*Thompson* v. *Sunderland Gas Co.* (1877), 2 Ex. D. 429 ; 42 J. P. 198). So is a brick tunnel with a roof constructed of girders set in concrete (*Schweder* v. *Worthing Gas Light and Coke Co.* (No. 1), *supra*, following *Caledonian Rail. Co.* v. *Glasgow Corporation* (1901), 3 F. 526).

(*b*) The dedication of a road to public use brings it within s. 6 (*supra*), and no part of it can for the purposes of gas or water undertakings be properly held to be land "not dedicated to public use" under this section. Dedication as between the owner of the soil on the one hand and the controlling authority on the other, involves not merely the occupation by the public of the surface, but also the dedication of so much of the subjacent soil as is necessary for the proper maintenance of the surface as a road or street (*Schweder* v. *Worthing Gas Light and Coke Co.* (No. 2), [1913] 1 Ch. 118 ; 77 J. P. 41). As to breaking up occupation roads not dedicated to the public, see *Selby* v. *Crystal Palace District Gas Co.* (1861), 30 Beav. 606 ; 31 L. J. Ch. 592. Power is now given to local authority undertakers upon application by the owner or occupier of premises abutting on a street to lay gas and water pipes in streets laid out but not dedicated (P. H. A., 1925, s. 80, *ante*, p. 1625).

Note to Section 6.

As to what constitutes such a street, see *Davies* v. *Ripon Corporation*, [1928] 1 Ch. 884; 92 J. P. 153.

(*c*) This section does not preclude the undertakers from taking a pipe through a railway bridge under s. 6 without cutting into the structure of the bridge but laying the pipe in the soil (*Taff Vale Rail. Co.* v. *Cardiff Gaslight and Coke Co.* (1907), 71 J. P. 350; 23 T. L. R. 528).

In view of this section the undertakers are not liable to penalties under s. 36 of the Gasworks Clauses Act, 1871, *post*, p. 2323, for neglect or refusal to supply gas to a lamp in a private passage where the owner objects to their laying the pipe (*Bellamy* v. *Liverpool United Gas Co.* (1904), 68 J. P. 540; 2 L. G. R. 1182).

Notice to be served on persons having control, etc. before breaking up streets or opening drains.

8. Before the undertakers proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons (*a*) under whose control or management the same may be, or to their clerk, surveyor, or other officer notice in writing of their intention to open or break up the same, not less than three clear days beforebeginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen (*b*).

(*a*) A rural district council as "highway authority" under s. 25, L. G. A., 1894, was held not to be, and a county council in respect of a rural district is therefore not a "person under whose control or management" a highway, dedicated to the public, but not repairable by the inhabitants at large, is within the meaning of this section (*Redhill Gas Co.* v. *Reigate R. D. C.*, [1911] 2 K. B. 565; 75 J. P. 358). Within the area of an urban district council there were three streets or roads which were open for public use, but which were not repairable by the inhabitants at large. The Post Office authorities were desirous of placing telegraph wires along these streets, and applied to the district council for their consent, but the council refused to give consent on the ground that the streets were not under their control within the meaning of s. 13 of the Telegraph Act, 1863. It was held that the council "had not the control over the roads" and were not therefore entitled to give consent (*Postmaster-General* v. *Hendon U. D. C.*, [1914] 1 K. B. 564; 78 J. P. 145). See also *Postmaster-General* v. *Hutchings*, [1916] 1 K. B. 774; 80 J. P. 246.

(*b*) Consent is not necessary (*Dover Gaslight Co.* v. *Dover Corporation* (1855), 7 De G. M. & G. 545; 1 Jur. (N.S.) 812). As to what notice must be given, see *Edgware Highway Board* v. *Colne Valley Water Co.* (1877), 46 L. J. Ch. 889. As to the right of support of pipes laid in a highway, see *Normanton Gas Co.* v. *Pope* (1883), 52 L. J. Q. B. 629; 49 L. T. (N.S.) 798.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

9. No such street, bridge, sewer, drain, or tunnel shall except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the undertakers' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons or their officer (*a*).

(*a*) See *Edgware Highway Board* v. *Colne Valley Water Co.* (1877), 46 L. J. Ch. 889; *East Molesey L. B.* v. *Lambeth Waterworks Co.*, [1892] 3 Ch. 289; and note (*a*) to s. 12 at p. 2170, *post*.

Where a local authority in the metropolis employ a contractor to reinstate streets broken up by a company under statutory powers, they cannot recover from the company under s. 114 of the Metropolis Management Act, 1855, any sum in addition to the amount actually paid to the contractor, in respect of supervision exercised by their officers over the work, if in fact no expense has been incurred for supervision beyond that which would have been incurred if the company had executed the work of reinstatement (*Metropolitan Water Board* v. *Westminster City Council* (1905), 75 L. J. K. B. 384; 70 J. P. 52).

A metropolitan borough council purporting to act under the Metropolis Management Act, 1855, s. 114, passed a resolution that they would in all cases where any pavement was opened by a gas company do the work of reinstatement themselves. Subsequently a gas company having opened the pavement of a street and finished laying their pipes, gave notice to the council that reinstatement was necessary. It was held that the resolution did not, upon the mere expiry of a reasonable time after receipt of the notice, *ipso facto* release the company from the duty imposed by the above section. To effect such release it was necessary that the council should dismiss the company from the control of the reinstatement, and in fact take charge of the work themselves (*Brame* v. *Commercial Gas Co.*, [1914] 3 K. B. 1181; 79 J. P. 55).

10. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and maintained against or near such road or pavement, where the same shall be open or broken up, every night during which the same shall be continued open or broken up, and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Streets, etc. broken up to be reinstated without delay.

Roads, etc. to be fenced and lighted while opened;

and to be kept in repair for a certain time afterwards.

11. If the undertakers open or break up any street or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid when so required, except in the cases in which the undertakers are hereby authorised to perform such works without any superintendence or notice, or if the undertakers make any delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding five pounds for every such offence, and they shall forfeit an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof (*a*).

Penalty for delay in reinstating streets, etc.

(*a*) Notwithstanding this section the undertakers may be liable in damages to a person injured in consequence of careless or defective filling in of the ground (*Goodson* v. *Sunbury Gas Co.* (1896), 60 J. P. 585; 75 L. T. (N.S.) 251). In the metropolis the local authority may claim to reinstate the street under s. 114 of the Metropolis Management Act, 1855, instead of permitting a gas company to do it, and in that case the gas company are not liable if it is done negligently (*Cressy* v. *South Metropolitan Gas Co.* (1906), 70 J. P. 405; 94 L. T. (N.S.) 790). This case was distinguished in *Brame* v. *Commercial Gas Co.*, cited in the note to s. 9, *supra*. Recovery of expenses of reinstatement from the gas company in such cases is provided for by s. 82 of the Metropolis Management Amendment Act, 1862. See *Commercial Gas Co.* v. *Poplar Borough Council* (1907), 70 J. P. 178; 94 L. T. (N.S.) 222.

Section 12.

In case of delay, persons having control of streets, etc. may reinstate them.

12. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed, and the expense (*a*) of executing the same shall be repaid to such persons by the undertakers; and such expenses may be recovered in the same manner as damages are recoverable under this or the special Act.

(*a*) This includes a reasonable charge for the supervision of the work (*New River Co.* v. *Westminster Corporation* (1904), 68 J. P. 358).

Supply of gas.

And with respect to the supply of gas, and the recovery of the rent to be paid for the same, be it enacted as follows (*a*):

(*a*) It should be mentioned here that important alterations in the mode of charging for gas supplied are introduced by the Gas Regulation Act, 1920, 10 & 11 Geo. 5, c. 28, *post*, p. 2807, and the Gas Undertakings Act, 1929, s. 6, *post*, p. 3027.

Power of the undertakers to contract for lighting buildings, streets, etc.

13. The undertakers may from time to time enter into any contract with any person for lighting or supplying with gas any public or private building, or for providing any person with pipes, burners, meters, and lamps, and for the repair thereof; and may also from time to time enter into any contract with the commissioners, trustees, or other persons having the control of the streets within the limits of the special Act for lighting the same or any of them with gas, and for providing such commissioners, trustees, or persons with lamps, lamp-posts, burners, and pipes for such purpose, and for the repairs thereof, in such manner and upon such terms as shall be agreed upon between the undertakers and the said commissioners, trustees, or other persons (*a*).

(*a*) See the P. H. A., 1875, s. 161, *ante*, p. 382. Sections 14 and 15 of this Act are repealed by the S. L. R. A., 1875, except in so far as incorporated with the special Acts to which 34 & 35 Vict. c. 41, *post*, p. 2315, does not apply. Section 14 related to the exemption of gas fittings from distress, as to which, see *Gaslight and Coke Co.* v. *Hardy* (1886), 17 Q. B. D. 619; 51 J. P. 6.

* * * * * *

If rent is not paid, gas may be cut off and rent and expenses recovered.

16. If any person supplied with gas by virtue of this or the special Act, neglect to pay the rent due for the same to the undertakers, the undertakers may stop the gas from entering the premises of such person, by cutting off the service-pipe, or by such means as the undertakers shall think fit (*a*).

(*a*) The remainder of this section was repealed by the S. L. R. A., 1875, as also was s. 17, except in so far as incorporated with special Acts to which 34 & 35 Vict. c. 41, *post*, p. 2315, does not apply. The liability under this section attaches to the person, not to the premises, and the undertakers may cut off the gas supplied to one set of premises of a customer for default made by him in respect of another set of premises (*Montreal Gas Co.* v. *Cadieux*, [1899] A. C. 589).

The payment due to a gas company for gas supplied, though called a rent, is not really a rent, and consequently a gas company does not come within the words "or other person to whom any rent is due" in s. 34 of the Bankruptcy Act, 1869 (now s. 35 (1) of the Bankruptcy Act, 1914 (4 & 5 Geo. 5, c. 59) (*Ex parte Harrison, Re Peake* (1883), 13 Q. B. D. 753).

An incoming tenant is not liable for arrears due from an outgoing tenant under the Gaslight and Coke Company's special Act (*Cannon Brewery Co.* v. *Gaslight and Coke Co.*, [1904] A. C. 331; 68 J. P. 461). But where a woman took and paid for gas supplied to her house and afterwards married, it was held that she continued liable for gas supplied after her marriage until she discontinued the supply or gave the gas company notice of her marriage (*Lea Bridge Gas Co.* v. *Malvern*, [1917] 1 K. B. 803; 81 J. P. 141).

* * * * * *

Undue use of gas.

And with respect to waste or misuse of the gas, or injury to the pipes and other works, be it enacted as follows:

Penalty for fraudulently using the gas

18. Every person who shall lay or cause to be laid any pipe to communicate with any pipe belonging to the undertakers without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the gas supplied by the undertakers is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the undertakers, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or who shall otherwise improperly use or burn such gas (*a*), or shall supply any other person with any part of the gas supplied to him by the undertakers, shall forfeit to the undertakers the sum of five pounds for every such offence, and also the sum of forty shillings for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the undertakers may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into (*b*).

of the undertakers.

(*a*) *I.e.*, in respect of gas ascertained otherwise than by meter (*Falkirk Corporation* v. *Russell*, [1911] S. C. (J.) 99).

(*b*) As to larceny of gas, see *R.* v. *White* (1853), 3 C. & K. 363; *R.* v. *Foster* (1865), L. R. 1 C. C. R. 172. As to the operation of the Statute of Limitations, when there has been a fraudulent concealment of an improper using of gas within this section, see *Imperial Gaslight and Coke Co.* v. *London Gaslight Co.* (1854), 10 Ex. 39. The appellants, on their own premises, substituted for part of a gas pipe belonging to the respondents a larger pipe, in order to increase their supply, without having first obtained the respondents' consent, though notice under 34 & 35 Vict. c. 41, s. 15, *post*, p. 2319, to disconnect the pipe from the meter was duly given. There was no proof of any fraud, waste, or misuse of the gas. It was held that the appellants had committed an offence under the above section (*Morrison, Wood & Co.* v. *West Ham Gas Co.* (1885), 49 J. P. 662; 52 L. T. (N.S.) 817).

Penalty for wilfully removing or damaging pipes, etc.

19. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the undertakers for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the undertakers, shall for each such offence forfeit to the undertakers any sum not exceeding five pounds, in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes, etc.

20. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the undertakers, or under their control, shall pay such sum of money by way of satisfaction to the undertakers for the damage done, not exceeding five pounds, as any two justices or the sheriff shall think reasonable (*a*).

(*a*) Under this section a person may be made responsible although the lamp is placed by the local authority in an unsafe or improper position and is broken by such person without any negligence on his part (*Burgess* v. *Morris* (1897), 61 J. P. 553). But a master is not liable for damages to a lamp caused accidentally by his servant (*Harding* v. *Barker* (1889), 53 J. P. 308; 37 W. R. 78). He is, however, liable to an action at common law for damages caused by the negligence of his servant (*Crystal Palace Gas Co.* v. *Idris & Co.* (1900), 64 J. P. 452). If the summons charge damage as done unlawfully and carelessly it need not say "carelessly or accidentally," and a conviction will be good if there be evidence of carelessness, though short of what might be called negligence (*Ashton* v. *Eccles Corporation* (1907), 71 J. P. 55). See also *Gibbons* v. *Vanguard Motor Bus Co.* (1908), 72 J. P. 505; 25 T. L. R. 13; *Barnes U. D. C.* v. *London General Omnibus Co.* (1909), 73 J. P. 68; 100 L. T. 115; *Isaac Walton & Co.* v. *Vanguard Motor Bus Co.* (1908), 72 J. P. 505; 25 T. L. R. 13. Where, however, the damage was caused by a van being blown over by an exceptional gale, it was held that the driver of the van was not liable under the corresponding section of a Scots local Act (*Hogg* v. *Macpherson*, [1928] S. L. T. 35). See also *per* SCRUTTON, and ATKIN, L.JJ., in *P. M. G.* v. *Beck and Pollitzer*, [1924] 2 K. B. 308; 88 J. P. 137.

The words of the section "in satisfaction" mean "in full satisfaction." Therefore where the Justices have awarded a sum under the section, the undertakers cannot recover a further sum in an action for negligence (*Birmingham Corporation* v. *Allsopp* (1918), 88 L. J. K. B. 549).

Nuisance from gas.

And with respect to the provision for guarding against fouling water, or other nuisance from the gas, be it enacted as follows (*a*):

Note to Section 21.

(*a*) See also the provisions of the P. H. A., 1875, s. 68, *ante*, p. 155, and the notes thereon; the Waterworks Clauses Act, 1847, ss. 61—67, *post*, pp. 2194 *et seq.*; and the Rivers Pollution Prevention Act, 1876, *ante*, p. 706. As to the liability of a gas company for damage caused by an escape of gas, see *Jones* v. *Carshalton Gas Co.* (1888), 5 T. L. R. 69; *Burrows* v. *March Gas and Coke Co.*, *infra*, and by the discharge of noxious waste products into a trout river, see *Granby* (*Marquis of*) v. *Bakewell U. D. C.* (1923), 87 J. P. 105; 21 L. G. R. 329.

Penalty on undertakers allowing washings, etc. produced in making gas to flow into streams, reservoirs, etc.

21. If the undertakers shall at any time cause or suffer to be brought or to flow into any stream, reservoir, or aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the undertakers shall forfeit for every such offence the sum of two hundred pounds.

Penalty to be sued for in superior court within six months.

22. The said penalty of two hundred pounds shall be recovered, with full costs of suit, in any of the superior courts, by the person into whose water such wasting or other substance shall be conveyed or shall flow, or whose water shall be fouled, by any such act as aforesaid; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it shall have ceased (*a*).

(*a*) As to the effect of this section on a local Act, see *Parry* v. *Croydon Commercial Gas Co.* (1864), 28 J. P. 86; 15 C. B. (N.S.) 568.

Daily penalty during the continuance of the offence.

23. In addition to the said penalty of two hundred pounds (and whether such penalty shall have been recovered or not) the undertakers shall forfeit the sum of twenty pounds (to be recovered in the like manner) for each day during which such washing or other substance shall be brought or shall flow as aforesaid, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the undertakers by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby, and such penalty shall be paid to such last-mentioned person.

Daily penalty during escape of gas after notice.

24. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the undertakers, they shall, immediately after receiving notice thereof in writing, prevent such gas from escaping; and in case the undertakers shall not within twenty-four hours next after service of such notice effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of five pounds for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice (*a*).

(*a*) See *Mose* v. *Hastings and St. Leonards Gas Co.* (1864), 4 F. & F. 324; *Burrows* v. *March Gas and Coke Co.* (1872), L. R. 7 Ex. 96; 36 J. P. 517; *Price* v. *South Metropolitan Gas Co.* (1896), 65 L. J. Q. B. 126. As to a nuisance arising from gasworks, see *Wood* v. *Conway Corporation* (1914), 2 Ch. 47; 78 J. P. 249; *Herring* v. *Lincoln Corporation* (1920), 42 M. C. C. 41; and *Granby* v. *Bakewell U. D. C.*, *supra*.

Penalty for fouling water by gas.

25. Whenever any water within the limits of the special Act shall be fouled by the gas of the undertakers, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to open ground and examine gas pipes to ascertain whether

26. For the purpose of ascertaining whether such water be fouled by the gas of the undertakers, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the undertakers; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours notice in writing to the undertakers of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place; and they shall be subject to the like obligation of reinstating the said road and pavement, and the same penalties for delay or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the undertakers for the purpose of laying their pipes.

water is fouled by gas.

Ground, etc. to be reinstated.

27. If upon any such examination it appear that such water has been fouled by any gas belonging to the undertakers, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the undertakers; but if upon such examination it appear that the water has not been fouled by the gas of the undertakers, the person causing such examination to be made shall pay all such expenses, and shall also make good to the undertakers any injury which may be occasioned to their works by such examination.

Expenses to abide result of examination.

28. The amount of the expenses of every such examination and repair and of any injury done to the undertakers, shall, in case of any dispute about the same, together with the cost of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are to be ascertained and recovered.

How expenses shall be ascertained and recovered.

29. Nothing in this or the special Act contained shall prevent the undertakers from being liable to an indictment for nuisance, or to any other legal proceeding to which they may be liable, in consequence of making or supplying gas (*a*).

Nothing to exempt undertakers from being indicted for a nuisance

(*a*) See section 9 of the Gasworks Clauses Act, 1871, *post*, p. 2317, and *Jordeson* v. *Sutton, Southcoates and Drypool Gas Co.*, [1899] 2 Ch. 217; 63 J. P. 692; *Batcheller* v. *Tunbridge Wells Gas Co.* (1901), 65 J. P. 680; 84 L. T. (N.S.) 765. A company cannot justify a nuisance by setting up incapacity to make or supply gas without so doing (*Att.-Gen.* v. *Gaslight and Coke Co.* (1878), 7 Ch. D. 217). But compare with this the decision in *Harrison* v. *Southwark and Vauxhall Waterworks Co.*, [1891] 2 Ch. 409, where it was held that a statutory authority to sink a shaft included all things reasonably necessary, though causing a temporary nuisance. This case was distinguished in *Knight* v. *Isle of Wight Electric Light and Power Co., Ltd.* (1904), 73 L. J. Ch. 299; 68 J. P. 266, where the nuisance complained of was a continuing nuisance; see also *Midwood* v. *Manchester Corporation*, [1905] 2 K. B. 597; 69 J. P. 348 (decided with reference to a similar section in the Electric Lighting (Clauses) Act, 1899, Sched., clause 81), in which it was held that the undertakers were liable in damages for an explosion occasioned by a leakage of electricity from one of their mains which ignited gas escaping into the plaintiff's premises in an adjoining street; see also *Farrell* v. *Limerick Corporation* (1912), 45 Ir. L. T. 169; *Elliott* v. *Battersea Corporation* (1911), 74 J. P. N. C. 627; *Charing Cross, West End and City Electricity Supply Co.* v. *London Hydraulic Power Co.*, [1914] 3 K. B. 772; 78 J. P. 305; *Manchester Corporation* v. *Farnworth* (1930), 94 J. P. 62; 27 L. G. R. 709; and see the note to clause 81 of Schedule to the Electric Lighting (Clauses) Act, 1899, *post*, p. 2599.

But where gas escaped from a main not belonging to a local authority and was ignited by a spark in a box belonging to the local authority as part of their electrical equipment, it was held that the local authority were not liable for injury to a passer-by as the result of the explosion (*Goodbody* v. *Poplar Borough Council* (1915), 84 L. J. K. B. 1230; 79 J. P. 218).

And with respect to the amount of profit to be received by the undertakers when the gasworks are carried on for their benefit, be it enacted as follows:

Profits of the undertakers.

30. The profits of the undertaking to be divided amongst the undertakers in any year shall not exceed the prescribed rate, or where no rate is prescribed they shall not exceed the rate of ten pounds in the hundred by the year on the paid-up capital in the undertaking, which in such case shall be deemed the prescribed rate, unless a larger dividend be at any time necessary to make up the deficiency of any previous dividend which shall have fallen short of the said yearly rate (*a*).

Profits of the undertakers limited.

Note to Section 30.

(*a*) See *Chelsea Waterworks Co.* v. *Metropolitan Water Board,* [1904] 2 K. B. 77; *Kent Waterworks* v. *Lamplough,* [1904] A. C. 27; 68 J. P. 361; *In re New River Co. and Metropolitan Water Board* (1904), 20 T. L. R. 687; *Ashton Gas Co.* v. *Att.-Gen.,* [1906] A. C. 10; 70 J. P. 49.

If profits exceed the amount limited, excess to be invested and form a reserved fund.

31. If the clear profits of the undertaking in any year amount to a larger sum than is sufficient, after making up the deficiency in the dividends of any previous year as aforesaid, to make a dividend at the prescribed rate, the excess beyond the sum necessary for such purpose shall from time to time be invested in Government or other securities, and the dividends and interest arising from such securities shall also be invested in the same or like securities, in order that the same may accumulate at compound interest until the fund so formed amounts to the prescribed sum, or if no sum be prescribed a sum equal to one-tenth of the nominal capital of the undertakers(*a*), which sum shall form a reserved fund to answer any deficiency which may at any time happen in the amount of divisible profits, or to meet any extraordinary claim or demand which may at any time arise against the undertakers; and if such fund be at any time reduced, it may thereafter be again restored to the said sum, and so from time to time as often as such reduction shall happen (*b*).

(*a*) This amount is varied in the case of undertakers, other than local authorities, by s. 3, Gas Undertakings Act, 1929, *post*, p. 3025.

(*b*) See *In re New River Co. and Metropolitan Water Board, supra.*

Reserved fund not to be resorted to to meet an extraordinary claim except on certificate.

32. Provided always, that no sum of money shall be taken from the said fund for the purpose of meeting any extraordinary claim, unless it be first certified in England . . . by two justices . . . that the sum so proposed to be taken is required for the purpose of meeting an extraordinary claim within the meaning of this or the special Act (*a*).

(*a*) Words relating to Scotland and Ireland only are here omitted.

When fund amounts to prescribed sum, interest to be applied to purposes of the undertaking.

33. When such fund shall, by accumulation or otherwise, amount to the prescribed sum, or one-tenth of the nominal capital of the company (*a*), as the case may be, the interest and dividends thereon shall no longer be invested, but shall be applied to any of the general purposes of the undertaking to which the profits thereof are applicable (*b*).

(*a*) This amount is varied in the case of undertakers, other than local authorities, by s. 3, Gas Undertakings Act, 1929, *post*, p. 3025.

(*b*) Certain consumers of gas brought an action against the company which supplied them on the ground that the company had created a reserve fund greatly in excess of that authorised by its special Acts, and had carried over from year to year large undivided profits, thereby avoiding the obligation upon it to reduce the price of the gas which it so supplied:—*Held,* that no such duty as alleged was imposed by the Acts on the company; that the consumers had not control over the affairs of the company, and were not, therefore, entitled to raise the question, the shareholders alone being interested, and that the court could not order the reserve fund and undivided profits to be applied in reduction of the price of the gas in the manner suggested (*Mason* v. *Ashton Gas Co.* (1886), 50 J. P. 628; 54 L. T. (N.S.) 708).

If profits are less than the prescribed rate, deficiency may be supplied from the reserved fund.

34. If in any year the profits of the undertaking divisible amongst the undertakers shall not amount to the prescribed rate, such a sum may be taken from the reserved fund as, with the actual divisible profits of such year, will enable the undertakers to make a dividend of the amount aforesaid, and so from time to time as often as the occasion shall require.

If profits are more than the amount prescribed, a rateable deduction to be made in the price of gas.

35. In England . . . the court of quarter sessions . . . may, on the petition of any two gas ratepayers within the limits of the special Act, nominate and appoint some accountant or other competent person, not being a proprietor of any gasworks, to examine and ascertain, at the expense of the undertakers (the amount of such expense to be determined by the said court . . .), the actual state and condition of the concerns of the undertakers, and to make report thereof to the said court at the then present or some following sessions . . . ; and the said court . . . may examine any witnesses upon oath touching the truth of the said accounts and the matters therein referred to; and if it thereupon appear to the said court . . . that the profits of the undertakers for the preceding year have exceeded the prescribed rate, the undertakers shall, in case the whole of the said reserved fund has been and then remains invested as aforesaid, and in case dividends to the amount hereinbefore limited have been paid, make such a rateable reduction in the rate for gas to be furnished by them as in the judgment of the said court . . . shall be proper, but so as such rates, when reduced, shall ensure to the undertakers (regard being had to the amount of profit before received) a profit as near as may be to the prescribed rate (*a*).

(*a*) Words relating to Scotland and Ireland only are omitted from this and the two following sections. The court of quarter sessions has no jurisdiction under this section to appoint a gas engineer to assist an accountant appointed thereunder to examine and ascertain the actual state and condition of the concerns of the gas company, and where such order is made a writ of *certiorari* will lie to bring the order up to be quashed (*R.* v. *Brindley* (1886), 50 J. P. 534; 54 L. T. (N.S.) 435).

An order cannot be made to reduce the price of gas under this section unless the whole of the reserve fund has been invested and the prescribed dividend paid; nor can an order be made for the payment of costs by the company to the petitioners. The quarter sessions may inquire into the accounts of past years for the purpose of ascertaining the actual condition of the concern, but they cannot disallow and recast them so as to vary the accounts of the year into which they are inquiring (*R.* v. *Hanley* (*Recorder of*) (1887), 19 Q. B. D. 481; 52 J. P. 100). Where a corporation supply gas they are not bound to give credit for the value of gas supplied for lighting streets or other public purposes (*Att.-Gen.* v. *Oldham Corporation* (1892), 14 M. C. C. 195).

Court may order petitioner to pay costs of groundless petition.

36. Provided always, that if, in the case of any petition so presented, it appear to the said court . . . that there was no sufficient ground for presenting the same, the said court . . . may, if they or he think fit, order the petitioner to pay the whole or any part of the costs of or incident to such petition (the amount thereof to be determined by the said court . . . ,) and the costs so ordered to be paid shall be recoverable in the same way as damages are recoverable under this or the special Act.

Penalty on undertakers for refusing to produce books, vouchers, etc.

37. If the undertakers shall, for seven days after being required to produce to the said court . . . , or to the said accountant or other person as aforesaid, any books of account or other books, bill, receipts, vouchers, or papers relating to the pecuniary affairs of the undertakers, refuse or neglect to produce such books, bills, receipts, vouchers, or papers, they shall forfeit the sum of one hundred pounds for every such refusal or wilful neglect, and the further sum of ten pounds for every day such refusal or wilful neglect shall continue after the expiration of the said seven days; such respective penalties to be recovered by any person who will sue for the same, with full costs of suit, in any of the superior courts.

Account.

Annual account to be made up by undertakers.

38. And with respect to the yearly receipt and expenditure of the undertakers, be it enacted, that the undertakers shall, in each year after they have begun to supply gas under the provisions of this or the special Act, cause an account in abstract to be prepared of the total receipts and expenditure of all rents or funds levied under the powers of this or the special Act for the year preceding, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, duly audited and certified by the chairman of the undertakers, and also by the auditors thereof, if any; and a copy of such annual account, if the gasworks be situated in England . . . shall be transmitted, free of charge, to the clerk of the peace for the county in which the gasworks are situate . . . and such transmission shall be made on or before the thirty-first day of January in each year, under a penalty of twenty pounds for each default; and the copy of such account so sent to the said clerk of the peace . . . shall be kept by him, and shall be open to inspection by all persons at all seasonable hours, on payment of one shilling for each inspection (*a*).

(*a*) Words relating to Scotland and Ireland only are omitted from this section. The section is now superseded by section 15 of the Gas Regulation Act, 1920, *post*, p. 2816 As to the annual account under a local Act, see *Leamington Priors Gas Co.* v. *Davis* (1887), 18 Q. B. D. 107; 51 J. P. 360, the facts of which are stated in the note to 34 & 35 Vict. c. 41, s. 35, *post*, p. 2323.

39 (*a*). . . .

(*a*) Section 39 as to tender of amends was repealed by the S. L. R. A., 1894. See now the Public Authorities Protection Act, 1893, *ante*, p. 939.

Recovery of damages and penalties.

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices or to the sheriff, be it enacted as follows:

Railway Clauses Acts, as to damages, etc. to be incorporated with this and the special Act.

40. If the gasworks be in England . . . the clauses of the Railways Clauses Consolidation Act, 1845 (*a*), with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act . . . (*b*).

(*a*) See *ante*, p. 2139.
(*b*) The parts of this section relating to Scotland and Ireland only are here omitted.

41 (*a*). . . .

(*a*) Section 41 related only to Ireland, and was repealed by the S. L. R. A., 1875.

Acts which may be done by one magistrate.

42. All things herein or in the special Act, or any Act incorporated therewith, authorised or required to be done by two justices, may and shall be done in England . . . by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices . . . (*a*).

(*a*) The parts of this section relating to Scotland and Ireland only are here omitted.

Penalties, etc. within metropolitan police district.

43. Every penalty or forfeiture imposed by this or the special Act, or any Act incorporated therewith, or by any byelaw in pursuance thereof, in respect of any offence which shall take place within the metropolitan police district, shall be recovered, enforced, accounted for, and, except where the application thereof is otherwise specially provided for, shall be paid to the receiver of the metropolitan police district, and shall be applied, in the same manner as penalties or forfeitures, other than fines upon drunken persons, or upon constables for misconduct, or for assaults upon police constables, are directed to be recovered, enforced, accounted for, paid, and applied by the Metropolitan Police Courts Act, 1839; and every order or conviction of any of the police magistrates in respect of any such forfeiture or penalty shall be subject to the like appeal, and upon the same terms, as is provided in respect of any order or conviction of any of the said police magistrates by the said last-mentioned Act; and every magistrate by whom any order or conviction shall have been made shall have the same power of binding over the witnesses who shall have been examined; and such witnesses shall be entitled to the same allowance of expenses as they would have had or been entitled to in case the order, conviction, and appeal had been made in pursuance of the provisions of the said last-mentioned Act.

2 & 3 Vict. c. 71.
Appeal, etc.

44. [*False evidence*] (*a*).

(*a*) Repealed by the Perjury Act, 1911.

And with respect to access to the special Act, be in enacted as follows:

Section 45.

Access to special Act.

Copies of special Act.

45. The undertakers shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace in England . . . of the county in which the undertaking is situated, a copy of such special Act, so printed as aforesaid; and the said clerk of the peace . . . shall receive, and they and the undertakers respectively shall keep, the said copies of the special Act, and shall permit all persons interested to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposit Act, 1837 (*a*).

7 Will. 4 & 1 Vict. c. 83.

(*a*) The parts of this section relating to Scotland and Ireland only are here omitted.

Penalty on undertakers failing to keep or deposit such copies.

46. If the undertakers fail to keep or deposit, as hereinbefore mentioned, any of the said copies of the special Act, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Saving as to 57 Geo. 3, c. xxix., etc.

47. And be it enacted, that nothing in this Act contained shall be deemed to exempt the undertakers from the provisions of an Act passed in the fifty-seventh year of the reign of his late Majesty King George the Third, intituled An Act for better paving, improving, and regulating the Streets of the Metropolis, and removing and preventing Nuisances and Obstructions therein (*a*), or from the laws of sewers for the time being in force within ten miles from the Royal Exchange in the city of London.

(*a*) Now called the General Paving (Metropolis) Act, 1817, but better known as Michael Angelo Taylor's Act.

Saving as to the rights of the Crown.

48. Nothing in this or the special Act shall be deemed to extend to or affect any Act of Parliament relating to her Majesty's duties of customs or excise, or any other revenue of the Crown, or to extend to or affect any claim of her Majesty in right of her Crown, or otherwise howsoever, or any proceedings at law or in equity, by or on behalf of her Majesty, in any part of the United Kingdom of Great Britain and Ireland.

Saving as to future Acts.

49. Nothing herein or in the special Act contained shall be deemed to exempt the undertakers from any general Act relating to gasworks, or any Act for improving the sanitary conditions of towns and populous districts, which may be passed in the same session in which the special Act is passed, or any future session of Parliament (*a*).

(*a*) The Public Health (Buildings in Streets) Act, 1888, *ante*, p. 826, is an "Act for improving the sanitary conditions of towns and populous districts" within the meaning of this section (*Grand Junction Waterworks Co.* v. *Hampton U. D. C.*, [1898] 2 Ch. 331; 62 J. P. 566). The corresponding section of the Waterworks Clauses Act, 1847, s. 93, does not exempt a water company from the provisions of the P. H. A., 1875, and they are therefore bound to comply with the byelaws made under s. 157 of the latter Act, *ante*, p. 346 (*Uckfield R. D. C.* v. *Crowborough District Water Co.*, [1899] 2 Q. B. 664). See also *London C. C.* v. *Wandsworth and Putney Gas Co.* (1900), 64 J. P. 500; 82 L. T. (N.S.) 562. Section 50 is repealed by the S. L. R. A., 1875.

* * * * * *

Section 1.

THE WATERWORKS CLAUSES ACT, 1847.

(10 & 11 VICT. c. 17) (*a*).

An Act for consolidating in One Act certain Provisions usually contained in Acts authorising the making of Waterworks for supplying Towns with Water. [23rd April, 1847.]

Incorporation with special Act.

[**1.**] This Act shall extend only to such waterworks as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

(*a*) Incorporated in part by the P. H. A., 1875, s. 57, *ante*, p. 140 (together with the amending Act of 1863 (26 & 27 Vict. c. 93), *post*, p. 2264), and also by the P. H. A., 1875 (Support of Sewers), Amendment Act, 1883, *ante*, p. 756. See notes to those Acts.

Interpretation.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows:

"The special Act." "Prescribed." "The lands and streams." "The undertaking." "The undertakers."

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed authorising the construction of waterworks, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the lands and streams" shall mean the lands and streams of water which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "the undertaking" shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed; and the expression "the undertakers" shall mean the persons by the special Act authorised to contruct the waterworks.

Interpretations in this and the special Act.

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Number. Words importing the singular number shall include the pural number, and words importing the pural number only shall include also the singular number:

Gender. Words importing the masculine gender shall include females:

"Person." The word "person" shall include a corporation, whether aggregate or sole:

"Lands." The word "lands" shall include messuages, lands, tenements, and hereditaments, or heritages, of any tenure:

"Streams." The word "streams" shall include springs, brooks, rivers, and other running waters:

"Street." The word "street" shall include any square, court or alley, highway, lane, road, thoroughfare, or public passage or place, within the limits of the special Act (*a*):

"The waterworks." The expression "the waterworks" shall mean the waterworks, and the works connected therewith, by the special Act authorised to be constructed (*b*):

"Water rate." The expression "water rate" shall include any rent, reward, or payment to be made to the undertakers for a supply of water:

"Month." The word "month" shall mean calendar month:

"Superior courts." The expression "superior courts," where the matter submitted to the cognizance of the court arises in England . . . shall mean her Majesty's superior courts of record at Westminster . . . (*c*).

"Oath." The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

"County." The word "county" shall include riding or other division of a county having a separate commission of the peace . . . (*c*), and it shall also include county of a city or county of a town:

"Justice." The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and if such matter arise in respect of lands or streams situated not wholly in one jurisdiction shall mean a justice acting for the county or place where any part of such lands or streams shall be situated; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together (*c*): "Two justices."

. . . . . .

"Quarter sessions." The expression "quarter sessions" shall mean quarter sessions as defined in the special Act; and if such expression be not there defined it shall mean the court of general or quarter sessions of the peace which shall be held at the place nearest to the waterworks, or the principal office thereof, for the county or place in which the waterworks, or the principal office thereof, is situate, or for some division of such county having a separate commission of the peace:

"The town commissioners." The expression "the town commissioners" shall mean the parties defined under that title in the special Act, and where no such parties shall be there defined shall mean the commissioners, trustees, or other parties having the control or management of the streets under any Act for paving or improving the town or district to be supplied with water under the special Act:

"Inspector." The word "inspector" shall mean an officer appointed under any local Act relating to the town or district supplied with water under the special Act for the purpose of inspecting or superintending works connected with the paving, drainage, or supply of water of such town or district, or an officer appointed under any general Act for executing the like duties with respect to such town or district together with other towns or districts.

(*a*) See *Maddock* v. *Wallasey L. B.*, *ante*, p. 2166. See also as to the meaning of the word "street" in a local Act, incorporating this Act, *Bristol Waterworks Co.* v. *Bristol Corporation* (1889), 5 T. L. R. 551. For the purposes of the application of this Act under s. 57 of the P. H. A., 1875, the term "street" includes a private street (*Hill* v. *Wallasey L. B.* [1894] 1 Ch. 133). As to the limits of supply, see *Att.-Gen.* v. *West Gloucestershire Water Co.*, [1909] 2 Ch. 338; 73 J. P. 453. As to the delegation of statutory powers, see *Ticehurst and District Water and Gas Co., Ltd.* v. *Gas and Waterworks Supply and Construction Co., Ltd.* (1911), 55 Sol. Jo. 459; *In re Woking U. D. C.* (*Basingstoke Canal*) *Act*, 1911, [1914] 1 Ch. 300. As to the limits of supply under the Metropolis Water Act, 1902, see *Sutton District Water Co.* v. *Metropolitan Water Board* (1926), 90 J. P. 61.

(*b*) As to the power of the undertakers to construct works other than those authorised by the special Act, see *Att.-Gen.* v. *Frimley and Farnborough District Water Co.*, [1908] 1 Ch. 727; 72 J. P. 204; *Att.-Gen.* v. *South Staffordshire Waterworks Co.* (1909), 25 T. L. R. 408; *Marriott* v. *East Grinstead Gas and Water Co.*, [1909] 1 Ch. 70; 72 J. P. 509; *Att.-Gen.* v. *Barnet District Gas and Water Co.* (1910), 74 J. P. 193; 102 L. T. 546.

(*c*) Words relating to Scotland and Ireland only are here omitted.

Section 4.

Citing the Act.

And with respect to citing this Act, or any part thereof, be it enacted as follows:

Short title of this Act.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The Waterworks Clauses Act, 1847."

Forms in which portions of this Act may be incorporated in other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

* * * * * *

Mines.

And with respect to mines, be it enacted as follows (*a*):

(*a*) These sections, 18—27, are incorporated by the Public Health Act, 1875 (Support of Sewers), Amendment Act, 1883, *ante*, p. 756. These sections amount to a code defining and regulating the mutual rights of water companies and owners of minerals (*South Staffordshire Waterworks Co.* v. *Mason* (1887), 56 L. J. Q. B. 255; 57 L. T. (N.S.) 116). They very closely resemble ss. 77—82 of the Railways Clauses Consolidation Act, 1845, and the cases decided under that Act may be referred to:—particularly *Midland Rail. Co.* v. *Miles* (No. 1) (1885), 30 Ch. D. 634; *Midland Rail. Co.* v. *Miles* (No. 2) (1886), 33 Ch. D. 632, and *Maritime Coal Co.* v. *Barry Dock and Rail. Co.* (1886), 2 T. L. R. 803. As to the corresponding law in Canada, see *Davies* v. *James Bay Ry.*, [1914] A. C. 1043.

Where land is acquired by agreement for the purposes of constructing waterworks under a special Act which incorporates the Waterworks Clauses Act, 1847, and the undertakers purchase all the mines and minerals under the land so taken, they acquire all the rights of support from minerals under adjacent lands which the vendor had at common law at the time the land was taken. In such a case, ss. 18—27 of the Waterworks Clauses Act, 1847, do not take away the common law right of support from minerals under adjacent lands, or give the owners of such minerals any greater right to work them, so as to let down the surface of the land taken as against the undertakers, than they had against the vendor before the land was taken. In such a case, and, *semble*, in all cases these sections have no reference to lands outside the limit of forty yards, or other limit prescribed by the special Act. The rights of the undertakers and the owner of such minerals in relation to their working are governed by the common law (*New Moss Colliery, Ltd.* v. *Manchester Corporation*, [1908] A. C. 117; 72 J. P. 169; and see *Howley Park Coal and Cannel Co.* v. *L. & N. W. Rail. Co.*, [1913] A. C. 11).

Undertakers not entitled to mines unless expressly purchased.

18. The undertakers shall not be entitled to any mines of coal, ironstone slate, or other minerals (*a*) under any land purchased by them, except only such parts thereof as shall be necessary to be dug or carried away or used in the construction of the waterworks, unless the same shall have been expressly purchased, and all such mines, excepting as aforesaid, shall be deemed to be excepted out of the conveyance of such lands, unless they shall have been expressly named therein and conveyed thereby.

(*a*) A great number of cases have been decided as to what substances are included in the term minerals. It is necessary to remember that the description of the mines in other Acts or in leases is not always the same, and that the words "other minerals" may not always be *ejusdem generis* with those set out in the text, although they are so in reference to the form of words used in the particular case. The following authorities should be consulted. As to freestone, it was held in *Bell* v. *Wilson* (1866), L. R. 1 Ch. 303, to be a mineral, but see now *Symington* v. *Caledonian Rail. Co.*, [1912] A. C. 87, where it was held to be a question of fact in each case. Minerals, stone got from quarries (*Micklethwait* v. *Winter* (1871), L. R. 6 Ex. 644); granite from quarries (*Att.-Gen.* v. *Welsh Granite Co.* (1887), 35 W. R. 617; 1 T. L. R. 549); slate (*Cleveland* v. *Meyrick* (1868), 37 L. J. Ch. 124; 17 L. T. 238); coprolites (*Att.-Gen.* v. *Tomline* (1878), 5 Ch. D. 750); oil shale (*Marquis of Linlithgow* v. *North British Rail. Co.*, [1912] S. C. 1327); every substance which can be got from underneath the surface of the earth for purposes of profit, such as china clay (*per* MELLISH, L.J., in *Hext* v. *Gill* (1872), L. R. 7 Ch. 712; *G. W. Rail. Co.* v. *Carpalla United China Clay Co., Ltd.*, [1910] A. C. 83; 74 J. P. 57); all substances obtained from

Note to Section 18.

the crust of the earth, other than the surface soil (*Anstruther* v. *Inland Revenue Commissioners*, [1912] S. C. 1165); clay (*Midland Rail. Co.* v. *Checkley* (1867), L. R. 4 Eq. 19); brick-earth and clay below the surface (*Jersey (Earl)* v. *Neath Guardians* (1889), 22 Q. B. D. 555; 53 J. P. 404; *Shaftesbury* v. *Wallace*, [1897] 1 I. R. 381); fire-clay (*Caledonian Rail. Co.* v. *Glenboig Union Fireclay Co.*, [1911] A. C. 290; 75 J. P. 377); but not common clay forming the surface or subsoil of land (*Glasgow Magistrates* v. *Farie* (1888), 13 App. Cas. 657; *Shaftesbury* v. *Wallace*, [1897] 1 I. R. 381; *Re Todd and N. E. Rail. Co.*, [1903] 1 K. B. 603; 67 J. P. 105; *G. W. Rail. Co.* v. *Blades*, [1901] 2 Ch. 624; 65 J. P. 791; *North British Rail. Co.* v. *Turners* (1904), 6 F. 900); clay which is not commercially workable and stone which is unfit for building purposes are not minerals (*Skey* v. *Parsons* (1909), 101 L. T. 103; 105 T. L. R. 708). Gravel and sand were held to be minerals in *Scott* v. *Midland Rail. Co.*, [1901] 1 K. B. 317; 65 J. P. 135; but in *Staples* v. *Young*, [1908] 1 I. R. 135, it was held to be a question of fact in each case, and sand was held not to be a mineral when it was covered by a thin layer of soil only. See also *Skey* v. *Parsons*, *supra*. Sandstone was held to be a mineral in *Greville* v. *Hemingway* (1903), 87 L. T. 443; but not so in *North British Rail. Co.* v. *Budhill Coal and Sandstone Co.*, [1910] A. C. 116. As to whinstone, see *Forth Bridge Rail. Co.* v. *Dunfermline Guildry*, [1910] S. C. 316. As to mounds of tap-cinder produced in working ironstone mines, see *Boileau* v. *Heath*, [1898] 2 Ch. 301. And as to what is included in an exception of mines and minerals in a lease, see *Johnstone* v. *Crompton*, [1899] 2 Ch. 190. The mines referred to in the section include those which can only be worked by open or surface operations (*Midland Rail. Co.* v. *Robinson* (1890), 15 App. Cas. 19; 54 J. P. 580).

It has been held that the right to pump brine is a right to work minerals for purposes of the Mineral Rights Duty (*Att.-Gen.* v. *Salt Union*, [1917] 2 K. B. 488).

Map and plan of underground works to be made, and corrected from time to time.

19. The undertakers shall from time to time, within six months from the time at which any pipes, conduits, or underground works shall have been laid down or formed by them, cause a survey and map to be made of the district within which any pipes or underground works shall be laid, on a scale not less than one foot to a mile, and shall cause to be marked thereon the course and situation of all existing pipes or conduits for the collection, passage, or distribution of water and underground works belonging to them, in order to show all such underground works within the said district, and shall, within six months from the making of any alterations or additions, cause the said map to be from time to time corrected, and such additions made thereto as may show the line and situation of all such pipes, conduits, and underground works as may be laid down or formed by them from time to time after the passing of the special Act; and such map and plan, or a copy thereof, with the date expressed thereon of the last time when the same shall have been so corrected as aforesaid, shall be kept in the office of the undertakers, and shall be open to the inspection of all persons interested in the same within the said district (*a*).

(*a*) The map required to be made by 46 & 47 Vict. c. 37, s. 3, *ante*, p. 758, was to be made before August 25th, 1884.

Copies of such map or plan to be deposited with clerk of the peace, etc.

20. The undertakers shall from time to time, within three months from the time at which any such map or plan, or any such correction thereof or addition thereto, shall have been made as aforesaid, deposit with the clerks of the peace in England . . . of every county . . . in which such district or any part thereof may be situate, and also with the parish clerks of the several parishes in England . . . in which such underground work shall be situate, copies of the said map or plan, with all such particulars and all such corrections and additions as aforesaid, so far as relates to such counties . . . and parishes respectively (*a*).

(*a*) Words in this section relating to Scotland and Ireland only are omitted. A company who have not deposited a survey and map in accordance with this section have no right to the support of the soil in which their pipes are laid as against the owner of the minerals underneath (*South Staffordshire Waterworks Co.* v. *Mason* (1887), 56 L. J. Q. B. 255; 57 L. T. 116).

Section 21.

Clerks of the peace, etc. to receive and keep copies of the map, etc. and allow inspection.

7 Will. 4 & 1 Vict. c. 83.

21. The said clerks of the peace . . . and . . . parish clerks . . . shall receive the said copies of the said map and plan respectively, and shall keep the same, and shall allow all persons interested to inspect the same, and take copies or extracts of and from the same, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of maps and plans deposited under the Parliamentary Documents Deposit Act, 1837 (*a*).

(*a*) Words in this section relating to Scotland and Ireland only are omitted.

As to working of mines lying near the works.

22. Except where otherwise provided for by agreement between the undertakers and other parties, if the owner, lessee, or occupier of any mines or minerals lying under the reservoirs or buildings belonging to the undertakers, or under any of their pipes or works which shall be underground and shall be described in the map or plan which shall be so kept and deposited as hereinbefore mentioned, or within the prescribed distance, if any, and if no distance be prescribed within forty yards therefrom, be desirous of working the same, such owner, lessee, or occupier shall give the undertakers notice in writing of his intention so to do, thirty days before the commencement of working; and upon the receipt of such notice it shall be lawful for the undertakers to cause such mines to be inspected by any person appointed by them for the purpose, and if it appear to the undertakers that the working of such mines or minerals is likely to damage the said works, and if they be willing to make compensation for such mines to such owner, lessee, or occupier thereof, then he shall not work the same; and if the undertakers and such owner do not agree as to the amount of such compensation, the same shall be settled as in other cases of disputed compensation (*a*).

(*a*) See 46 & 47 Vict. c. 37, s. 3, *ante*, p. 758, as to the power of a local authority to define the extent to which they require support to be left, and as to the mode of assessing compensation. To justify a notice under this section there must be a bonâ fide intention to work the mines by the owner or his lessees or licensees (*Midland Rail. Co.* v. *Robinson, ante*, p. 2181). The service of a notice under this section requiring the owner to abstain from working his minerals has, like a notice to treat under the Lands Clauses Acts, the effect of creating a statutory contract between the parties whereby the one party is bound to abstain from working his minerals and the other is bound to make compensation therefor. The award in the arbitration is final both as to the amount of compensation to be paid and (unless the title of the mineral owner is in dispute) as to the obligation of the undertakers to pay the amount (*Clippens Oil Co., Ltd.* v. *Edinburgh and District Water Trustees* (1901), 38 Sc. L. R. 354).

If the party entitled to the minerals begins working without giving the notice, the undertakers may bring an action for an injunction and damages, but the wrongful working does not debar the party from afterwards giving the notice and claiming compensation (*Edinburgh and District Water Trustees* v. *Clippens Oil Co., Ltd.* (1898), 25 Ct. of Sess. Cas. (4th ser.) 504).

Where there has been a rise in the value of mineral since the notice, and but for the notice the mine owner would have obtained the benefit of the rise, consideration must be had to the rise in assessing the compensation (*Bwllfa and Merthyr Dare Steam Collieries* v. *Pontypridd Waterworks Co.*, [1903] A. C. 426).

The compensation payable by a railway company under s. 78 of the Railways Clauses Consolidation Act, 1845, in respect of such mines as they require to be left unworked is the full value of the minerals required to be left unworked, namely, what the minerals would have sold for if worked, less the cost of working them (*Eden* v. *N. E. Rail. Co.*, [1907] A. C. 400; 71 J. P. 450). Where the minerals had no marketable value but were of value to the claimants who had a cement factory close by, it was held that their value to the claimants was what they might fairly be expected to have made by working in the ordinary and reasonable manner in which they would have been worked but for the notices to treat; that the profits which they would have made by turning them into cement might properly be taken into consideration by an arbitrator as an indication, though not as a measure, of that value; and that the value was not affected by the fact that the claimants owned large quantities of the same minerals which they might have worked instead of the minerals in question (*Rugby Portland Cement Co.* v. *L. & N. W. Rail. Co.*, [1903] 2 K. B. 606; 72 J. P. 245). A county council, acting under the Small Holdings and Allotments Act, 1908, and an Order of the Board of Agriculture which incorporated ss. 77 and 78 of the Railways Clauses Consolidation Act, 1845, gave notice to treat to the owner of a farm.

Note to Section 22.

In arbitration proceedings it was contended that the arbitrator should take into consideration the fact that the council merely acquired an interest in the surface without a right to support. It was held, that in assessing the value of the land the arbitrator was to deal with it as if there were no mines to be considered, and nothing but the surface; that the legislature had conferred rights upon purchasers in substitution for the common law right of support, and that the arbitrator was entitled, although he might not be actually bound, to disregard the absence of a right to support when assessing the value (*Carlisle* (*Executrix of Earl*) v. *Northumberland C. C.* (1911), 75 J. P. 539; 105 L. T. 797. See also *Butterley Co., Ltd.* v. *New Hucknall Colliery Co., Ltd.*, [1910] A. C. 381; *Howley Park Coal and Cannel Co.* v. *L. & N. W. Rail. Co.*, *ante*, p. 2180.

As to the right to interest upon an award of compensation, see *Fletcher* v. *L. & Y. Rail. Co.*, [1902] 1 Ch. 901; 66 J. P. 631; and *Richard* v. *G. W. Rail. Co.*, [1905] 1 K. B. 68; 69 J. P. 17.

If undertakers do not states their willingness to treat for payment of compensation owner may work the mines.

23. If before the expiration of such thirty days the undertakers do not state their willingness to treat with such owner, lessee, or occupier for the payment of such compensation, it shall be lawful for him to work the said mines, and to drain the same, by means of engines or otherwise, as if this Act and the special Act had not been passed, so that no wilful damage be done to the said works, and so that the said mines be not worked in an unusual manner; and if any damage or obstruction be occasioned to the works of the undertakers by the working of such mines in an unusual manner, the same shall be forthwith repaired or removed (as the case may require), and such damage made good by the owner, lessee, or occupier of such mines or minerals, and at his own expense; and if such repair or removal be not forthwith done, or if the undertakers shall so think fit, without waiting for the same to be done by such owner, lessee, or occupier, it shall be lawful for the undertakers to execute the same, and recover from such owner, lessee, or occupier the expense occasioned thereby, by action in any of the superior courts (*a*).

(*a*) The mines may be worked by open workings if that is usual in the district (*Midland Rail. Co.* v. *Miles*, *ante*, p. 2180); and see *Midland Rail. Co.* v. *Robinson*, *ante*, p. 2181; *Ruabon Brick and Terra Cotta Co.* v. *G. W. Rail. Co.*, [1893] 1 Ch. 427; *In re An Arbitration between Lord Gerard and L. & N. W. Rail. Co.*, [1895] 1 Q. B. 459. See further, as to the right to work the mines so as to let down the surface, *Consett Waterworks Co.* v. *Ritson* (1888), 22 Q. B. D. 318, 702; 53 J. P. 373. For a case involving a claim to work mines under a canal in pursuance of a special Act, see *Knowles* v. *L. & Y. Rail. Co.* (1885), 14 App. Cas. 248; 54 J. P. 103. Apparently the undertakers could not be compelled by *mandamus* to reinstate the waterworks if damaged by the working of the mines. See *R.* v. *G. W. Rail. Co.* (1894), 62 L. J. Q. B. 572; 58 J. P. 74.

Mining communications.

24. If the working of any such mines under the said works of the undertakers or within the above-mentioned distance therefrom be prevented as aforesaid by reason of apprehended injury to such works, it shall be lawful for the respective owners, lessees, and occupiers of such mines to cut and make such and so many airways, headways, gateways, or water levels through the mines, measures, or strata, the working whereof shall be so prevented, as may be requisite to enable them to ventilate, drain, and work any mines or minerals on each or either side thereof, but no such airway, headway, gateway, or water level shall be of greater dimensions or sections than the prescribed dimensions or sections, and where no dimensions are prescribed eight feet wide and eight feet high, nor shall the same be cut or made upon any part of the said works so as to injure the same.

Undertakers to make compensation to owner, lessee, or occupier of mines for expenses incurred by severance of mines, or by interruptions of or restric-

25. Except where otherwise provided for by agreement, the undertakers shall from time to time pay to the owner, lessee, or occupier of any mines of coal, ironstone, and other minerals extending so as to lie on both sides of any reservoirs, buildings, pipes, conduits, or other works, all such additional expenses and losses as shall be incurred by such owner, lessee, or occupier by reason of the severance of the lands over such mines or minerals by such reservoirs or other works, or of the continuous working of such mines or

Section 25.

tions on works, and for minerals not obtained.

Disputes to be settled by arbitration.

minerals being interrupted as aforesaid, or by reason of the same being worked under the restrictions contained in this or the special Act, and for any mines or minerals not purchased by the undertakers which cannot be obtained by reason of making and maintaining the said works, or by reason of such apprehended injury from the working thereof as aforesaid; and if any dispute or question shall arise between the undertakers and such owner, lessee, or occupier as aforesaid touching the price of such minerals, the same shall be settled by arbitration in such manner as is provided by the Lands Clauses Consolidation Act, if the undertaking shall be situate in England . . . (*a*).

(*a*) Words relating to Scotland and Ireland only are here omitted. See 46 & 47 Vict. c. 37, s. 3 (4), *aute*, p. 759, as to the method of settling disputes as to compensation. As to the compensation which may be claimed, see *Whitehouse* v. *Wolverhampton and Walsall Rail. Co.* (1870), L. R. 5 Ex. 6; 21 L. T. 558; *Barnsley Canal Navigation Co.* v. *Twibell* (1844), 7 Beav. 19; *Ex parte Neath and Brecon Rail. Co.* (1876), 2 Ch. D. 201; *Holliday* v. *Wakefield Corporation*, [1891] A. C. 81; 55 J. P. 325.

Power to undertakers to enter and inspect the working of mines, after giving notice of the same.

26. For better ascertaining whether any such mines are being worked or have been worked so as to damage the said works, it shall be lawful for the undertakers, after giving twenty-four hours notice in writing, to enter upon any lands through or near which the said works are situate, and wherein any such mines are being worked or are supposed so to be, and to enter into and return from any such mines or the works connected therewith, and for that purpose it shall be lawful for them to make use of any apparatus or machinery belonging to the owner, lessee, or occupier of such mines, and to use all necessary means for discovering the distance from the said works to the parts of such mines which are being worked or about to be worked.

Nothing to prevent undertakers from being liable to actions for injury done to mines.

27. Nothing in this or the special Act shall prevent the undertakers from being liable to any action or other legal proceeding to which they would have been liable for any damage or injury done or occasioned to any mines by means or in consequence of the waterworks, in case the same had not been constructed or maintained by virtue of this Act or the special Act (*a*).

(*a*) This section is limited to damage to mines (*per* VAUGHAN WILLIAMS, J., in *Harrison* v. *Southwark and Vauxhall Water Co.*, [1891] 2 Ch., at p. 415). See also *Graigola Merthyr Co.* v. *Swansea Corporation*, [1928] Ch. 31; 138 L. T. 465. This case went to the House of Lords on another point ([1929] A. C. 344).

Laying of pipes.

And with respect to the breaking up of streets for the purpose of laying pipes, be it enacted as follows (*a*):

(*a*) Sections 28—34 are incorporated by the P. H. A., 1875, s. 57, *ante*, p. 140. See also s. 149 of that Act, and the notes thereto, *ante*, p. 289; s. 80 of the P. H. A., 1925, *ante*, p. 1625, and the corresponding clauses of the Gasworks Clauses Act, 1847, *ante*, p. 2167.

Power to break up streets, etc. under superintendence, and to open drains, and to lay pipes, etc.

28. The undertakers, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges within the limits of the special Act, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes conduits, service pipes (*a*), and other works and engines, and from time to time repair, alter, or remove the same, and for the purposes aforesaid remove and use all earth and materials in and under such streets and bridges, and do all other acts which the undertakers shall from time to time deem necessary for supplying water to the inhabitants of the district included within the said limits, doing as little damage as can be in the execution of the powers hereby (*b*) or by the special Act granted, and making compensation for any damage which may be done in the execution of such powers (*c*).

Note to Section 28.

(a) See *Grand Junction Waterworks Co.* v. *Rodochanachi*, [1904] 2 K. B. 230; 68 J. P. 290; *Colne Valley Water Co.* v. *Hall* (1907), 72 J. P. 25; 98 L. T. 398; *Parnell* v. *Portsmouth Waterworks Co.* (1911), 75 J. P. 99; 8 L. G. R. 1029. And as to "mains," see *Whittington Gas Light and Coke Co.* v. *Chesterfield Gas and Water Board*, *ante*, p. 2167.

(b) See *Swansea Corporation* v. *Harpur*, [1913] A. C. 597; 77 J. P. 381.

(c) Where under a special Act incorporating this Act, a water company has within the period fixed by the special Act for the completion of its works laid a main according to deposited plans, the company may, after the expiration of that period, lay down a second main having regard to this Act, and particularly where the special Act gives them power to "extend, enlarge or alter any of their mains or pipes at any time and from time to time as occasion may require, for the purpose of supplying the inhabitants within the limits of the Act with water," due regard being had to the requirements of the special and general Acts as to notice and otherwise before breaking up the road for the purpose (*East Molesey L. B.* v. *Lambeth Waterworks Co.*, [1892] 3 Ch. 289). The power given by this section includes any works which the undertakers may deem necessary for the purpose of regulating the supply of water, and is not confined to the laying down of apparatus underground, but enables the undertakers to place such works on the surface of the street as may not be inconsistent with the substantial reinstatement of the road in its previous condition or create a nuisance; and it was held, therefore, that a water company was authorised by the section to place in the pavement of a street covers or guard-boxes to protect stop-valves placed for the purpose of regulating the supply of water in the communication pipes by which water was supplied to premises in the street, such covers or guard-boxes not creating a nuisance or being inconsistent with the substantial reinstatement of the pavement (*East London Waterworks Co.* v. *St. Matthew, Bethnal Green, Vestry* (1886), 17 Q. B. D. 475; 50 J. P. 820). Where the cover of such a guard-box to a stop-cock attached to a service pipe supplying a private house was out of repair and could not be repaired without breaking up the street, and an accident occurred by a foot passenger tripping over it, the company were held liable, even assuming that the property in the guard-box was in the occupier of the private house, because the company had power to break up the street to repair it, which the occupier could not do (*Chapman* v. *Fylde Waterworks Co.*, [1894] 2 Q. B. 599; 59 J. P. 5). The case of *Batt* v. *Metropolitan Water Board*, [1911] 2 K. B. 965; 75 J. P. 545, does not apply to a borough where this Act is in force for it was decided with reference only to s. 8 of the Metropolitan Water Board (Charges) Act, 1907, and the same observation applies to *Mist* v. *Metropolitan Water Board* (1915), 84 L. J. K. B. 2041. See also *Osborn* v. *Metropolitan Water Board* (1910), 74 J. P. 190; 102 L. T. 217; *Rosenbaum* v. *Metropolitan Water Board* (1910), 75 J. P. 12; 103 L. T. 739; *Stacey* v. *Gas Light and Coke Co. and Metropolitan Water Board* (1910), 9 L. G. R. 174. The section merely enables a water company to lay pipes under streets in connection with the undertaking authorised by their special Acts, and if they are being laid in connection with unauthorised works the owner of the soil can sue the water company in trespass, raise the question of *ultra vires* and obtain an injunction without joining the Attorney-General (*Marriott* v. *East Grinstead Gas and Water Co.*, [1909] 1 Ch. 70; 72 J. P. 509).

Public water commissioners in Scotland had statutory authority to lay a line of water pipes along a road which passed over two girder bridges belonging to a railway company. These bridges were constructed of several flat girders with spaces between them. Small transverse girders were placed on these main girders and supported iron sole plates forming a floor on which the material for the roadway was placed. This construction gave the bridges a very thin skin, within which there was not sufficient space to lay the water mains. Accordingly, the commissioners wanted to remove the sole plates and hang their water mains by iron bars attached to the cross-girders, carrying the pipes through the stone abutments forming the solid ends of the bridges on either side above the cuttings:—*Held*, that the powers conferred by ss. 28 and 29 of this Act did not entitle the commissioners to interfere with the weight-bearing portions of the bridges and they were interdicted from doing what they proposed (*Glasgow and South Western Rail. Co.* v. *Glasgow Magistrates*, [1895] A. C. 376; 59 J. P. 788). This case was followed in another Scotch case, *Caledonian Rail. Co.* v. *Glasgow Corporation* (1901), 3 F. 526, where it was also held that "tunnels" meant tunnels similar in character to sewers and drains and did not apply to a railway tunnel, and that the right to interfere with did not warrant the permanent displacement or removal of tunnels.

Undertakers not to enter on private land without consent.

29. Provided always, that nothing herein contained shall authorise or empower the undertakers to lay down or place any pipe, conduit, service pipe, or other work in any land not dedicated to public use (a) without the consent of the owners and occupiers thereof, except that the undertakers at any time may enter upon and lay or place any new pipe in the place of an existing pipe in any land wherein any pipe hath been already lawfully

Section 29. laid down or placed in pursuance of this or the special Act, or any other Act of Parliament, and may repair or alter any pipe so laid down.

(*a*) A public street or footpath is "land dedicated to public use," so that pipes in connection with authorised works could be laid without the consent of the owner of the soil (*Marriott* v. *East Grinstead Gas and Water Co.*, *supra*). See further note (*b*) to s. 7 of the Gasworks Clauses Act, 1847, *ante*, p. 2167.

Notice to be served on persons having control, etc. before breaking up streets or opening drains.

30. Before the undertakers open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the persons under whose control or management the same may be, or to their clerk, surveyor, or other officer notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen (*a*).

(*a*) See the notes to s. 8 of the Gasworks Clauses Act, 1847, *ante*, p. 2168.

Streets or drains not to be broken up except under superintendence of persons having control of the same.

31. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof (*a*), or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by two justices; and such justices may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the undertakers to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain: Provided always, that if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the intention of the undertakers as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the undertakers may perform the work specified in such notice without the superintendence of such persons, or their officer (*b*).

(*a*) That is, after notice to the highway authority sufficient to enable them to judge whether what is proposed ought to be done without modification (*Edgware Highway Board* v. *Colne Valley Water Co.* (1877), 46 L. J. Ch. 889). In the same case it was held that the plan should show not only the mode and manner of opening the street, but also the depth and position of the cutting, and such other particulars as would enable the road authority to judge whether what was proposed to be done should be accepted without modification without going to the justices. This was approved of by the Court of Appeal in *East Molesey L. B.* v. *Lambeth Waterworks Co.*, [1892] 3 Ch. 289.

(*b*) Compare *Metropolitan Water Board* v. *Bradley* (1910), 74 J. P. 331; 102 L. T. 893.

Streets, etc. broken up to be reinstated without delay.

32. When the undertakers open or break up the road or pavement of any street or bridge, or any sewer, drain or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby, and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light sufficient for the warning of passengers to be set up and kept thereagainst, every night during which such road or pavement shall be continued open or broken up, and shall, after replacing and making good the road or pavement which shall have been so broken up, keep the same in good repair for three months thereafter, and such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside (*a*).

Note to Section 32.

(*a*) The mere passive omission by a road authority to rectify a subsidence in a road in their area which has been originally occasioned by the neglect of a water company to make the road after having broken it up for the purposes of their undertaking does not exonerate the water company from liability for an injury caused to a person using the road by reason of the subsidence (*Hartley* v. *Rochdale Corporation*, [1908] 2 K. B. 594; 72 J. P. 343). This section imposes a continuing duty upon undertakers to remedy any neglect in an improper filling in of the ground and accordingly time does not begin to run under the Public Authorities Protection Act, 1893, *ante*, p. 939, so long as that duty remains undischarged (*Huyton and Roby Gas Co.* v. *Liverpool Corporation*, [1926] 1 K. B. 146; 90 J. P. 45).

Penalty for delay in reinstating streets, etc.

33. If the undertakers open or break up any street or bridge, or any sewer drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the undertakers are authorised to perform such works without any superintendence or notice, or, if the undertakers make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain, or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of six months next after the same is made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such default is made a sum not exceeding five pounds for every such offence, and an additional sum of five pounds for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, persons having control of streets, etc. may reinstate them.

34. If any such delay or omission as aforesaid shall take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to such persons by the undertakers; and such expenses may be recovered in the same way as damages are recoverable under this and the special Act (*a*).

(*a*) See the P. H. A., 1875, s. 251 *ante*, p. 549. It would seem that if the local authority employ a contractor to do the work they may recover from the undertakers not only the sums paid to the contractor for the work actually done by him, but also the expenses reasonably incurred in superintending the work done by the contractor (*New River Co.* v. *Westminster City Council* (1904), 73 L. J. K. B. 1009; 68 J. P. 358); but they cannot recover any sum in respect of such supervision, if in fact they have incurred no expense in respect thereof (S. C. *sub nom. Metropolitan Water Board* v. *Westminster City Council* (1905), 75 L. J. K. B. 384; 70 J. P. 52).

Constant supply of water to be kept for domestic use of all inhabitants entitled to demand a supply.

35. The undertakers shall provide and keep in the pipes to be laid down by them a supply of pure and wholesome water, sufficient for the domestic use of all the inhabitants of the town or district within the limits of the Special Act, who, as hereinafter provided, shall be entitled to demand a supply, and shall be willing to pay water rate for the same; and such supply shall be constantly laid on at such a pressure as will make the water reach the top story of the highest houses within the said limits, unless it be provided by the special Act that the water to be supplied by the undertakers need not be constantly laid on under pressure; and the undertakers shall cause pipes to be laid down and water to be brought to every part of the town or district within the limits of the special Act whereunto they shall be required by so many owners or occupiers of houses in that part of the town or district as that the aggregate amount of water rate payable by them annually, at the

Section 35. rates specified in the special Act, shall be not less than one tenth part of the expence of providing and laying down such pipes; provided that no such requisition shall be binding on the undertakers, unless such owners or occupiers shall severally execute an agreement binding themselves to take such supply of water for three successive years at least (*a*).

(*a*) This section is not incorporated with the P. H. A., 1875. See, however, as to the giving of guarantees by district councils under this section, note (*f*) to s. 51 of the P. H. A., 1875, *ante*, p. 133.

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Pipes to be laid by the undertakers.

And with respect to the communication pipes to be laid by the undertakers be it enacted as follows (*a*):

(*a*) Sections 44—74 are incorporated by the P. H. A., 1875, s. 57, *ante*, p. 140. The proviso to that section provides that the provisions with respect to the communication pipes to be laid by the undertakers and the inhabitants respectively shall apply only in districts or parts of districts where the local authority lay any pipes for the supply of any of the inhabitants thereof.

Undertakers to lay down communication pipes, on request of occupier and with consent of owners.

44. The undertakers shall, upon the request of the owner of any dwelling-house in any street in which pipes shall have been laid down by them, the annual value of which house shall not exceed ten pounds, or upon request of the occupier *with the consent in writing of the owner, or reputed owner, of any such house, or of the agent of such owner* (*a*), and upon payment or tender of the proportion of water rate in respect of such house by this or the special Act, made payable in advance, lay down communication pipes and other necessary works for the supply of such house with water for domestic or other purposes, and shall keep the same in repair, and thereupon the occupier of such house shall be entitled to have a sufficient supply of water for his domestic purposes from the undertakers; and the undertakers may charge for such pipes and works, in addition to the water rate, such reasonable annual rent (*b*) as shall be agreed upon, or, in case of dispute, as shall be settled by such inspector as aforesaid, when appointed, and in the meantime as shall in England . . . be settled by two justices . . . and such rent shall be chargeable on and recoverable from the occupier, or, in his default, from the owner of such house, at the same times and in the same manner as water rates; and such pipes and other works shall not be subject to distress . . . nor to be taken in execution under any process of a court of law or equity, or under any fiat or sequestration in bankruptcy, against such occupier or against such owner, unless he shall have become the proprietor of the said pipes and works under the provisions hereinafter contained (*c*).

(*a*) These words are to be omitted. See the P. H. A., 1875, s. 57, *ante*, p. 140. As to the meaning of the expression "consumer" in a special Act, see *Cooke* v. *New River Co.* (1889), 14 App. Cas. 698; 54 J. P. 260.
(*b*) This rent may be deducted from the rent paid to the owner. See the P. H. A., 1875, s. 57, *ante*, p. 140.
(*c*) Words relating to Scotland and Ireland only are omitted from this section.

Penalty on undertakers for neglect, etc. to lay communication pipes.

45. If, upon such request and consent, and upon tender or payment of such proportion of rate as aforesaid, the undertakers for seven days neglect or refuse to lay down such communication pipes or other works, they shall be liable to forfeit to the person so making such request the sum of five pounds and a further sum of forty shillings for every day during which such refusal or neglect shall continue after seven days from the making of such request and tender as aforesaid.

On non-payment of rate, or if house be

46. If the occupier for the time being of the house in which any such communication pipes or other works and engines shall have been laid down unoccupied, undertakers may remove pipes, etc. provided by them.

by the undertakers refuse to pay for a supply of water, or if such house be unoccupied for twelve months, the undertakers may demand from the owner thereof payment of the amount of the principal money invested by them in providing and laying down such communication pipes and other works and engines; and if such owner, after ten days notice given to him by the undertakers, neglect or refuse to pay such principal money, the undertakers may enter the house and remove such pipes and other works; and the balance of such principal money, after deducting the value of such pipes and other works, with all arrears of rent for such pipes and works, shall, in default of payment, be recovered, with the costs incurred, from the owner or from the occupier for the time being, in the same manner as water rates are directed by this or the special Act to be recovered: Provided always, that no greater sum shall be recovered from any such occupier than the amount of rent for the time being owing by him, unless he refuse to discover the amount of rent owing by him; and that every such occupier shall be entitled to deduct from the amount of rent payable by him the sum so recovered from him, or which he shall have paid, on demand.

Owner to be at liberty to purchase the pipes.

47. The owner or reputed owner of any house where any such communication pipes or other works shall have been laid down by the undertakers may at any time pay off the amount then due to the undertakers in respect of the costs of providing and laying down such pipes and works, and all rent at that time due in respect thereof, and thereupon such pipes and works shall become the property of such owner, and all further rent in respect thereof shall cease to accrue to the undertakers.

Pipes to be laid by the inhabitants.

And with respect to the communication pipes to be laid by the inhabitants, be it enacted as follows:

Power to inhabitants to lay service pipes from houses to pipes of undertakers.

48. Any owner or occupier of any dwelling-house, or part of a dwelling-house within the limits of the special Act who shall wish to have water from the waterworks of the undertakers brought into his premises, and who shall have paid or tendered to the undertakers the portion of water rate in respect of such premises by this or the special Act directed to be paid in advance, may open the ground between the pipes of the undertakers and his premises, having first obtained the consent of the owners and occupiers of such ground (*a*), and lay any leaden or other pipes from such premises, to communicate with the pipes of the undertakers, such pipes to be of a strength and material to be approved of by the undertakers, or, in case of dispute, to be settled in England . . . by two justices . . . or in either case by the inspector to be appointed as aforesaid: Provided always, that every such owner or occupier shall, before he begins to lay any such pipe, give to the undertakers fourteen days notice of his intention to do so (*b*).

(*a*) The ground referred to must be private ground intervening between his premises to be supplied and the water main. Power to open streets is given in express terms by s. 52, *post*, p. 2190.

(*b*) Words relating to Scotland and Ireland are omitted from this section. An action lies for cutting off by the undertakers of a connection lawfully and properly made without lawful cause (*Gale* v. *Rhymney and Aber Valleys Gas and Water Co.* (1903), 67 J. P. 430; 89 L. T. (N.S.) 399). As to the liability to repair communication pipes, see *Parnell* v. *Portsmouth Waterworks Co.* (1911), 75 J. P. 99; 8 L. G. R. 1029, and compare *Colne Valley Water Co.* v. *Hall* (1908), 72 J. P. 25.

Communication with the pipes of the undertakers to be made under the superintendence of their surveyor.

49. Before any pipe is made to communicate with the pipes of the undertakers, the person intending to lay such pipe shall give two days notice to the undertakers of the day and hour when such pipe is intended to be made to communicate with the pipes of the undertakers; and every such pipe shall be so made to communicate under the superintendence and according

Section 49. to the directions of the surveyor or other officer appointed for that purpose by the undertakers, unless such surveyor or officer fail to attend at the time mentioned in the said notice; and in case of any dispute as to the manner in which such pipe shall be so made to communicate, it shall in England . . . be settled by two justices . . . or in either case by the inspector to be appointed as aforesaid (*a*).

(*a*) See note (*b*) to s. 48, *ante*, p. 2189.

Bore of service pipes.

50. The bore of any such pipe as last aforesaid shall not exceed the prescribed limits, and where no limit shall be prescribed it shall not exceed half an inch, except with the consent of the undertakers.

Service pipes may be removed, after giving notice.

Penalty for removing pipes without notice.

51. Any person who shall have laid down any pipe or other works, or who shall have become the proprietor thereof, may remove the same, after having first given six days' notice in writing to the undertakers of his intention so to do, and of the time of such proposed removal, and every such person shall make compensation to the undertakers for any injury or damage to their pipes or works which may be caused by such removal; and every person who shall remove any such pipe or other works without giving such notice as aforesaid shall forfeit to the undertakers a sum not exceeding five pounds, over and above the damage which he may be found liable to pay in any action at law, at the suit of the undertakers, for the damage done to their pipes or works.

Power to inhabitants to break up pavements, etc.

52. Any such owner or occupier may open or break up so much of the pavement of any street as shall be between the pipe of the undertakers and his house, building, or premises (*a*), and any sewer or drain therein, for any such purpose as aforesaid, doing as little damage as may be (*b*), and making compensation for any damage done in the execution of any such work: Provided always, that every such owner or occupier desiring to break up the pavement of any street, or any sewer or drain therein, shall be subject to the same necessity of giving previous notice, and shall be subject to the same control, restriction, and obligations in and during the time of breaking up the same, and also reinstating the same, and to the same penalties for any delay in regard thereto, as the undertakers are subject to by virtue of this or the special Act (*c*).

(*a*) See *Pearson* v. *Tenterden Corporation* (1910), 74 J. P. 405.

(*b*) See *R.* v. *East and West India Docks, etc. Rail. Co.*, *ante*, p. 2167.

(*c*) A waterworks company is not liable for the negligence of an occupier in opening a street under this section. The word "pavement" as used in this section is not confined to the footpath only. See *Glover* v. *East London Waterworks Co.* (1867), 17 L. T. (N.S.) 475; 16 W. R. 310.

As to the power of a company to require a consumer to fix a screw-down valve in the street to shut off water from the premises as apparatus for regulating the supply within the meaning of a special Act, see *Ward* v. *Folkestone Waterworks Co.* (1890), 24 Q. B. D. 334; 54 J. P. 628.

Right of owners or occupiers to supply of water for domestic purposes.

53. Every owner and occupier of any dwelling-house (*a*) or part of a dwelling-house within the limits of the special Act shall, when he has laid such communication pipes as aforesaid, and paid or tendered (*b*) the water rate payable in respect thereof, according to the provisions of this and the special Act, be entitled to demand and receive from the undertakers (*c*) a sufficient supply of water for his domestic purposes (*d*).

(*a*) As to what is a "private dwelling-house," see *Bristol Guardians* v. *Bristol Waterworks Co.*, [1914] 1 A. C. 379. In that case it was held that the right to demand a supply was by the special Act limited to private dwelling-houses, and that a workhouse was not within this description. This case was followed in *Northern Theatres Co.* v. *Shillito*, [1925] 2 K. B. 100; 89 J. P. 101 (a theatre).

(*b*) The occupier of premises used as a post office which were not rated has been held to be entitled to a supply of water for domestic purposes as of right without prepayment of the water rate (*Postmaster-General* v. *Nenagh U. D. C.*, [1913] 1 I. R. 238).

(*c*) See *Pitts* v. *Plymouth Corporation*, [1912] 3 K. B. 301.

(*d*) As to the duty of the company to supply water fit for domestic use, see *Att.-Gen.* v. *North Shields Waterworks Co.*, Times, May 12th, 1892. The supply of water for the use of a horse and the washing of a carriage in a stable attached to a dwelling-house, and used for the sole accommodation of the occupier, was held to be for *domestic use* in *Bushby* v. *Chesterfield Waterworks Co.* (1858), 22 J. P. 689; El. B. & E. 176. But see 26 & 27 Vict. c. 93, s. 12, *post*, p. 2266. The guardians of a union are entitled under this section to supply to a workhouse, such a supply being for domestic purposes (*Liskeard Union* v. *Liskeard Waterworks* (1881), 7 Q. B. D. 505; 45 J. P. 780), but the court will distinguish between the different purposes for which water is supplied to such an institution (*Chester Waterworks Co.* v. *Chester Union* (1908), 72 J. P. 121; 98 L. T. 701). This case was discussed and followed in *Frederick* v. *Bognor Water Co.*, [1909] 1 Ch. 149; 72 J. P. 501, decided under a special Act, in which it was held that the keeping of a boarding school in which water was used for the domestic purposes of all the inmates was not carrying on a "business for which water is required." The phrase "domestic purposes" includes a supply for a fixed bath (*Weaver* v. *Cardiff Corporation* (1883), 47 J. P. 599; 48 L. T. (N.S.) 906), unless baths are excluded by express words (*Walker* v. *Lambeth Waterworks Co.* (1894), 58 J. P. 736; 71 L. T. (N.S.) 75); and a supply of water for a swimming-bath erected and used for the purposes of the business of a school is not a supply for "domestic purposes" (*Barnard Castle U. D. C.* v. *Wilson*, [1902] 2 Ch. 746, and see *Frederick* v. *Bognor Water Co.*, *supra*). On the other hand, water supplied for domestic purposes is none the less so supplied because the house may be used as a boarding house (*Pidgeon* v. *Great Yarmouth Waterworks Co.*, [1902] 1 K. B. 310; 66 J. P. 309), or as a school (*South West Suburban Water Co.* v. *St. Marylebone Guardians*, [1904] 2 K. B. 174; 68 J. P. 257). It has been held that water for domestic purposes does not include water for watering a garden (*per* JESSEL, M.R., in *Low* v. *Lambeth Waterworks Co.*, not reported, and see 26 & 27 Vict. c. 93, s. 12, *post*, p. 2266). See, however, *Bristol Waterworks Co.* v. *Uren*, *post*, p. 2197, and *Grand Junction Waterworks* v. *Neal* (1895), 30 L. J. Newsp. 85. And water used by a person carrying on the profession of a physician or surgeon for washing a motor car used in his profession is not supplied for a trade manufacture or business within 26 & 27 Vict. c. 93, s. 12, so as to be excluded from being considered as supplied for domestic purposes (*Harrogate Corporation* v. *Mackay*, [1907] 2 K. B. 211; 71 J. P. 458). Water supplied for use in a dentist's surgery is not used for non-domestic purposes (*Manchester Corporation* v. *Buttle*, *infra*). A gas company provided at their works certain sanitary conveniences as required by the Factory and Workshop Act, 1901. No one resided at the works, which were exempt from inhabited house duty. It was held that the question was not the character of the premises, but the character of the purposes for which the water was used; that the supply in question was for domestic purposes; and that the company were not entitled to a supply by meter as for trade purposes under s. 16 of the Metropolitan Water Board (Charges) Act, 1907 (*South Suburban Gas Co.* v. *Metropolitan Water Board*, [1909] 2 Ch. 666; 73 J. P. 503). This was approved in *Metropolitan Water Board* v. *Avery*, [1914] A. C. 118, where it was held that under their local Act the Board were bound to supply water for washing up plates and dishes in a public-house where luncheons were served at the rate for domestic purposes. But where it was necessary to construe an Act which provided that the Board should not be bound to supply otherwise than by meter to a house used wholly or partly for any trade it was held that the test was the character of the building and not the use to which the water was put (*Oddenino* v. *Metropolitan Water Board*, [1914] 2 Ch. 734. And this decision was followed in *Barrett* v. *Ilkeston Corporation*, [1917] 1 K. B. 827; 81 J. P. 133 (Beerhouse) and *Manchester Corporation* v. *Buttle*, [1929] 2 Ch. 390; 45 T. L. R. 568 (Dentist's surgery). Water supplied to urinals and water-closets at a railway station and to a tap used for drinking purposes and for cleansing the platforms is not supplied for domestic purposes (*Metropolitan Water Board* v. *L. B. & S. C. Rail. Co.*, [1910] 2 K. B. 890; 74 J. P. 409). A supply of water to a factory for drinking and washing by workmen employed there and for urinals and water-closets provided for their use is a supply for domestic purposes (*Colley's Patents, Ltd.* v. *Metropolitan Water Board*, [1912] A. C. 24; 76 J. P. 33). Water supplied for a public-house, where, in addition to the ordinary consumption of water in such a case, a catering business is carried on, is water supplied for domestic purposes (*Metropolitan Water Board* v. *Avery*, [1914] A. C. 118; 78 J. P. 121). It is not easy to reconcile with this decision the case of *Airdrie, Coatbridge and District Water Trustees* v. *Flanagan* (1906), 8 F. 932, where water supplied for a public-house mainly for sanitary purposes and cooking was held not to be a supply for domestic purposes. A golf club-house in which no one slept was held not to be a "house," and therefore not entitled to a supply of water at the domestic rate (*Fergusson* v. *Prestwick* (*Provost, etc. of*), [1909] S. C. 94, decided under the Burgh Police (Scotland) Act, 1892, ss. 4, 263, 264). Where

Note to Section 53.

such extra charges are expressly authorised for water-closets, that means water-closets used as such and having water laid on to them (*Roberts* v. *South Essex Waterworks Co.* (1903), 1 L. G. R. 719).

Where a supply was cut off for non-payment of water rates, the company were held not warranted in refusing to supply a subsequent tenant until the arrears were paid (*Sheffield Waterworks Co.* v. *Wilkinson* (1879), 4 C. P. D. 410). See, further, as to the cutting off of a supply, 50 & 51 Vict. c. 21, *post*, p. 2489.

As to the right of a company to cut off the supply when the consumer has failed to provide a meter for water supplied for purposes other than for "family use," see *Sheffield Waterworks Co.* v. *Carter* (1882), 8 Q. B. D. 632; 46 J. P. 548. And as to the obligation to provide a meter in such case, see *Sheffield Waterworks Co.* v. *Bingham* (1884), 25 Ch. D. 443.

The company are only bound to furnish a reasonable supply, that is, a supply which is reasonable according to the means at their disposal (*Jackson* v. *Farnham Water Co.* (1887), 3 T. L. R. 632).

As to drought being an unavoidable cause preventing the supply and excusing the undertakers from furnishing a sufficient supply, see *Industrial Dwellings Co.* v. *East London Waterworks Co.* (1894), 58 J. P. 430.

As to the meaning of the words "require a supply of water" in s. 17 of the Metropolitan Water Board (Charges) Act, 1907, see *Metropolitan Water Board* v. *Johnson & Co.*, [1913] 3 K. B. 900; 77 J. P. 384.

Protection of water.

And with respect to waste or misuse of the water supplied by the undertakers, be it enacted as follows:

Persons using water not required to be laid on at high pressure to provide cisterns, etc.

54. If by the special Act it be provided that the water to be supplied by the undertakers need not be constantly laid on under pressure, every person supplied with water shall, when required by the undertakers, provide a proper cistern to hold the water with which he shall be so supplied, with a ball and stop-cock, in the pipe bringing the water from the works of the undertakers to such cistern, and shall keep such cistern, ball, and stop-cock in good repair so as effectually to prevent the water from running to waste; and in case any such person shall, when required by the undertakers, neglect to provide such cistern, ball, or stop-cock, or to keep the same in good repair, the undertakers may cut off the pipe or turn off the water from the premises of such person until such cistern and ball and stop-cock shall be provided or repaired, as the case may require (*a*).

Penalty for neglect.

(*a*) Where a company were entitled to require the provision of "proper ball and stop-cocks, or other necessary apparatus for regulating the supply," it was held that they could not require a screw-down valve to be inserted in the communication pipe laid in the street so that the water might be shut off from the premises on any indication of waste (*Ward* v. *Folkestone Waterworks Co.*, *ante*, p. 2190).

As to the conditions of constant supply in the metropolis, see *West Middlesex Waterworks Co.* v. *Tappenden* (1888), 5 T. L. R. 477.

Penalty for suffering cistern, etc. to be out of repair so that water is wasted.

55. Every person supplied with water by the undertakers who shall suffer any such cistern, pipe, ball, or stop-cock to be out of repair, so that the water supplied to him by the undertakers shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds (*a*).

(*a*) Section 55 was repealed by the S. L. R. A., 1875, so far as it relates to special Acts with which 26 & 27 Vict. c. 93, *post*, p. 2264, is incorporated. The owner of a house let to a tenant upon a weekly tenancy, but himself liable to payment of the water rate by reason of the house being under the annual value of £10 (see s. 72, *post*, p. 2199), is "a person supplied with water" within the meaning of this section (*Brock* v. *Harrison*, [1899] 1 Q. B. 958; 63 J. P. 455).

Undertakers may repair cisterns, etc.

56. The undertakers may repair any such cistern, pipe, ball, or stop-cock, so as to prevent any such waste of water, and the expenses of such repair shall be repaid to them by the person so allowing the same to be out of repair, and may be received (*a*) as damages.

(*a*) *Sic* in Parliament Roll. It should of course be "recovered." It was held that the work of repair for the expenses of which the owner of a defective communication pipe was liable under the M. W. B. (Various Powers) Act, 1907, s. 71, was limited to work done after the Board had ascertained that it was from his pipe that the leakage of water came, and did not include an exploratory opening of the ground for the purpose of locating the source of the leakage (*David* v. *Metropolitan Water Board*, [1919] 1 K. B. 44; 83 J. P. 58).

Note to Section 56.

Power to undertakers' surveyor to enter houses to inspect, etc.

57. The surveyor, or any other person acting under the authority of the undertakers, may, between the hours of nine of the clock in the forenoon and four of the clock in the afternoon, enter into any house or premises supplied with water by virtue of this or the special Act in order to examine if there be any waste or misuse of such water; and if such surveyor or other person at any such time be refused admittance into such dwelling-house or premises for the purpose aforesaid, or be prevented from making such examination as aforesaid, the undertakers may turn off the water supplied by them from such house or other premises.

Penalty for allowing persons to use water supplied by undertakers.

58. Every owner or occupier of any tenement supplied with water under this or the special Act who shall supply to any other person or wilfully permit him to take any such water from any cistern or pipe in such tenement, unless for the purpose of extinguishing any fire, or unless he be a person supplied with water by the undertakers, and the pipes belonging to him be, without his default, out of repair, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds (*a*).

(*a*) A covenant to repair or renew a pipe is broken if in consequence of the pipe becoming furred by encrustation the flow of water is substantially diminished although it is still sufficient for ordinary purposes. Where a railway company has obtained a supply of water by meter to a railway station, this does not authorise the use of such supply for another station. Knowledge of such wrongful use over a long period cannot be imputed to the principals supplying the water by reason of their agent having from time to time read a meter which happened to be side by side with the meter which measured the wrongful uses of the supply (*G. N. Ry.* v. *Bradford Corporation* (1919), 88 L. J. Ch. 101; 83 J. P. 33.

Penalty for taking water belonging to undertakers without agreement.

59. Every person who, not having agreed to be supplied with water by the undertakers, shall take any water from any reservoir, watercourse, or conduit belonging to the undertakers, or any pipe leading to any such reservoir, watercourse, or conduit, or from any cistern or other like place containing water belonging to the undertakers, other than such as may have been provided for the gratuitous use of the public, shall forfeit to the undertakers for every such offence a sum not exceeding ten pounds (*a*).

(*a*) Section 59 is repealed by the S. L. R. A., 1875, to the same extent as s. 55, *ante*, p. 2192. This section provides no penalty for taking water from an unoccupied house. See *Piercy* v. *Pope* (1882), 46 J. P. 102; 45 L. T. (N.S.) 477. See also, with reference to this section, *Hildreth* v. *Adamson*, *ante*, p. 150, and *Burns* v. *Scholfield* (1922), 87 J. P. 54; 128 L. T. 382. As to larceny of water, see *Ferens* v. *O'Brien*, *ante*, p. 143.

A section in a special Act provided that if any person should wilfully waste the water of the company, or apply it to any purpose other than that agreed upon, he should be liable to a penalty. It was held that this section did not apply to a case where water, after being used for ordinary domestic purposes, was conveyed into an apparatus for flushing a water-closet (*Evans* v. *Gornall* (1891), 8 T. L. R. 620).

Penalty for destroying valves, drawing off water, etc.

60. Every person who shall wilfully or carelessly break, injure, or open any lock, cock, valve, pipe, work, or engine belonging to the undertakers, or shall flush or draw off the water from the reservoirs or other works of the undertakers, or shall do any other wilful act whereby such water shall be wasted, shall forfeit to the undertakers for every such offence a sum not exceeding five pounds.

Fouling the water.

And with respect to the provisions for guarding against fouling the water of the undertakers, be it enacted as follows (*a*):

(*a*) See also 26 & 27 Vict. c. 93, ss. 16–20, *post*, pp. 2267—2269.

Section 61.

Penalties for causing the water of the undertakers to be fouled, etc.

61. Every person who shall commit any of the offences next hereinafter enumerated shall for every such offence forfeit to the undertakers a sum not exceeding five pounds; (that is to say,)

Every person who shall bathe in any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or wash, throw, or cause to enter therein any dog or other animal:

Every person who shall throw any rubbish, dirt, filth, or other noisome thing into any such stream, reservoir, aqueduct, or other waterworks as aforesaid, or wash or cleanse therein any cloth, wool, leather, or skin of any animal, or any clothes or other thing:

Every person who shall cause the water of any sink, sewer, or drain, steam engine, boiler, or other filthy water belonging to him or under his control, to run or be brought into any stream, reservoir, aqueduct, or other waterworks belonging to the undertakers, or shall do any other act whereby the water of the undertakers shall be fouled:

And every such person shall forfeit a further sum of twenty shillings for each day (if more than one) that such last-mentioned offence shall be continued.

Penalty for permitting substances produced in making gas to flow into the streams or works of the undertakers.

62. Every person making or supplying gas within the limits of the special Act who shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, or waterworks belonging to the undertakers, or into any drain communicating therewith, any washing or other substance which shall be produced in making or supplying gas, or who shall wilfully do any act connected with the making or supplying of gas whereby the water in any such stream, reservoir, aqueduct, or waterworks shall be fouled, shall forfeit to the undertakers for every such offence the sum of two hundred pounds; and such penalty shall be recovered, with full costs of suit, in any of the superior courts; but such penalty shall not be recoverable unless it be sued for during the continuance of the offence, or within six months after it has ceased (*a*).

(*a*) See the Gasworks Clauses Act, 1847, s. 21, *ante*, p. 2172, and the note thereto; and the P. H. A., 1875, s. 68, *ante*, p. 155.

Daily penalty during the continuance of the offence.

63. In addition to the said penalty of two hundred pounds, and whether such penalty have been recovered or not, the person making or supplying gas as aforesaid shall forfeit to the undertakers the sum of twenty pounds, to be recovered in like manner, for each day during which such washing or substance shall be brought or shall flow as aforesaid, or during which the act shall continue by which such water is fouled, after the expiration in either case of twenty-four hours from the time when notice of the offence has been served on such person by the undertakers.

Penalty on gas makers causing water to be fouled.

64. Whenever the water supplied by the undertakers shall be fouled by the gas of any person making or supplying gas within the limits of the special Act, such person shall forfeit to the undertakers for every such offence a sum not exceeding twenty pounds, and a further sum not exceeding ten pounds for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to open ground and examine gas pipes, to ascertain whether water is being fouled by gas.

65. For the purpose of ascertaining whether the water of the undertakers be fouled by the gas of any person making or supplying gas within the limits of the special Act, the undertakers may dig up the ground, and examine the pipes, conduits, and works of the persons making or supplying gas; provided that before proceeding so to dig and examine the undertakers shall give twenty-four hours notice in writing to the person so making or supplying gas of the time at which such digging and examination is intended to take place, and they shall give the like notice to the persons having the control or management of the pavements or place where such digging shall take place, and they shall be subject to the like obligation of reinstating the road and pavement, and to the same penalties for delay or any nonfeasance or misfeasance therein, as hereinbefore provided with respect to roads and pavements broken up by them for laying their pipes (*a*).

(*a*) See also ss. 28—34, *ante*, pp. 2184—2187.

Expenses to abide the result of the examination

66. If upon such examination it appear that such water has been fouled by any gas belonging to such person, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the person making or supplying gas; but if upon such examination it appear that the water has not been fouled by the gas of such person, then the undertakers shall pay all the expenses of the examination and repair, and also make good to the said person any injury which may be occasioned to his works by such examination.

Recovery of expenses.

67. The amount of the expenses of every such examination and repair, and any injury done to the undertakers, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the same manner as damages for the ascertaining and recovery whereof no special provision is made are directed to be ascertained and recovered.

Water rates.

And with respect to the payment and recovery of the water rates, be it enacted as follows:

Rates to be recoverable from person supplied with water.

68. The water rates, except as hereinafter (*a*) and in the special Act mentioned, shall be paid by and be recoverable from the person requiring, receiving or using the supply of water, and shall be payable according to the annual value of the tenements (*b*) supplied with water, and if any dispute arise as to such value the same shall be determined by two justices (*c*).

(*a*) See s. 72, *post*, p. 2199.

(*b*) See *Metropolitan Water Board* v. *Baker* (1910), 74 J. P. 337; 102 L. T. 536; *Metropolitan Water Board* v. *Phillips*, [1913] A. C. 86; 77 J. P. 73.

(*c*) Water rates under the P. H. A., 1875, s. 56, *ante*, p. 138, as modified by the R. and V. Act, 1925, and the L. G. A., 1929, are to be assessed upon the net annual value appearing in the valuation list under the R. and V. Act, 1925, but if no such value appears therein (see the notes to s. 56 at p. 139) then that value is to be ascertained by two justices in like manner as disputes are determined under the provision in the text. Section 77 of the L. G. A., 1929, *ante*, p. 1941, contains a general modification of the provisions of all Acts requiring the assessment of water rates upon a value shown in the valuation list.

In the application of these modifications the decisions upon the provisions in the text may be useful. They are, therefore, set out here.

By their local Act, 16 Vict. c. xxii., s. 79, the plaintiffs were bound to supply the houses within a certain district with water "at the following rate per annum, that is to say, where the rent" of such dwelling-houses should not amount to £7 per annum, at a rate not exceeding 6 per cent. per annum on such *rent*, but not exceeding 7*s*. 2*d*. per annum; and so on in a graduated scale. The defendant was owner of several small houses supplied with water by the plaintiffs, in respect of which he paid, either under statutory obligation or by voluntary agreement, the poor rate, water rate, and district rate. It was held that "rent" in s. 79 was equivalent to "annual value," and that in estimating the rent on which the water rate was payable, the defendant was entitled to deduct the water rates so paid by him (*Sheffield Waterworks Co.* v. *Bennett* (1872), L. R. 7 Ex. 409).

By s. 56 of the New River Company's Act, 1852, which incorporates the Waterworks Clauses Act, 1847, it is enacted that "nothing in this Act or in any Act incorporated herewith contained shall prevent the company from recovering any sum of money not exceeding £50, which shall be due to them for water rates or rents, or for damages, costs or expenses, by action or proceeding in such manner as is by law provided for the recovery of debts not exceeding £50." It was held that where a bonâ fide dispute arises as to the annual value, the company must, before they can sue for the rate, obtain a decision of justices in that dispute under s. 68 of the Act of 1847, *supra* (*New River Co.* v. *Mather* (1875), L. R. 10 C. P. 442; 39 J. P. 614).

By the special Act of a water company which incorporated the Waterworks Clauses Act, 1847, save so far as the clauses or provisions thereof were expressly varied or excepted, the company were obliged to supply water to the occupiers of dwelling houses for domestic purposes at a rate not exceeding £6 per cent. per annum upon the annual "rack-rent or value" of the premises supplied. It was further provided by a subsequent section of the Act that the rate should be "payable according to the annual value at which the premises were from time to time assessed to the poor rate if the same were so assessed, or, if not, according to the net annual value of the premises." It was held that the water rate charged by the company must be calculated on the "rateable value," not on the "gross estimated rental" of the premises supplied with water (*Warrington Waterworks Co.* v. *Longshaw* (1882), 9 Q. B. D. 145; 46 J. P. 773).

It was provided by a local Act that the charge to be made for the supply of water for domestic use should be at a rate varying according to the "annual rent" of the premises supplied. The appellant was the owner of certain houses supplied with water by the respondents under the Act. The houses were let at weekly rents, the appellant paying all rates charged thereon, and also for all repairs and insurances in respect thereof. He was allowed as an owner, under the Poor Rate Assessment and Collection Act, 1869, s. 4, a reduction of 30 per cent. from the full amount of the poor rate which an occupier if rated would have paid. The respondents charged the appellant with water rates calculated on the following basis: They multiplied the weekly rents by fifty-two and deducted from the amount the actual sums paid by the appellant for rates and then charged the water rates upon the balance. It was held that in order to arrive at the "annual rent" upon which the water rate was to be computed, an allowance should be made in respect of "voids," *i.e.*, houses lying vacant from time to time; and that the actual amount of the poor rates and other rates paid by the appellant was rightly deducted, but that the appellant was not entitled to deduct the full amount of the rates which an occupier if rated would have paid; nor the amount he paid for repairs and insurances (*Smith* v. *Birmingham Corporation* (1883), 11 Q. B. D. 195; 47 J. P. 645; and see *Dobbs* v. *Grand Junction Waterworks Co., infra*).

A water company by a special Act of 1826 was compellable to supply water to certain dwelling-houses in the metropolis for domestic purposes at certain rates per cent. per annum payable "according to the actual amount of the rent where the same can be ascertained, and where the same cannot be ascertained, according to the actual amount or annual value upon which the assessment to the poor's rate is computed in the parish or district where the house is situated." By a special Act of 1852, the company were compelled to furnish water "where the annual value of the dwelling-house or other place supplied shall not exceed £200 at a rate per cent. per annum on such value not exceeding £3." The occupier of one of the houses was lessee for a long term at a ground rent, and paid no rent except the ground rent:—*Held*, reversing the decision of the Court of Appeal, that whether the later Act repealed the provisions of the former Act or not the case must be dealt with under the later Act; and that the words "annual value" in the later Act meant "net annual value" as defined in the Parochial Assessments Act, 1836, s. 1:—*Held* also, that "annual value" had the same meaning in the earlier as in the later Act (*Dobbs* v. *Grand Junction Waterworks Co.* (1884), 9 App. Cas. 49; 48 J. P. 5). See also *Northampton Corporation* v. *Ellen*, [1904] 1 K. B. 299; 68 J. P. 197.

By the special Act of a water company it was provided that water should be supplied for domestic purposes by the company at a rate per cent. upon the annual value of the dwelling-house or other place supplied, that a supply of water for domestic purposes should not include a supply of water for, among other things, any trade or manufacture, or business requiring an extra supply of water, and that the company might furnish water for other than domestic purposes on such terms as might be agreed on between the company and the consumer. The company supplied water for domestic purposes to a house occupied as a licensed public house. The company contended that the annual value of the premises as a licensed public house should be taken as the basis of the water rate payable in respect of such supply, and that therefore the fact of the premises being licensed, and a premium which had been paid for the lease of the premises as a public house ought to be taken into consideration in fixing the value. The occupier contended that such water rate should be based upon the value of the premises for domestic purposes only. It was held that the contention of the company was correct (*West Middlesex Waterworks Co.* v. *Coleman* (1885), 14 Q. B. D. 529; 49 J. P. 341).

Section 68 of the Bristol Waterworks Act, 1862, enacts that the company shall furnish to every occupier of a private dwelling-house within their limits a sufficient supply of water for the domestic use of such occupier, at certain annual rents or rates, according to the "annual rack-rent or value of the premises so supplied," such supply (by s. 71) not to include, amongst other things, a supply of water "for watering gardens by means of a tap, tube, pipe, or other such like apparatus." And s. 32 of the Bristol Waterworks Amendment

Act, 1865, enacts that "if any dispute shall arise as to the amount of the annual rent or value of any dwelling-house or premises supplied with water by the company, such dispute shall be decided by two justices: provided that the amount of the annual rack-rent or value to be fixed by such justices shall not be less than the gross sum assessed to the poor rate or less than the sum actually paid for such dwelling-house or premises." A dwelling-house and garden in the occupation of the owner were assessed to the poor rate as follows: "Gross estimated rental £240"; "Rateable value, £204." It was proved that the value of the house without the garden would be 10 per cent. less, and that the owner contracted to pay, and did pay £1 1*s.* annually for the watering by means of a pipe and a tap in the garden which surrounded the dwelling-house, and was occupied and assessed therewith:—*Held*, by MATHEW and SMITH, JJ., upon a case stated by the justices that the words "gross sum assessed to the poor rate," meant the "gross estimated rental," and not "rateable or net value"; and that the water rent was chargeable upon the gross estimated rental of "the premises," including the pleasure garden occupied with the house, and not merely the dwelling-house itself, the extra charge for the garden supply being for using a pipe and a tap (*Bristol Waterworks Co.* v. *Uren* (1885), 15 Q. B. D. 637; 49 J. P. 564). See *Grand Junction Waterworks Co.* v. *Davies, post*, p. 2198.

The owner of three cottages let them at weekly rents to separate tenants and paid all rates including water rates. By s. 32 of a special Act the water board were to supply water at the rates specified, that is to say, "where the annual rack-rent or value shall not exceed twenty pounds at a rate per cent. per annum not exceeding ten pounds." It was held that the owner was entitled to deduct the general district rate, the poor rate and the water rate from the gross rent of the cottages so as to arrive at the "annual rack-rent or value" on which the water rate was to be assessed (*Wilkinson* v. *Bury Water Board* (1905), 69 J. P. 214; 92 L. T. 417).

Where a dispute had arisen as to the amount of the water rate payable by an occupier of premises to a water company (whose special Act incorporated the Waterworks Clauses Act, 1847), it was held that the determination of the annual value of the premises supplied, by two justices, under s. 68 of the Act of 1847, was a condition precedent to the right of the occupier to sue the company for cutting off the water, and for the amount alleged to have been paid in excess (*Whiting* v. *East London Waterworks Co.* (1884), 1 Cab. & El. 331).

A local waterworks Act empowered a company to distrain for water rates for an agreed amount. A later Act limited the rates to such sums as should be "reasonable." Under the Waterworks Clauses Act, 1847, which incorporates 8 & 9 Vict. c. 20, s. 140, water rates under £20 are to be recovered by means of a distress warrant issued by justices. A third Act of the company in 1852 incorporated the Waterworks Clauses Act, but expressly preserved the powers conferred by the former Acts. It was held that the right of the company to levy their own distress was kept alive by the saving clause in the Act of 1852, and that the distress by justices' warrant was additional to, and not in substitution for, the company's original remedy (*Richards* v. *West Middlesex Waterworks Co.* (1885), 15 Q. B. D. 660; 49 J. P. 631).

Although the statutory remedy provided by s. 68 of the Waterworks Clauses Act, 1847, for the settlement by two justices of disputes as to the annual value of a tenement supplied by water, and the special remedy by penalties given by s. 43 against a company for withholding water, have not ousted the general jurisdiction to restrain the company by injunction from cutting off the supply of water pending proceedings for settling a dispute as to value, such injunction will not be granted on the application of an owner or occupier who will not undertake to commence proceedings with due speed before the justices under s. 68 (*Hayward* v. *East London Waterworks Co.* (1885), 28 Ch. D. 138; 49 J. P. 452).

Upon the hearing of a summons to enforce payment of a water rate, the justices have power under the above section to determine a dispute as to the annual value of the premises rated. It is not necessary to their jurisdiction before making an order for payment of the rate upon such summons that the dispute should have been previously determined in a separate proceeding before justices (*Lea* v. *Abergavenny Improvement Commissioners* (1886), 16 Q. B. D. 18; 50 J. P. 165).

Where water rates had been paid for a number of years without objection it was held that the excess which had been charged in respect of an annual value beyond that prescribed in the section could not be recovered back (*Henderson* v. *Folkestone Waterworks Co.* (1884), 1 T. L. R. 329).

So where water rate had been paid on gross value instead of net value in ignorance of the fact that the former was a wrong basis, it was held that the excess could not be recovered (*Slater* v. *Burnley Corporation* (1889), 53 J. P. 70). And see *Slater* v. *Burnley Corporation* (No. 2) (1889), 53 J. P. 535. And see *Stanley* v. *Nuneaton Corporation* (1913), 77 J. P. 349; 108 L. T. 986.

Where a water company was authorised by their special Act to charge at agreed rates for water supplied for purposes other than domestic, it was held that they were not by implication prohibited from entering into agreements for the supply of water for domestic

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purposes at agreed rates (*Southwark and Vauxhall Waterworks Co.* v. *Dickenson* (1888), 5 T. L. R. 251).

The Barnet Gas and Water Act, 1872 (with which is incorporated the Waterworks Clauses Act, 1847), provides (*inter alia*): " Section 56. The company . . . shall furnish . . . a sufficient supply of water . . . at any rate, on the actual rack-rental of the house or part of a house or premises supplied if the same be let at rack-rent, and on the annual value if, and while, the same is not let at rack-rent, not exceeding " (so much) :—*Held*, that " the annual rack-rent " means the same as " the annual value," and does not mean " net annual value " (*Stevens* v. *Barnet District Gas and Water Co.* (1888), 57 L. J. M. C. 82 ; 52 J. P. 276).

By 1 & 2 Geo. 4, c. cxiv., s. 8, the churchwardens of a parish were required to make a rate " on the full annual rent or value " of all houses rateable to the relief of the poor :—*Held*, that the full annual rent or value meant the full annual net value and that the rate could not be made on the gross estimated rental (*Rose* v. *Watson*, [1894] 2 Q. B. 90 ; 58 J. P. 589).

In determining the annual value of a residential tenement under s. 68 of the Waterworks Clauses Act, 1847, for the purposes of water supply to the dwelling-house for domestic purposes only, it is not competent to justices to exclude a portion of the garden occupied and enjoyed with the dwelling-house. The section contemplates the valuation of the existing tenement as the owner and occupier choose to enjoy it (*Grand Junction Waterworks Co.* v. *Davies*, [1897] 2 Q. B. 209 ; 61 J. P. 484).

If a statute which authorises a water company to charge its consumers with a water rate is ambiguous with regard to the amount of the rate to be charged or the mode of assessing it, it must be construed in favour of the consumer and against the company (*South Staffordshire Waterworks Co.* v. *Barrow* (1897), 61 J. P. 661). But where a section of the special Act provided that the company should supply water at the yearly rates specified, namely, where the gross estimated rental of the premises should not exceed a certain amount, at a rate per cent. on the amount specified, it was held that the provision varied that in the text and that the rate must be calculated on the gross estimated rental (*Woking Water and Gas Co.* v. *Parker*, [1916] 1 K. B. 473 ; 80 J. P .188).

Where an owner was entitled by statute to a supply at a reduced rate by reason of his house standing on a particular estate, but he had for many years paid the full rate in ignorance that his house stood on that estate, he was held entitled to recover back the over-payments (*Meadows* v. *Grand Junction Waterworks Co.* (1905), 69 J. P. 255 ; 21 T. L. R. 538).

A water company, before the Education Act, 1902, came into operation supplied water by meter to the managers of a voluntary public elementary school for the non-domestic purposes of the school buildings, and continued to supply them after the Act of 1902 came into force. There was no written contract. The company continued, as they had done before the Act, to send the demand note for payment for the water supplied to the managers, who included the charges in their quarterly accounts of expenditure sent by them to the local education authority who paid the amount direct to the company. The company sent the receipts to the local education authority. The local education authority having made default in the payments, the company brought an action against them for water supplied. It was held by the Divisional Court that the local education authority had power to enter into a contract for the supply of water necessary for the maintenance of the school, and that there was evidence upon which the county court judge might properly find that they had in fact entered into such a contract with the company (*Trowbridge Water Co.* v. *Wilts C. C.*, [1909] 1 K. B. 824 ; 73 J. P. 280). See also *Northern Theatres Co.* v. *Shillito*, [1925] 2 K. B. 100 ; 89 J. P. 101, and the cases of *Metropolitan Water Board* v. *Baker* (1910), 74 J. P. 337 ; 102 L. T. 536, and *Metropolitan Water Board* v. *Phillips*. [1913] A. C. 86 ; 77 J. P. 73, decided under the Metropolitan Water Board (Charges) Act, 1907, s. 8.

Where several houses are supplied by one pipe, each shall pay as if separately supplied.

69. When several houses or parts of houses in the separate occupation of several persons are supplied by one common pipe, the several owners or occupiers of such houses or parts of houses shall be liable to the payment of the same rates for the supply of water as they would have been liable to if each of such several houses or parts of houses had been supplied with water from the works of the undertakers by a separate pipe.

Rates to be paid quarterly in advance.

70. The rates shall be paid in advance (*a*) by equal quarterly payments in England . . . at Christmas Day, Lady Day, Midsummer Day, and Michaelmas Day, . . . and the first payment shall be made at the time when the pipe by which the water is supplied is made to communicate with the pipes of the undertakers, or at the time when the agreement to take water from the undertakers is made (*b*).

(a) Therefore no demand is necessary before proceedings for recovery (*East London Waterworks Co.* v. *Kyffin*, [1895] 1 Q. B. 55; 59 J. P. 405). But see, *per* ALVERSTONE, L.C.J., in *Elliott* v. *Russell*, [1902] 2 K. B., at p. 754; 67 J. P. 158.

(b) Words relating to Scotland and Ireland only are omitted from this section.

Note to Section 70.

Parties giving notice to discontinue use of water, or removing, to pay to the next quarter day.

71. The occupier of any dwelling-house or part of a dwelling-house liable to the payment of any water rate who shall give notice of his intention to discontinue the use of the water supplied by the undertakers, or who shall remove from his dwelling between any two quarterly days of payment, shall pay the water rate in respect of such dwelling-house or part of a dwelling-house for the quarter ending on the quarterly day of payment next after his quitting the same or giving such notice.

Owners of houses not exceeding £10 rent to be liable to water rates.

72. The owners of all dwelling-houses or parts of dwelling-houses occupied as separate tenements, the annual value of which houses or tenements shall not exceed the sum of ten pounds, shall be liable to the payment of the rates instead of the occupiers thereof; and the powers and provisions herein or in the special Act contained for the recovery of rates from occupiers shall be construed to apply to the owners of such houses and tenements (*a*); and the person receiving the rents of any such house or tenement as aforesaid from the occupier thereof, on his own account, or as agent or receiver for any person interested therein, shall be deemed the owner of such house or tenement (*b*).

(*a*) The respondents, relying on s. 58 of their private Act (15 & 16 Vict. c. clviii.), which extended the provisions of s. 72 of the Waterworks Clauses Act, 1847, to houses not exceeding the annual value of £20, claimed water rates from the appellants, as owners of certain houses under the annual value of £20 each, for two quarters, during the whole of which time such houses were unoccupied:—*Held*, that an owner's liability for rates under s. 72 of the Waterworks Clauses Act, 1847, ceases on the quarterly day of payment next after the house has become unoccupied, and that as s. 58 of the respondents' private Act merely extended the provisions of that section to houses not exceeding the annual value of £20, the respondents were not entitled to recover (*British Empire Mutual Life Assurance Co.* v. *Southwark and Vauxhall Water Co.* (1888), 52 J. P. 758; 59 L. T. 321). When a house is unoccupied at the beginning of a quarter, and becomes occupied in the course of that quarter, the water rate is payable only for that portion of the quarter during which the house is occupied, although the company had no notice of the non-occupation, and continued to supply water (*East London Waterworks Co.* v. *Foulkes*, [1894] 1 Q. B. 819; 58 J. P. 384). Where upon adjudication the trustee in bankruptcy takes possession of the debtor's premises, and carries on therein the business with a view to selling it as a going concern, he is in the position of an "incoming tenant" within s. 48 of the Metropolis Water Act, 1871, and is not liable for arrears of water rate left unpaid by the debtor; and if he has paid such arrears under protest he is entitled to recover them back (*Re Flack, Ex parte Berry*, [1900] 2 Q. B. 32).

It is sufficient to prove that the rateable value as settled by the local authority does not exceed the maximum sum under which the owner is liable (*Metropolitan Water Board* v. *Streeton* (1910), 74 J. P. 180; 102 L. T. 220).

(*b*) Where the premises were mortgaged and a receiver was appointed, the mortgagor appointed another person to collect the rents. The collector handed over the rents intact, at first to the mortgagor and subsequently to the receiver. It was held that the collector and not the receiver was the person liable under a section of a special Act substantially identical with the text, to pay the water rate (*Metropolitan Water Board* v. *Brooks*, [1911] 1 K. B. 289; 75 J. P. 41).

Sums paid by owner recoverable as rent from tenant.

73. Provided always, that when any owner shall pay any such rate in respect of any such dwelling-house or part of a dwelling-house which shall be in the occupation of any tenant under any lease or agreement made prior to the passing of the special Act, such tenant shall repay to the owner all sums which shall be so by him paid during the continuance of such lease, unless it have been agreed that the owner shall pay the water rates in respect of such dwelling-house or part of a dwelling-house (*a*); and every such sum of money payable by the tenant to the owner, under the provision hereinbefore contained, may be recovered, if the same be not paid upon demand, as arrears of rent could be recovered from the occupier by the said owner.

Note to Section 73.

(*a*) Under a covenant by a lessor to pay all water rates imposed or assessed upon the premises, or on the lessor or lessee in respect thereof, the lessor is not bound to pay for water supplied to the lessee for trade purposes (*Re Floyd, Floyd* v. *Lyons & Co.*, [1897] 1 Ch. 633). But under a covenant to pay all rates and taxes payable in respect of the demised premises a lessor is bound to pay water rate for water supplied for domestic purposes (*Bourne and Tant* v. *Salmon and Gluckstein,* [1907] 1 Ch. 616 ; 71 J. P. 329 ; *Drieselman* v. *Winstanley* (1909), 53 Sol. Jo. 631).

If rates are not paid, water may be cut off, and rates and expenses recovered.

74. If any person supplied with water by the undertakers, or liable (*a*) as herein or in the special Act provided to pay the water rate, neglect to pay such water rate at any of the said times of payment thereof, the undertakers may stop the water from flowing into the premises in respect of which such rate is payable, by cutting off the pipe to such premises, or by such means as the undertakers shall think fit, and may recover the rate due from such person, if less than twenty pounds, with the expenses of cutting off the water, and costs of recovering the rate, in the same manner as any damages for the recovery of which no special provision is made are recoverable by this or the special Act ; or if the rate so due amount to twenty pounds or upwards, the undertakers may recover the same, with the expenses of cutting off the water, by action in any court of competent jurisdiction (*b*).

(*a*) *I.e.*, liable at the time the water rate became due. Provided that there was at that date an occupier other than the owner and that the owner and not the occupier was liable for the payment of the rate, s. 4 of the Water Companies (Regulation of Powers) Act, 1887, *post*, p. 2489, prohibits the water company from cutting off the supply for non-payment of the rate even after the occupier has given up possession and the premises have become vacant (*Metropolitan Water Board* v. *Bibbey*, [1911] 2 K. B. 74 ; 75 J. P. 322).

(*b*) See also 26 & 27 Vict. c. 93, s. 21, *post*, p. 2269. See *Sheffield Waterworks Co.* v. *Wilkinson*, *ante*, p. 2192. With reference to the particular mode of recovering the rates here prescribed, it may be stated that damages not specially provided for are by s. 85 recoverable under the sections of the Railways Clauses Act, 1845, *ante*, p. 2139. In such case the claim of a water company for arrears of rates is a complaint within s. 11 of the S. J. A., 1848, and the summons must be issued within six months from the date when the rate was due and demanded (*East London Waterworks Co.* v. *Charles*, [1894] 2 Q. B. 730 ; see, *per* WILLS, J., in *Elliott* v. *Russell*, [1902] 2 K. B., at p. 755 ; 67 J. P. 158). The limitation of six months imposed in respect of summary proceedings does not apply to proceedings in the county court when both remedies are open to the company (*Metropolitan Water Board* v. *Bunn*, [1913] 3 K. B. 181 ; 77 J. P. 353). The rates being payable quarterly in advance no demand is necessary (*East London Waterworks Co.* v. *Kyffin*, *ante*, p. 2199 ; but see, *per* ALVERSTONE, L.C.J., in *Elliott* v. *Russell*, [1902] 2 K. B., at 754 ; 67 J. P. 158). Water rates made by an urban authority will, however, be recoverable by summary proceedings under s. 256 of the P. H. A., 1875, *ante*, p. 562.

See, as to the right to cut off the water when the rates are payable by the owner, 50 & 51 Vict. c. 21, s. 4, and the notes thereto, *post*, p. 2489.

It is not a condition precedent to the right to recover the rate that the power of cutting off the water should first have been exercised (*R.* v. *Hutton*, [1907] 2 K. B. 578 ; 71 J. P. 424.

As to the discretion of the justices in respect of costs, see *Ruabon Water Co.* v. *Evans* (1906), 22 T. L. R. 541.

* * * * * *

THE TOWNS IMPROVEMENT CLAUSES ACT, 1847.

(10 & 11 VICT. c. 34) (*a*).

An Act for consolidating in one Act certain Provisions usually contained in Acts for Paving, Draining, Cleansing, Lighting, and Improving Towns.

[21st June, 1847.]

Incorporation of this Act with special Act.

[**1.**] This Act shall extend only to such towns or districts in England or Ireland as shall be comprised in any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith ; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the town or district which shall be comprised in such Act, and to the commissioners appointed for improving and regulating the same, so far as such clauses shall be applicable thereto respectively, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

(*a*) Sections 64—83 and ss. 125—131 are incorporated by the P. H. A., 1875, s. 160, *ante*, p. 363, and s. 381, *ante*, p. 408.

Interpretation.

And with respect to the construction of this Act, whether incorporated in whole or in part with any other Act, and of any Act incorporated therewith, be it enacted as follows:

"The special Act."

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed for the improvement or regulation of any town or district, or of any class of towns or districts, defined or comprised therein, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the commissioners" shall mean the commissioners, trustees, or other persons or body corporate intrusted by the special Act with powers of executing the purposes thereof.

"Prescribed."

"The commissioners."

Interpretations in this and the special Act.

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

Number. — Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number:

Gender. — Words importing the masculine gender shall include females:

"Person." — The word "person" shall include a corporation, whether aggregate or sole:

"Lands." — The word "lands" shall include messuages, lands, tenements, and hereditaments, of any tenure:

"Street." — The word "street" shall extend to and include any road, square, court, alley, and thoroughfare, within the limits of the special Act:

"Month." — The word "month" shall mean calendar month:

"Superior courts." — The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster . . .

"Oath." — The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

"County." — The word "county" shall include riding or other division of a county having a separate commission of the peace, and shall also include county of a city or county of a town:

"Justice." — The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises; and where any matter is authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together:

"Two justices."

"Quarter sessions." — The expression "quarter sessions" shall mean quarter sessions as defined in the special Act, and if such expression be not there defined shall mean

Section 3.

the court of general or quarter sessions of the peace which shall be held in or at the place nearest to the district in which the matter arises requiring the cognizance of any such court, and having jurisdiction over such district :

"Owner." The word "owner" used with reference to any lands or buildings in respect of which any work is required to be done, or any rate to be paid, under this or the special Act shall mean the person for the time being entitled to receive, or who, if such lands or buildings were let to a tenant at rack-rent, would be entitled to receive, the rack-rent from the occupier thereof :

"Cattle." The word "cattle" shall include horses, asses, mules, sheep, goats, and swine.

Citing the Act.

And with respect to citing this Act or any part thereof, be it enacted as follows :

Short title of this Act.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The Towns Improvement Clauses Act, 1847."

Form in which portions of this Act may be incorporated with other Acts.

5. For the purposes of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

* * * * * *

Naming streets.

And with respect to naming the streets and numbering the houses, be it enacted as follows (*a*) :

(*a*) These clauses are incorporated with the P. H. A., 1875, by s. 160, *ante*, p. 381. See also notes to that section. Where s. 19 of the P. H. A., 1925, *ante*, p. 1558, has been adopted the incorporation of these clauses by s. 160 of the P. H. A., 1875, ceases to have effect in so far as it relates to the naming of the streets (s. 19 (3), P. H. A., 1925). The provisions with respect to the numbering of houses still remain operative.

Houses to be numbered and streets named.

64. The commissioners shall from time to time cause the houses and buildings in all or any of the streets to be marked with numbers as they think fit, and shall cause to be put up or painted on a conspicuous part of some house, building, or place, at or near each end, corner, or entrance of every such street, the name by which such street is to be known (*a*); and every person who destroys, pulls down, or defaces any such number or name, or puts up any number or name different from the number or name put up by the commissioners, shall be liable to a penalty not exceeding forty shillings for every such offence (*b*).

(*a*) This gives the local authority no power to change the names of streets, and if the proposed change is likely to be injurious to the owners or occupiers of houses in the street, the local authority may be restrained from making it (*Anderson* v. *Dublin Corporation* (1884), 15 L. R. Ir. 510). But although the local authority have approved of plans for a new street, giving it a name, they may afterwards, when the street is actually laid out, give it another name (*Collins* v. *Hornsey U. D. C.*, [1901] 2 K. B. 180 ; 65 J. P. 606). See also on the subject of altering the names of streets, s. 21 of the P. H. A., 1907, *ante*, p. 1116, and s. 18 of the P. H. A., 1925, *ante*, p. 1557, which when adopted supersedes s. 21 of the 1907 Act.

It is not a violation of any legal right of the owner of a house for the owner of another house to call it by the same name. There is no legal right to the exclusive use of any particular name for a particular house (*Day* v. *Brownrigg* (1879), 10 Ch. D. 294).

(*b*) As to the recovery of this penalty, see s. 316 of the P. H. A., 1875, *ante*, p. 655. The numbers must be provided at the expense of the occupiers, and there is no distinct legal authority for charging them to the rates.

Numbers of houses to be renewed by occupiers.

65. The occupiers of houses and other buildings in the streets shall mark their houses with such numbers as the commissioners approve of, and shall renew such numbers as often as they become obliterated or defaced; and every such occupier who fails, within one week after notice for that purpose from the commissioners, to mark his house with a number approved of by the commissioners, or to renew such number when obliterated, shall be liable to a penalty not exceeding forty shillings, and the commissioners shall cause such numbers to be marked or to be renewed, as the case may require, and the expense thereof shall be repaid to them by such occupier, and shall be recoverable as damages (*a*).

(*a*) See note (*b*), s. 64, *ante*, p. 2202.

Improving streets.

And with respect to improving the line of the streets, and removing obstructions, be it enacted as follows (*a*):

(*a*) These clauses are incorporated with the P. H. A., 1875, by s. 160, *ante*, p. 381. See also notes to that section. See also the P. H. (Buildings in Streets) A., 1888, *ante*, p. 826, the P. H. A., 1925, s. 33, *ante*, p. 1576, and the Roads Improvement Act, 1925, s. 5, *ante*, p. 1542.

Houses may be set forward for improving line of street.

66. The commissioners may allow, upon such terms as they think fit, any building within the limits of the special Act to be set forward, for improving the line of the street in which such building, or any building adjacent thereto, is situated (*a*).

(*a*) The word *street* is here used in its popular acceptation of a line of buildings, and does not include a highway generally. This section gives no power to divert a highway, not being a street; that can only be done under the Highway Acts (*R.* v. *Platts* (1880), 49 L. J. Q. B. 848; 44 J. P. 765); or under Inclosure Acts, as in *Hornby* v. *Sylvester* (1888), 20 Q. B. D. 797; 52 J. P. 468; or by an improvement or reconstruction scheme under the Housing Act, 1925, s. 38 (1) (d), *ante*, p. 1413. See also s. 155 of the P. H. A., 1875, *ante*, p. 343, and note thereto.

Commissioners may purchase lands for widening streets, etc. and sell the parts not wanted.

67. The commissioners may agree with the owners of any lands within the limits of the special Act for the absolute purchase thereof, for the purpose of widening, enlarging, or otherwise improving any of the streets, and they shall resell any parts of the land so purchased which shall not be wanted for the enlargement of the street (*a*).

(*a*) A similar power is conferred upon urban authorities by s. 154 of the P. H. A., 1875, *ante*, p. 340, as interpreted by s. 83 of the P. H. A., 1925, *ante*, p. 1627. See also s. 175 of that Act as to the disposal of surplus lands, *ante*, p. 431.

Houses projecting beyond line of street, when taken down, to be set back.

68. When any house or building, any part of which projects beyond the regular line of the street (*a*), or beyond the front of the house or building on either side thereof, has been taken down in order to be rebuilt or altered, the commissioners may require the same to be set backwards to or towards the line of the street, or the line of the adjoining houses or buildings, in such manner as the commissioners direct, for the improvement of such street: Provided always, that the commissioners shall make full compensation to the owner of any such house or building for any damage he thereby sustains (*b*).

(*a*) This does not mean a strict mathematical line, but a substantially regular line (*Tear* v. *Freebody*, *ante*, p. 343). No general line of buildings may exist in some cases. See *Ecclesiastical Commissioners* v. *St. James, Clerkenwell* (1861), 7 Jur. (N.S.) 326. *Tear* v. *Freebody* was explained by Willes, J., in *Simpson* v. *Smith*, *post*, p. 2204, and see *Lord Manners* v. *Johnson* (1875), 1 Ch. D. 673. When houses project and are pulled down, and the land sold for building purposes, new houses may be built on the same line as before, unless compensation be given. In determining the general line, therefore, regard ought to be had to the frontage of houses previously existing, and which may be rebuilt, as well as those still standing (*Lord Auckland* v. *Westminster Board of Works* (1872), L. R. 7 Ch. 597).

As to the right of an adjoining owner to sue in respect of a building erected contrary to this section, see *Brooks* v. *Terry* (1888), 4 T. L. R. 678.

Note to Section 68.

As to the determination of the general line of buildings in the metropolis, see *St. George, Hanover Square* v. *Sparrow* (1864), 16 C. B. (N.S.) 209; *Bauman* v. *St. Pancras Vestry* (1867), L. R. 2 Q. B. 528; *Wandsworth Board of Works* v. *Hall* (1869), L. R. 4 C. P. 85; *Simpson* v. *Smith* (1871), L. R. 6 C. P. 87; *Lord Auckland* v. *Westminster Board of Works, supra; Paddington Vestry* v. *Snow* (1882), 46 J. P. 87; 45 L. T. 476; *Barlow* v. *Kensington Vestry* (1885), 11 App. Cas. 257; 50 J. P. 691; *Plumstead Board of Works* v. *Spackman* (1884), 10 App. Cas. 229; 49 J. P. 132; *St. Mary, Islington, Vestry* v. *Goodman* (1889), 23 Q. B. D. 154; *Fortescue* v. *St. Matthew, Bethnal Green, Vestry*, [1891] 2 Q. B. 170; 53 J. P. 758; *London C. C.* v. *Cross* (1891), 66 L. T. 731; *Allen* v. *London C. C.*, [1895] 2 Q. B. 587; 59 J. P. 644; *Lavy* v. *London C. C.*, [1895] 2 Q. B. 577; 59 J. P. 630; *London C. C.* v. *Pryor*, [1896] 1 Q. B. 468; 60 J. P. 292; *S. E. & C. Rail. Co.* v. *London C. C.*, [1907] 2 K. B. 91; 71 J. P. 260; *London C. C.* v. *Metropolitan Rail. Co.* (1907), 71 J. P. 372; *Re Lilley and Skinner* (1907), 71 J. P. 437; *Scott* v. *Carritt* (1900), 82 L. T. 67; *Lilley* v. *London C. C.*, [1910] A. C. 1; 73 J. P. 297; *Rea* v. *London C. C.*, [1911] 1 K. B. 740; 75 J. P. 261; *Fleming* v. *London C. C.* (1909), 72 J. P. 519; *London C. C.* v. *Coal Co-operative Society, Ltd.* (1907), 72 J. P. 68; *London C. C.* v. *Metropolitan Rail. Co.*, [1909] 2 K. B. 317; 73 J. P. 339; *Fleming* v. *London C. C.*, [1911] A. C. 1; 75 J. P. 9; *A. & F. Pears, Ltd.* v. *London C. C.* (1911), 75 J. P. 461; *London C. C.* v. *Clode*, [1915] A. C. 947; *London C. C.* v. *Galsworthy*, [1918] A. C. 851; 82 J. P. 297; *London C. C.* v. *Metropolitan Rail. Co.*, [1919] 1 K. B. 283; 83 J. P. 105.

(*b*) See also the P. H. A., 1875, s. 155, *ante*, p. 343, and the notes thereto.

Future projections of houses, etc. to be removed on notice.

69. The commissioners may give notice to the occupier (*a*) of any house or building to remove or alter any porch, shed, projecting window, step, cellar, cellar door or window, sign, sign post, sign iron, showboard, window shutter, wall, gate, or fence, or any other obstruction or projection erected or placed, after the passing of the special Act, against or in front of any house or building within the limits of the special Act, and which is an obstruction to the safe and convenient passage along any street; and such occupier shall, within fourteen days after the service of such notice upon him, remove such obstruction, or alter the same in such manner as shall have been directed by the commissioners, and in default thereof shall be liable to a penalty not exceeding forty shillings; and the commissioners in such case may remove such obstruction or projection, and the expense of such removal shall be paid by the occupier so making default, and shall be recoverable as damages: Provided always, that, except in the case in which such obstructions or projections were made or put up by the occupier, such occupier shall be entitled to deduct the expense of removing the same from the rent payable by him to the owner of the house or building (*b*).

(*a*) Or *owner*. See the P. H. A., 1875, s. 160, *ante*, p. 381.

The local authority are not obliged to give notice to the owner or occupier before passing a resolution to send him notice to remove a projection, but if he objects to their order, his proper course is to apply to the local authority to be heard and lay his objections before them (*Att.-Gen.* v. *Hooper*, [1893] 3 Ch. 483; 57 J. P. 564).

(*b*) Any projection erected or placed against or in front of any house or building which by reason of being insecurely fixed or of defective construction or otherwise is a source of danger to persons lawfully using a street in an urban district, where s. 24 of the P. H. A., 1925, has been adopted, is to be deemed to be an obstruction to the safe and convenient passage along the street for the purposes of this and the next section (s. 24, P. H. A., 1925, *ante*, p. 1564). As to area railings, see *Bouverie* v. *Miles* (1830), 1 B. & Ad. 38; *Barker* v. *Herbert, infra*; as to a projecting shop front, see *R.* v. *Ingham* (1852), 17 Q. B. 884. As to a projecting porch, see *Gordon* v. *St. Mary Abbotts Vestry*, [1894] 2 Q. B. 742; *Coburg Hotel Co.* v. *London C. C.* (1899), 63 J. P. 805; 81 L. T. 450; as to a show-case on the footway, *Openshaw* v. *Pickering* (1913), 77 J. P. 27. A corresponding section of the Metropolis Management Act, 1855, was held not to justify the removal of a shed and seats erected by a publican upon a piece of ground between the footway and the roadway, the intervening space being found not to be part of the street, and the shed and seats not being against or in front of any house (*Le Neve* v. *Mile End Old Town Vestry*, *ante*, p. 20). And see *Hoare* v. *Lewisham Borough Council* (1903), 67 J. P. 20; 87 L. T. 464. A shopkeeper placed goods on the pavement in front of his shop for sale, and was summoned under s. 28 of the Towns Police Clauses Act, 1847. He contended that he bona fide claimed the right to put the goods there, and the justices considered that their jurisdiction was ousted, but stated a case:—*Held*, that the justices ought to determine whether the land on which the goods were placed was part of the highway or not; and that unless the defendant established a restricted dedication no question as to a claim of right arose (*Leicester Urban Sanitary*

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Authority v. *Holland* (1888), 57 L. J. M. C. 75; 52 J. P. 788). Where a question arises as to whether the portion of the highway obstructed had ever been dedicated, the justices must determine this point and their jurisdiction is not ousted (*Williams* v. *Deptford U. D. C.* (1924), 41 T. L. R. 47). As to proof of dedication of embayments adjoining the foot pavement, see *Piggott* v. *Goldstraw* (1901), 65 J. P. 259. As to a dedication of a street subject to existing obstructions or projections, see *Fisher* v. *Prowse; Cooper* v. *Walker* (1862), 26 J. P. 613; 2 B. & S. 770, where such dedication was held to be an answer in actions for accidents caused by cellar flaps and projecting doorsteps. And see *Brackley* v. *Midland Rail. Co.* (1916), 85 L. J. K. B. 1596; 80 J. P. 369. It is a good defence that the footway was dedicated to the public subject to the right of the defendant to commit the acts of obstruction complained of, and such defence if raised bonâ fide ousts the jurisdiction of the justices. The evidence, however, to establish such a defence should be of a cogent character (*R.* (*Christie*) v. *Londonderry JJ.*, [1902] 2 I. R. 266). And see *R.* (*Kennedy*) v. *Cork County JJ.* (1911), 45 Ir. L. T. 217. There may be a dedication subject to the right to erect and maintain gates (*Att.-Gen.* v. *Meyrick* (1915), 79 J. P. 515). As to projections existing before the passing of the local Act, see *Wilson* v. *Cunliffe* (1874), 38 J. P. 231; 29 L. T. 913; *Whittaker* v. *Rhodes* (1881), 46 J. P. 182. As to the liability of the occupier for accidents caused by projections, see *Tarry* v. *Ashton* (1876), 1 Q. B. D. 314; 40 J. P. 439; *Watson* v. *Ellis* (1884), 1 T. L. R. 317, where the plaintiff tripped over a carpet laid across a pavement to a carriage; *De Tyron* v. *Waring* (1884), 1 T. L. R. 414; *Hoare* v. *Kearley* (1884), 1 T. L. R. 426; *Strube* v. *Southwark and Vauxhall Waterworks Co.* (1889), 53 J. P. 424; 5 T. L. R. 638, where the plaintiff fell in consequence of having put his staff into a stop-cock box negligently left uncovered in the road; *Braithwaite* v. *Watson* (1888), 5 T. L. R. 331, where the plaintiff was injured by reason of a coal-cellar plate in the pavement being insecurely fastened; *Stiefsohn* v. *Brooke* (1889), 53 J. P. 790; 5 T. L. R. 684, where the plaintiff was injured by a lift inside an aperture adjoining the highway; *Barker* v. *Herbert*, [1911] 2 K. B. 633; 75 J. P. 481, where a child was injured when climbing on defective railings. As to overhead wires, see *Wandsworth Board of Works* v. *United Telephone Co.* (1884), 13 Q. B. D. 904; 48 J. P. 676.

It will be for the magistrate to decide whether the thing complained of is an obstruction to the passage. See *Gabriel* v. *St. James's, Westminster* (1859), 23 J. P. 372, where the court intimated that this could be decided without calling a person to prove he had been actually obstructed. This was also decided in *Read* v. *Perrett* (1876), 1 Ex. D. 349; 41 J. P. 135. But see *Hill* v. *Somerset* (1887), 51 J. P. 356. A projection consisting of an oriel window, the lowest part of which is fifteen feet above the pavement, is not an obstruction. See *Goldstraw* v. *Duckworth* (1880), 5 Q. B. D. 275; 44 J. P. 410. In the Scotch case of *McMillan* v. *Bennett* (1895), 22 Ct. of Sess. Cas. (4th ser.) (J.C.) 23, the appellant, a bill poster, was convicted under s. 381 of the Burgh Police (Scotland) Act, 1892, for affixing a projecting advertising board to a building without the consent of the burgh commissioners. The building in question was the back wall of a workshop, on which the appellant fixed a board or wooden lining on which to post his bills, that board being about 102 feet long, 7 feet 6 inches high, and (taking into account the straps to which the board was affixed) it projected from the wall to the extent of 1¾ inches. Section 159 of the Act was in much the same terms as this section:—*Held*, following *Goldstraw* v. *Duckworth*, *ante*, that it was not a projecting advertising board in the sense of the statute, which was intended to strike only at such projections as constituted an obstruction to the free passage of the street. See also *Hull* v. *London C. C.*, [1901] 1 K. B. 580; 65 J. P. 309; *Winsborrow* v. *London Joint Stock Bank* (1903), 67 J. P. 289; 88 L. T. 803; *London C. C.* v. *Illuminated Advertisements Co.*, [1904] 2 K. B. 886; 68 J. P. 445; *London C. C.* v. *Schewzik*, [1905] 2 K. B. 695; 69 J. P. 409; *London C. C.* v. *Hancock and James*, [1907] 2 K. B. 45; 71 J. P. 268; *R.* v. *Denman* (1907), 71 J. P. 279; 96 L. T. 672.

Apart from statute there may be a legal easement to have a projection such as a signboard affixed to the wall of an adjoining house. See *Moody* v. *Steggles* (1879), 12 Ch. D. 261.

Commissioners may cause existing projections to be removed, on giving notice and making compensation.

70. If any such obstructions or projections were erected or placed against or in front of any house or building in any such street before the passing of the special Act, the commissioners may cause the same to be removed or altered as they think fit (*a*); provided that they give notice of such intended removal or alteration to the occupier (*b*) of the house or building against or in front of which such obstruction or projection shall be thirty days before such alteration or removal is begun, and, if such obstructions or projections shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration.

(*a*) See *Bagshaw* v. *Buxton L. B.*, *ante*, p. 278.

(*b*) Or *owner*. See the P. H. A., 1875, s. 160, *ante*, p. 381. As to the liability of the owner of the premises and of the local authority for injuries caused by a gate opening outwards, see *Evans* v. *Edinburgh Corporation*, [1916] 2 A. C. 45.

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Doors, etc. in future not to be made to open outwards, except when so allowed in case of public buildings.

71. All doors, gates, and bars put up after the passing of the special Act within the limits thereof, and which open upon any street, shall be hung or placed so as not to open outwards, except when, in the case of public buildings, the commissioners allow such doors, gates, or bars to be otherwise hung or placed; and if, except as aforesaid, any such door, gate, or bar be hung or placed so as to open outwards on any street, the occupier (*a*) of such house, building, yard, or land shall, within eight days after notice from the commissioners to that effect, cause the same to be altered so as not to open outwards; and in case he neglect so to do, the commissioners may make such alteration, and the expenses of such alteration shall be paid to the commissioners by such occupier (*a*), and shall be recoverable from him as damages (*b*), and he shall, in addition, be liable to a penalty not exceeding forty shillings.

(*a*) See note (*b*) to s. 70, *ante*, p. 2205.

(*b*) See the P. H. A., 1875, s. 160, *ante*, p. 381, as to the recovery of these costs from the owner, and the deduction of them from the rent, as in the case of private improvement rates.

Existing doors, etc. opening outwards may be altered.

72. If any such door, gate, or bar was before the passing of the special Act hung so as to open outwards upon any street, the commissioners may alter the same, so that no part thereof when open shall project over any public way.

Coverings for cellar doors to be made by occupiers.

73. When any opening is made in any pavement or footpath within the limits of the special Act, as an entrance to any vault or cellar, a door or covering shall be made by the occupier (*a*) of such vault or cellar, of iron or such other materials, and in such manner as the commissioners direct, and such door or covering shall from time to time be kept in good repair by the occupier of such vault or cellar; and if such occupier do not within a reasonable time make such door or covering, or if he make any such door or covering contrary to the directions of the commissioners, or if he do not keep the same when properly made in good repair, he shall for every such offence be liable to a penalty not exceeding five pounds.

(*a*) See note (*b*) to s. 70, *ante*, p. 2205.

Water spouts to be affixed to houses or buildings.

74. The occupier (*a*) of every house or building in, adjoining, or near to any street shall, within seven days next after service of an order of the commissioners for that purpose, put up and keep in good condition a shoot or trough of the whole length of such house or building, and shall connect the same either with a similar shoot on the adjoining house or with a pipe or trunk to be fixed to the front or side of such building from the roof to the ground, to carry the water from the roof thereof, in such manner that the water from such house, or any portico or projection therefrom, shall not fall upon the persons passing along the street, or flow over the footpath; and in default of compliance with any such order within the period aforesaid, such occupier shall be liable to a penalty not exceeding forty shillings for every day that he shall so make default (*b*).

(*a*) Or *owner*. See the P. H. A., 1875, s. 160, *ante*, p. 381.

(*b*) Further powers, which are in addition to those conferred by this section, may be obtained by the adoption of s. 21 of the P. H. A., 1925, *ante*, p. 1560.

Ruinous or dangerous buildings.

And with respect to ruinous or dangerous buildings (*a*), be it enacted as follows:

(*a*) As to fencing lands adjoining streets, which lands are, owing to the absence or inadequate repair of fences, a source of danger to passengers, see ss. 30 and 31 of the P. H. A., 1907, *ante*, p. 1122. And as to the securing of dangerous ground or cliffs under a local Act, see *Gaby* v. *Palmer* (1916), 85 L. J. K. B. 1240; 80 J. P. 212.

Ruinous or dangerous buildings to be taken down or secured by owners, etc.

75. If any building or wall, or anything affixed thereon, within the limits of the special Act, be deemed by the surveyor of the commissioners to be in a ruinous state, and dangerous to passengers (*a*) or to the occupiers of the neighbouring buildings, such surveyor shall immediately cause a proper hoard or fence to be put up for the protection of passengers (*b*), and shall cause notice in writing to be given to the owner (*c*) of such building or wall, if he be known and resident within the said limits, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, if any, requiring such owner or occupier forthwith to take down, secure, or repair such building, wall, or other thing, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure such building, wall, or other thing within the space of three days after any such notice has been so given or put up as aforesaid, and complete such repairs, or taking down or securing, as speedily as the nature of the case will admit, the said surveyor may make complaint thereof before two justices (*d*), and it shall be lawful for such justices to order the owner, or in his default the occupier (if any), of such building, wall, or other thing, to take down, rebuild, repair, or otherwise secure, to the satisfaction of such surveyor, the same, or such part thereof as appears to them to be in a dangerous state (*e*), within the time to be fixed by such justices; and in case the same be not taken down, repaired, rebuilt, or otherwise secured within the time so limited, or if no owner or occupier can be found on whom to serve such order, the commissioners shall with all convenient speed cause all or so much of such building, wall, or other thing as shall be in a ruinous condition, and dangerous as aforesaid, to be taken down, repaired, rebuilt, or otherwise secured, in such manner as shall be requisite; and all the expenses (*f*) of putting up every such fence, and of taking down, repairing, rebuilding, or securing such building, wall, or other thing, shall be paid by the owner thereof.

(*a*) The similar provisions of s. 73 of the Metropolitan Building Act, 1855, applied to any dangerous structure, notwithstanding that it did not adjoin a public highway (*London C. C.* or *R.* v. *Herring*, [1894] 2 Q. B. 522; 58 J. P. 721). That decision was followed in relation to a structure outside the metropolis, in *Mellor* v. *Warden* (1896), 40 Sol. J. 567. The liability of an owner is not affected by the fact that the London County Council has temporarily shored up the building in pursuance of the London Building Act, 1894, s. 106. In order that a house may be dangerous within the meaning of ss. 103, 106 and 107 (1) of that Act, it is not necessary that it should be dangerous to inmates or to the public passing along the highway. It is sufficient if there is an apprehension of danger or injury to adjoining houses or to their inhabitants, or even to trespassers (*London C. C.* v. *Jones*, [1912] 2 K. B. 504; 76 J. P. 293).

(*b*) The erection of a hoard is not a condition precedent to the institution of proceedings against the owner (*R.* v. *Tyrone JJ.*, [1928] N. I. 103).

(*c*) See *R.* v. *Lee* (1878), 4 Q. B. D. 75; 43 J. P. 302, where it was held that the incumbent of a church was not the owner so as to render him liable in respect of its dangerous condition. The owner may remain liable under this section though a notice has been served upon him for the purpose of compulsorily taking his buildings under the Artizans and Labourers Dwellings Improvement Act, 1875 (repealed and replaced by the Housing of the Working Classes Act, 1890, see now Part II. of the Housing Act, 1925) (*Barnet* v. *Metropolitan Board of Works* (1882), 46 J. P. 469; 46 L. T. 384). Although the justices have jurisdiction to inquire who is the owner of the wall in order to ascertain whether the proper notices have been given, that inquiry is one preliminary to the exercise of their jurisdiction, and their decision as to ownership is not conclusive in a subsequent proceeding to recover expenses (*R.* (*Ahern*) v. *Cork Recorder*, [1913] 2 I. R. 35).

(*d*) Compare the provisions of a local Act in *Cheetham* v. *Manchester Corporation* (1875), 39 J. P. 343. The section implies that on the surveyor's complaint a summons must issue.

(*e*) An order requiring an owner to "take down, rebuild and repair" a wall "to the satisfaction of" the surveyor is not bad for uncertainty (*R.* v. *Tyrone JJ.*, [1928] N. I. 103).

(*f*) The expenses are recoverable, although the matter has never been actually before the local authority but has been entirely in the hands of their surveyor by their general directions to him (*London C. C.* v. *Hobbis* (1897), 61 J. P. 85; 75 L. T. 687). As to the expenses which may be recovered, see *Debenham* v. *Metropolitan Board of Works* (1881), 6 Q. B. D. 112; 45 J. P. 190. They include the expenses of reinstating the pavement (*Crisp* v. *London C. C.*, [1899] 1 Q. B. 720; 63 J. P. 484). As between tenant for life of leaseholds and remainderman these expenses are chargeable against income (*Re Copland's Settlement, Johns* v. *Carden*, [1900] 1 Ch. 326; and see *Re Willis, Willis* v. *Willis*, [1902]

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1 Ch. 15). These expenses are "outgoings" within the meaning of a contract for sale (*Tubbs* v. *Wynne*, [1897] 1 Q. B. 74). With regard to the liability as between vendor and purchaser of leaseholds, see *Re Highett and Bird's Contract*, [1903] 1 Ch. 287. Where an owner was required to do work under this section, and he applied to the tenant for leave to enter, who vacated her premises and intimated an intention of surrendering them, and the owner accepted the key and executed the works, thereby rendering occupation impossible, it was held there had been an acceptance of the surrender (*Smith* v. *Roberts*, Times, April 13th, 1892). As to the tenant's liability under an ordinary covenant to repair, see *Lister* v. *Lane*, [1893] 2 Q. B. 212; 57 J. P. 725; *Wright* v. *Lawson* (1904), 68 J. P. 34.

Levy of expenses by distress.

76. If such owner can be found within the limits of the special Act, and if, on demand of the expenses aforesaid, he neglect or refuse to pay the same, then such expenses may be levied by distress, and any justice may issue his warrant accordingly (*a*).

(*a*) These expenses must be recovered within six months from the date of demand. See the cases in the notes to s. 252 of the P. H. A., 1875, *ante*, p. 556. But it is not necessary that three months should elapse between the date of the demand and the commencement of the proceedings for the recovery of the expenses, because s. 257 of the P. H. A., 1875, only applies in cases of apportionment (*Usk U. D. C.* v. *Mortimer* (1904), 68 J. P. 38; 90 L. T. 25).

If owner cannot be found within the limits, or distress cannot be made, commissioners may take the house or ground.

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77. If such owner cannot be found within the said limits, or sufficient distress of his goods and chattels within the said limits cannot be made, the commissioners, after giving twenty-eight days notice of their intention to do so, by posting a printed or written notice in a conspicuous place on such building or on the land whereon such building stood, may take such building or land, provided that such expenses be not paid or tendered to them within the said twenty-eight days, making compensation to the owner of such building or land in the manner provided by the Lands Clauses Consolidation Act, 1845 (*a*), in the case of lands taken otherwise than with the consent of the owners and occupiers thereof, and the commissioners shall be entitled to deduct out of such compensation the amount of the expenses aforesaid, and may thereupon sell or otherwise dispose of the said building or land for the purposes of this Act.

(*a*) Section 18 *et seq.*, *ante*, pp. 2094 *et seq.*

Commissioners may sell the materials for payment of expenses, restoring to the owner the overplus arising from the sale.

78. If any such house or building as aforesaid, or any part of the same, be pulled down by virtue of the powers aforesaid, the commissioners may sell the materials thereof, or so much of the same as shall be pulled down, and apply the proceeds of such sale in payment of the expenses incurred in respect of such house or building; and the commissioners shall restore any overplus arising from such sale to the owner of such house or building, on demand; nevertheless, the commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale as are hereinbefore given to them for compelling the payment of the whole of the said expenses.

Precautions during repairs.

And with respect to precautions during the construction and repair of the sewers, streets, and houses, be it enacted as follows:

Houses to be protected, and bars to be erected across streets, during repairs.

79. The commissioners shall, during the construction or repair of any of the streets vested in them, and during the construction or repair of any sewers or drains, take proper precaution for guarding against accident, by shoreing-up and protecting the adjoining houses, and shall cause such bars or chains to be fixed across or in any of the streets, to prevent the passage of carriages and horses while such works are carried on, as to them shall seem proper; and the commissioners shall cause any sewer or drain or other works, during the construction or repair thereof by them, to be lighted and guarded during the night, so as to prevent accidents; and every person who takes down, alters, or removes any of the said bars or chains, or extinguishes any light, without the authority or consent of the commissioners shall for every such offence be liable to a penalty not exceeding five pounds (*a*).

(*a*) This section does not mean that the traffic in the street is to be entirely stopped during the execution of the works, but merely that bars and chains or other protection should be placed so as to prevent vehicles and persons from passing over the place where the works are being executed (*Woodall* v. *Nuttall* (1892), 56 J. P. 150; 8 T. L. R. 68).

Hoards to be set up during repairs, with footways and lights.

80. Every person intending to build or take down any building within the limits of the special Act, or to cause the same to be so done, or to alter or repair the outward part of any such building, or to cause the same to be so done, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall before beginning the same cause sufficient hoards or fences to be put up, in order to separate the building where such works are being carried on from the street, with a convenient platform and handrail, if there be room enough, to serve as a footway for passengers, outside of such hoard or fence, and shall continue such hoard or fence, with such platform and handrail as aforesaid, standing and in good condition, to the satisfaction of the commissioners, during such time as the public safety or convenience requires, and shall in all cases in which it is necessary, in order to prevent accidents, cause the same to be sufficiently lighted during the night; and every such person who fails to put up such fence or hoard, or platform with such handrail as aforesaid, or to continue the same respectively standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said hoard or fence is standing, keep the same sufficiently lighted in the night, or who does not remove the same, when directed by the commissioners, within a reasonable time afterwards, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued (*a*).

(*a*) In districts where the P. H. A., 1890, has been adopted, this section has been superseded by s. 34 of that Act, *ante*, p. 896. And where Part II. of the P. H. A., 1907, applies, hoards must, under s. 32 of that Act, *ante*, p. 1125, be securely fixed to the satisfaction of the local authority under penalties as therein provided. As to the right to erect a hoarding, though it may obstruct a highway to some extent, see *Fisher* v. *Prowse*, *ante*, p. 2205. As to the liability for damages for wrongfully erecting and continuing a hoarding, see *Bradbee* v. *Christ's Hospital* (1842), 4 M. & G. 714; 5 Scott, N. R. 79. As to a case where a licence for a hoarding was required by a local Act, see *R.* v. *Commissioners of Sewers* (1870), 22 L. T. 582; *Barnett* v. *Covell* (1904), 68 J. P. 93; 90 L. T. 29; *Rockleys, Ltd.* v. *Pritchard* (1910), 74 J. P. 11; 101 L. T. 575; *Stockport Corporation* v. *Rollinson* (1910), 74 J. P. 236; 102 L. T. 567. As to the liability for injuries caused by negligently erecting and keeping a hoarding, see *Hoare* v. *Kearley* (1884), 1 T. L. R. 426. As to rating of hoardings used as advertising stations, see the Advertising Stations (Rating) Act, 1889, and *Chappell* v. *St. Botolph Overseers*, [1892] 1 Q. B. 561; 56 J. P. 310; *Shelley* v. *Dillon* (1892), 30 L. R. Ir. 304; *Burton* v. *St. Giles and St. George's, Bloomsbury*, [1900] 1 Q. B. 389; 64 J. P. 213; and resolutions 23 and 53 of the Central Valuation Committee in the 1st and 4th series of representations made by that committee under s. 57 of the R. and V. Act, 1925.

When building materials are deposited in streets, etc. the same shall be lighted at night and fenced.

81. When any building materials, rubbish, or other things are laid, or any hole made, in any of the streets, whether the same be done by order of the commissioners or not, the person causing such materials or other things to be so laid, or such hole to be made, shall at his own expense cause a sufficient light to be fixed in a proper place upon or near the same, and continue such light every night from sun-setting to sun-rising, while such materials or hole remain; and such person shall, at his own expense, cause such materials or other things, and such hole, to be sufficiently fenced and inclosed, until such materials or other things are removed, or the hole filled

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up or otherwise made secure; and every such person who fails so to light, fence, or inclose such materials or other things, or such hole, shall for every such offence be liable to a penalty not exceeding five pounds, and a further penalty not exceeding forty shillings for every day while such default is continued (*a*).

(*a*) In *Fearnley* v. *Ormsby* (1879), 4 C. P. D. 136; 43 J. P. 384, it was held that a surveyor of highways was rightly convicted under s. 72 of the Highway Act, 1835, for leaving materials for the repair of the road without lights and fences at night. As to personal knowledge being necessary for conviction, see *Hardcastle* v. *Bielby*, [1892] 1 Q. B. 709; 56 J. P. 549.

Penalty for continuing deposits of building materials or excavations for an unreasonable time.

82. In no case shall any such building materials or other things or such hole be allowed to remain for an unnecessary time, under a penalty not exceeding five pounds to be paid for every such offence by the person who causes such materials or other things to be laid or such hole to be made, and a further penalty not exceeding forty shillings for every day during which such offence is continued after the conviction for such offence; and in any such case the proof that the time has not exceeded the necessary time shall be upon the person so causing such materials or other things to be laid, or causing such hole to be made.

Commissioners to cause dangerous places to be repaired or inclosed.

83. If any building or hole or any other place near any street (*a*) be, for want of sufficient repair, protection, or inclosure, dangerous to the passengers along such street, the commissioners shall cause the same to be repaired, protected, or inclosed, so as to prevent danger therefrom; and the expenses of such repair, protection, or inclosure shall be repaid to the commissioners by the owner of the premises so repaired, protected, or inclosed, and shall be recoverable from him as damages.

(*a*) A goit running by the side of an ancient public footpath was held not to be a hole or other place within the meaning of these words (*Wilson* v. *Halifax Corporation*, *ante*, p. 268).

Apart from this enactment the occupier of adjoining land is liable to be indicted for a nuisance if he leaves a dangerous excavation adjoining the highway without a fence (*Barnes* v. *Ward* (1850), 9 C. B. 392; 19 L. J. C. P. 195), unless the highway has been dedicated subject to the nuisance (*Robbins* v. *Jones* (1864), 15 C. B. (N.S.) 224; 33 L. J. C. P. 1). This last mentioned case was followed in *Horridge* v. *Makinson* (1915), 84 L. J. K. B. 1294; 79 J. P. 484. See also *Att.-Gen.* v. *Roe*, [1915] 1 Ch. 235; 79 J. P. 263.

See also s. 31 of the P. H. A., 1907, *ante*, p. 1124, as to fencing lands adjoining streets.

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Slaughter-houses.

And with respect to slaughter-houses, be it enacted as follows (*a*):

(*a*) See notes to s. 169 of the P. H. A., 1875, *ante*, p. 408. Where the P. H. A., 1890, has been adopted in any district it will be necessary to bear in mind the provisions of ss. 29—31 of that Act, *ante*, pp. 893—895, as to the duration of licences, notice of change of occupation of slaughter-houses, and the revocation of licences on conviction for the sale of meat unfit for food. Reference may be made to the notes to these sections and to the case of *R.* v. *Essex JJ.*, *Ex parte Barking U. D. C.*, [1916] 2 K. B. 406; 80 J. P. 345. It was here held that a knacker's licence, such as was formerly granted under the Knackers Act, 1786 (*ante*, p. 2071), may now be granted under the sections just mentioned and this Act.

Commissioners may license slaughter-houses, etc.

125. The commissioners may license (*a*) such slaughter-houses and knackers' yards as they from time to time think proper for slaughtering cattle within the limits of the special Act.

(*a*) A resolution of a committee, confirmed by the board, was held to be equivalent to a licence, though not communicated to the grantee (*Howarth* v. *Manchester Corporation* (1862), 6 L. T. 683). A licence for the erection of a slaughter-house is sufficient to authorise its use (*Anthony* v. *Brecon Markets Co.*, *post*, p. 2211).

New slaughter-houses not to be erected without a licence.

126. No place shall be used or occupied as a slaughter-house (*a*) or knacker's yard within the said limits which was not in such use and occupation at the time of the passing of the special Act (*b*), and has so continued ever since, unless and until a licence for the erection thereof, or for the use and occupation thereof as a slaughter-house or knacker's yard, have been obtained from the commissioners; and every person who, without having first obtained such licence as aforesaid, uses (c) as a slaughter-house or knacker's yard any place within the said limits not used as such at the passing of the special Act, and so continued to be used ever since, shall for each offence be liable to a penalty not exceeding five pounds, and a like penalty for every day after the conviction for such offence upon which the said offence is continued.

(a) This Act does not apply only to places where cattle are slaughtered for human food, as in *Elias* v. *Nightingale* (1858), 22 J. P. 131; 8 El. & Bl. 698.

(b) The application of premises for the slaughter of bullocks which had been used for the slaughter of pigs before the Act came into operation does not take the case out of the exception (*Brighton L. B.* v. *Stenning* (1867), 31 J. P. 246; 15 L. T. 567). The enlargement of premises does not destroy their exemption (*Hanman* v. *Adkins* (1876), 40 J. P. 744). The user of premises for pining cattle only, as part of the business of slaughtering, the actual slaughtering taking place elsewhere, is a continuance of user within this section (*Hides* v. *Littlejohn* (1896), 60 J. P. 101; 74 L. T. 24). The occasional use of the premises for slaughter is a continuance of user within this section (*Woolliscroft* v. *Stoke-on-Trent Corporation* (1928), 92 J. P. 150. A local authority cannot remove from the register premises entitled to be registered under this and the following section because the owners of the premises have not complied with the P. H. (Meat) Regulations, 1924, made under the P. H. (Regulations as to Food, etc.) Act, 1907 (*ibid.*).

(c) A person who merely pays the owner of premises for being allowed to slaughter animals there does not use such premises as a slaughter-house within this section (*R.* v. *Heyworth* (1866), 30 J. P. 423; 14 L. T. 600). See *Second or Lower District Committee of Renfrew C. C.* v. *Anderson* (1899), 1 F. (Just. Cas.) 48. Using a place for the deposit for a night of a carcase of a horse in transit to the place where it is to be ultimately disposed of was held not to be a user contrary to s. 285 of the Burgh Police (Scotland) Act, 1892, which prohibits the user of unlicensed places for the slaughtering of horses, or as a place of deposit for their carcases (*Simpson* v. *Proctor* (1896), 23 Ct. of Sess. Cas. (4th ser.) (J.C.) 22). A market company who had not used any part of their premises as a slaughter-house before this Act was applied to the district were held to be rightly convicted under this section for using part of their premises as a slaughter-house after the Act was applied (*Liverpool New Cattle Market Co.* v. *Hodson* (1867), 31 J. P. 245; 15 L. T. 534). As to what is a sufficient licence, see *Anthony* v. *Brecon Markets Co.* (1872), L. R. 7 Ex. 399; 31 J. P. 200; *Hughes* v. *Trew* (1877), 41 J. P. 453; 36 L. T. 585.

Existing slaughter-houses, etc. to be registered.

127. Every place within the limits of the special Act which shall be used as a slaughter-house or knacker's yard shall, within three months after the passing of such Act, be registered by the owner or occupier thereof, at the office of the commissioners, and on application to the commissioners for that purpose the commissioners shall cause every such slaughter-house or knacker's yard to be registered in a book to be kept by them for that purpose; and every person who after the expiration of the said three months, and after one week's notice of this provision from the commissioners, uses or suffers to be used any such place as a slaughter-house or knacker's yard, without its being so registered, shall be liable to a penalty not exceeding five pounds for such offence, and a penalty not exceeding ten shillings for every day after the first day during which such place shall be used as a slaughter-house or knacker's yard without having been so registered.

Commissioners may make byelaws for regulation of slaughter-houses, etc.

128. The commissioners shall from time to time, by byelaws (a), to be made and confirmed in the manner hereinafter provided, make regulations for the licensing, registering, and inspection of the said slaughter-houses and knackers' yards, and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and requiring them to be provided with a sufficient supply of water, and they may impose pecuniary penalties on persons breaking such byelaws; provided that no such penalty exceed for any one offence the sum of five pounds, and in the case of a continuing nuisance the sum

Section 128. of ten shillings for every day during which such nuisance shall be continued after the conviction for the first offence.

(*a*) See the Markets and Fairs Clauses Act, 1847, s. 42, *ante*, p. 2164. The M. of H. have issued Model Byelaws for the regulation of private slaughter-houses. As to the confirmation of these byelaws, see 47 & 48 Vict. c. 12, *ante*, p. 762. As to the responsibility of the master for a breach of the byelaws committed by the servant, see *Collman* v. *Mills*, [1897] 1 Q. B. 396; 61 J. P. 102.

A bye-law prescribing method of humane slaughtering and requiring animals to be stunned was held valid in *Dodd* v. *Venner* (1922), 86 J. P. 130.

Justice may suspend or revoke licences of slaughter-houses, etc. or forbid use of registered slaughter-houses, etc.

129. The justices before whom any person is convicted of killing or dressing any cattle contrary to the provisions of this or the special Act, or of the non-observance of any of the byelaws or regulations made by virtue of this or the special Act, in addition to the penalty imposed on such person under the authority of this or the special Act, may suspend for any period not exceeding two months the licence granted to such person under this or the special Act, or, in case such person be the owner or proprietor of any registered slaughter-house or knacker's yard, may forbid for any period not exceeding two months the slaughtering of the cattle therein; and such justices, upon the conviction of any person for a second or other subsequent like offence, may, in addition to the penalty imposed under the authority of this or the special Act, declare the licence granted under this or the special Act revoked, or, if such person be the owner or proprietor of any registered slaughter-house, may forbid absolutely the slaughtering of cattle therein; and whenever the licence of any such person is revoked as aforesaid, or whenever the slaughtering of cattle in any registered slaughter-house or knacker's yard is absolutely forbidden as aforesaid, the commissioners may refuse to grant any licence whatever to the person whose licence has been so revoked, or on account of whose default the slaughtering of cattle in any registered slaughter-house has been forbidden.

Penalty for slaughtering cattle during suspension of licence, etc.

130. Every person who during the period for which any such licence is suspended, or after the same is revoked as aforesaid, slaughters cattle in the slaughter-house or knacker's yard to which such licence relates, or otherwise uses such slaughter-house or knacker's yard, or allows the same to be used as a slaughter-house or knacker's yard, and every person who during the period that the slaughtering of cattle in any such registered slaughter-house or knacker's yard is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters any cattle in any such registered slaughter-house, shall be liable to a penalty not exceeding five pounds for such offence, and a further penalty of five pounds for every day on which any such offence is committed after the conviction for the first offence.

Officers may enter and inspect slaughter-houses, etc. and seize and destroy carcases, etc. unfit for food.

131. The inspector of nuisances, the officer of health, or any other officer appointed by the commissioners for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any building or place whatsoever within the said limits kept or used for the sale of butchers' meat, or for slaughtering cattle, and examine whether any cattle, or the carcase of any such cattle, is deposited there, and in case such officer shall find any cattle, or the carcase or part of the carcase of any beast, which appears unfit for the food of man, he may seize and carry the same before a justice, and such justice shall forthwith order the same to be further inspected and examined by competent persons (*a*); and in case upon such inspection and examination such cattle, carcase, or part of a carcase, be found to be unfit for the food of man, such justice shall order the same to be immediately destroyed or otherwise disposed of in such way as to prevent the same being exposed for sale or used for the food of man; and such justice may adjudge

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the person to whom such cattle, carcase, or part of a carcase, belongs, or in whose custody the same is found, to pay a penalty not exceeding ten pounds for every such animal, or carcase, or part of a carcase, so found; and the owner or occupier of any building or place kept or used for the sale of butchers' meat, or for slaughtering cattle, and every other person, who obstructs or hinders such inspector or other officer from entering into and inspecting the same, and examining, seizing, or carrying away any such animal, or carcase, or part of a carcase, so appearing to be unfit for the food of man, shall be liable to a penalty not exceeding five pounds for each offence.

(a) See also the P. H. A., 1875, s. 116, *ante*, p. 231, and the P. H. A., 1890, s. 28, *ante*, p. 892.

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THE BATHS AND WASHHOUSES ACT, 1847.

(10 & 11 VICT. C. 61) (*a*).

An Act to amend the Act for the Establishment of Public Baths and Washhouses. [2nd July, 1847.]

[*Preamble recites* 9 & 10 *Vict. c.* 74.]

Construction.

[**1.**] The recited Act, as amended by this Act, and this Act shall be construed and be carried into execution as one Act.

(*a*) See 9 & 10 Vict. c. 74, *ante*, p. 2143; 41 & 42 Vict. c. 14, *post*, p. 2402; 45 & 46 Vict. c. 30, *post*, p. 2413; 62 & 63 Vict. c. 29, *post*, p. 2601; and Part IX. of the P. H. A., 1925, *ante*, p. 1627.

Interpretation.

2. The following words and expressions in the recited Act shall have in the said Act and this Act the several meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,)

"Parish." "Parish" shall mean not only every place having separate overseers of the poor and separately maintaining its own poor, but also every place maintaining its own poor and having a vestry (*a*):

"Ratepayers." "Ratepayers" shall mean all persons for the time being assessed to and paying rates for the relief of the poor of the parish (*b*):

"Vestry." "Vestry" shall mean not only a vestry as defined in the said Act, but also any body of persons, by whatever name distinguished, acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry.

(*a*) See note (*a*) to 9 & 10 Vict. c. 74, s. 2, *ante*, p. 2144, for the definition of parish contained in the R. and V. Act, 1925.

(*b*) These words do not require actual payment of the rates. The poor rate is now absorbed in the general rate, and the general rate must accordingly be substituted in this section (R. and V. Act, 1925, s. 69 (2), *ante*, p. 1752).

Acts of any person acting as commissioner, etc. to be valid, notwithstanding disqualification etc.

3. . . . (*a*) All acts and proceedings of any person in possession of the office of such commissioner, and acting in good faith as such commissioner, whether appointed before or after the passing of this Act, shall, notwithstanding his disqualification or want of qualification for or any defect or irregularity in or in any way concerning his appointment to such office, be as valid and effectual as if he were duly qualified, or there had not been any such defect or irregularity.

(*a*) The previous part of this section was repealed by the S. L. R. A., 1875.

Incorporation of 8 & 9 Vict. c. 18, in part.

4. The Lands Clauses Consolidation Act, 1845 (*a*), shall be incorporated with the recited Act and this Act: Provided always, that the council and commissioners respectively shall not purchase or take any lands otherwise than by agreement.

(*a*) *Ante*, p. 2088.

Proportion of washing accommodation for labouring classes.

5. The number of washing tubs or troughs for the labouring classes in any building or buildings under the management of the same council or commissioners shall not be less than twice the number of the washing tubs or troughs of any higher class, if but one, or of all the higher classes, if more than one, in the same building or buildings (*a*).

(*a*) See as to baths, 9 & 10 Vict. c. 74, s. 36, *ante*, p. 2152. Section 6 was repealed by the S. L. R. A., 1875, as also was s. 8.

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Charges for use of baths, etc.

7. *The council and the commissioners respectively may from time to time make such reasonable charges for the use of the baths and washhouses and open bathing places provided under the recited Act and this Act respectively as they think fit, not exceeding the charges mentioned in the Schedule annexed to this Act* (*a*).

(*a*) This section and the Schedule will be repealed in any district from the date upon which a scale of charges is authorised by the local authority under s. 85 of the P. H. A., 1925, *ante*, p. 1627 (s. 9 and Sched. V., *ibid.*). As to recovery of charges, see 9 & 10 Vict. c. 74, s. 38, *ante*, p. 2153.

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SCHEDULE TO WHICH THIS ACT REFERS.

CHARGES FOR THE BATHS AND WASHHOUSES AND OPEN BATHING PLACES.

1. *Baths for the Labouring Classes.*

Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather.

For one person above eight years old :

Cold bath, or cold shower-bath, any sum not exceeding – One Penny.

Warm bath, or warm shower-bath, or vapour-bath, any sum not exceeding – – – – – – – Two-pence.

For several children, not above eight years old, nor exceeding four, bathing together :

Cold bath, or cold shower-bath, any sum not exceeding – Two-pence.

Warm bath, or warm shower-bath, or vapour bath, any sum not exceeding – – – – – – – Four-pence.

2. *Baths of any Higher Class.*

Such charges as the council and the commissioners respectively think fit, not exceeding in any case three times the charges above mentioned for the several kinds of baths for the labouring classes.

3. *Washhouses for the Labouring Classes.*

Every washhouse to be supplied with conveniences for washing and drying clothes and other articles.

For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or, where one of the washing tubs or troughs shall be used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying :

For one hour only, in any one day, any sum not exceeding One Penny.

For two hours together, in any one day, any sum not exceeding – – – – – – – – Three-pence.

Any time over the hour or two hours respectively, if not exceeding five minutes, not to be reckoned.

For two hours not together, or for more than two hours in any one day, such charges as the council and the commissioners respectively think fit.

Schedule.

For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the council and the commissioners respectively think fit, but not exceeding in either case the charges for the use for the same time of both the washing and the drying conveniences.

4. *Washhouses of any Higher Class.*

Such charges as the council and the commissioners respectively think fit.

5. *Open Bathing Places.*

Where several persons bathe in the same water, for one person [*one penny*] (*a*).

(*a*) Words in square brackets substituted for ½*d.* by 41 & 42 Vict. c. 14, s. 14, *post*, p. 2403.

THE CEMETERIES CLAUSES ACT, 1847.

(10 & 11 VICT. C. 65) (*a*).

An Act for consolidating in one Act certain provisions usually contained in Acts authorising the making of Cemeteries. [9th July, 1847.]

[**1.**] This Act shall extend only to such cemeteries as shall be authorised by any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted in any such Act, shall apply to the cemetery authorised thereby, so far as they are applicable to such cemetery, and shall, with the clauses of every other Act incorporated therewith, form part of such Act, and be construed therewith as forming one Act. Incorporation with special Act.

(*a*) This Act is incorporated with the P. H. (Interments) Act, 1879, *ante*, p. 751.

And with respect to the construction of this Act, and any Act incorporated therewith, be it enacted as follows: *Interpretation*

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereinafter passed authorising the making of a cemetery, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word occurs shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the lands" shall mean the lands which shall by the special Act be authorised to be taken or used for the purposes thereof; and the expression "the company" shall mean the person by the special Act authorised to construct the cemetery. "The Special Act." "Prescribed." "The lands." "The company."

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say,) Interpretations in this and the special Act.

Words importing the singular number shall include the plural number, and words importing the plural number only shall include also the singular number: Number.

Words importing the masculine gender shall include females: Gender.

The word "person" shall include a corporation, whether aggregate or sole: "Person."

The word "lands" shall include messuages, lands, and hereditaments, of any tenure: "Lands."

Section 3.

"The cemetery." The expression "the cemetery" shall mean the cemetery or burial ground, and the works connected therewith, by the special Act authorised to be constructed:

"Month." The word "month" shall mean calendar month:

"Superior Courts." The expression "superior courts" shall mean her Majesty's superior courts at Westminster . . . as the case may require (*a*):

"Oath." The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath:

"Established Church." The expression "Established Church" shall mean the . . . church of England . . . as by law established (*a*):

"County." The word "county" shall include any riding or other division of a county having a separate commission of the peace, and shall also include the county of a city or county of a town:

"Justice." The word "justice" shall mean justice of the peace acting for the place where the matter requiring the cognizance of any such justice arises, and if such matter arise in respect of lands situated not wholly in one jurisdiction shall mean a justice acting for the place where any part of such lands shall be situated; and where any matter is authorised or required to be done by "two justices," the expression "two justices" shall be understood to mean two or more justices met and acting together (*b*):

"Two justices."

"Quarter sessions." The expression "quarter sessions" shall mean the quarter sessions as defined by the special Act; or if such expression be not therein defined it shall mean the general or quarter sessions of the peace which shall be held at the place nearest the cemetery for the county or place in which the cemetery or some part thereof is situated, or for some division of such county having a separate commission of the peace.

(*a*) Words relating to Ireland only are here omitted.
(*b*) And see s. 64, *post*, p. 2225.

Citing the Act.

And with respect to citing this Act or any part thereof, be it enacted as follows:

Short title.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression "The Cemeteries Clauses Act, 1847."

Form in which portions of this Act may be incorporated in other Acts.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

Making of cemetery.

And with respect to the making of the cemetery, be it enacted as follows:

Taking of lands for purposes of special Act to be subject to this Act and the Lands Clauses Act. 8 & 9 Vict. c. 18.

6. Where by the special Act the company shall be empowered for the purpose of making the cemetery, to take or use any lands otherwise than with the consent of the owners and occupiers thereof, they shall, in exercising the power so given to them, be subject to the provisions and restrictions contained in this Act and the Lands Clauses Consolidation Act, 1845 (*a*), and shall make to the owners and occupiers of and all other parties interested in any lands taken or used for the purposes of the special Act, or injuriously affected by the construction of the works thereby authorised, full compensation for the value of the lands so taken or used, and for all damage sustained by such owners, occupiers, or other parties, by reason of the exercise, as regards such lands, of the powers vested in the company by this or the special Act, or any Act incorporated therewith; and, except where otherwise provided by this or the special Act, the amount of such compensation shall be determined in the manner provided by the Lands Clauses Consolidation Act, 1845 (*a*), for determining questions of compensation with regard to lands purchased or taken under the provisions thereof, and all the provisions of the last-mentioned Act shall be applicable to determine the amount of such compensation, and to enforce payment or other satisfaction thereof.

(*a*) *Ante*, p. 2088. A local authority may obtain a provisional order for the compulsory *purchase* of land under s. 176 of the P. H. A., 1875, *ante*, p. 436.

Correction of errors and omissions in special Act.

7. If any omission, mis-statement, or wrong description shall have been made of any lands, or of the owners, lessees, or occupiers of any lands, described in the special Act or the schedule thereto, the company, after giving ten days' notice to the owners of the lands affected by such proposed correction, may apply to two justices for the correction thereof; and if it appear to such justices that such omission, mis-statement, or wrong description arose from mistake, they shall certify the same accordingly, and shall in such certificate state the particulars of any such omission, mis-statement, or wrong description; and such certificate shall be deposited with the clerk of the peace of the county in which the lands affected thereby shall be situated, and thereupon the special Act or schedule shall be deemed to be corrected according to such certificate, and the company may take the lands according to such certificate, as if such omission, mis-statement, or wrong description had not been made.

Certified copies of alterations, etc. to be evidence.

8. Copies of any alteration or correction of the special Act, or the schedule thereto, or of any extract therefrom, certified by any such clerk of the peace in whose custody such alteration or correction may be, which certificate such clerk of the peace shall give to all parties interested, when required, shall be received in all courts of justice or elsewhere as evidence of the contents thereof.

Land used for burials not to be used for other than authorised purposes.

9. The company shall not sell or dispose of any land which shall have been consecrated or used for the burial of the dead, or make use of such land for any purpose except such as shall be authorised by this (*a*) or the special Act, or any Act incorporated therewith.

(*a*) See s. 40, *post*, p. 2222. See also *R.* v. *Twiss* (1869), L. R. 4 Q. B. 407; 33 J. P. 516; *Campbell* v. *Liverpool Corporation* (1870), L. R. 9 Eq. 579; *Harper* v. *Forbes* (1859), 5 Jur. (N.S.) 275. And see the Burial Act, 1900, s. 6, *post*, p. 2614, as to the necessity for leave of the M. of H. to the use of unconsecrated land for other purposes.

Cemetery not to be within a certain distance of houses.

10. No part of the cemetery shall be constructed nearer to any dwelling-house than the prescribed distance, or if no distance be prescribed, two (*a*) hundred yards, except with the consent in writing of the owner, lessee, and occupier of such house (*b*).

(*a*) Now one hundred yards. See the Burial Act, 1906, s. 2, *post*, p. 2687.

(*b*) This distance is to be calculated from the house itself, not from the curtilage (*Wright* v. *Wallasey L. B.* (1887), 18 Q. B. D. 783; 52 J. P. 4). See also s. 9 of the Burials Act, 1855, which prevents land not already used or appropriated as a cemetery being used for actual burials within one hundred yards of a dwelling-house without the consent of the owner and occupier. This section is directed against actual burial, and did not prevent the inclusion of land within the prescribed distance in the cemetery, so long as it was not used for actual burials (*Cowley* v. *Byas* (1877), 5 Ch. D. 944; 41 J. P. 804), but it was held

Note to Section 10.

to prevent a burial authority, who had laid out a burial ground since 1855, from using it for burials within two hundred yards of a dwelling-house erected after the burial ground had been laid out, without the consent mentioned (*Godden* v. *Hythe Burial Board*, [1906] 2 Ch. 270; 70 J. P. 285). The law as settled by this decision has, however, since been modified by s. 1 of the Burial Act, 1906, *post*, p. 2686, which enacts that the consent above mentioned shall not be and shall be deemed never to have been required in any case where the dwelling-house is or was begun to be erected, or is or was erected or completed after any part of the ground is or has been used or appropriated for a burial ground, subject to a proviso for certain vested rights. It seems that the necessary consents may be purchased, it is not required that they should in all cases be given for nothing. No action can be brought under s. 9 of the Act of 1855 by a person who is a mere nominee of one who has just sold the land to the local authority for a cemetery (*Toms* v. *Clacton U. D. C.* (1898), 62 J. P. 505; 78 L. T. 712). As to the position of an owner within an area where an Order in Council requires the consent of the L. G. B. (now M. of H.), see *Clegg* v. *Metcalfe*, [1914] 1 Ch. 808; 78 J. P. 251.

By s. 5 of the Cremation Act, 1902, *post*, p. 2655, no crematorium shall be constructed nearer to any dwelling-house than two hundred yards, except with the consent in writing of the owner, lessee, and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority.

Company may build chapels, and lay out their grounds.

11. The company, upon any land which by the special Act they are authorised to use for the purposes of the cemetery, may build such chapels for the performance of the burial service as they think fit, and may lay out and embellish the grounds of the cemetery as they think fit (*a*).

(*a*) See s. 25, *post*, p. 2220, and 63 & 64 Vict. c. 15, s. 2, *post*, p. 2611.

Company may make or widen roads to cemetery.

12. The company, upon any land purchased by them under this or the special Act, or any Act incorporated therewith, may make any new roads to the cemetery, or widen or improve any existing roads thereto which they think fit.

No road to be widened without consent.

13. Provided always, that the company shall not widen or improve any existing road without the consent of the owner thereof, if the road be private, or, if the road be public, without the consent of the persons in whom the management of the road is vested by law.

Improvement of roads.

14. The company and the owners or persons having the management of any such road as aforesaid may enter into such agreements as they think fit, for enabling the company to widen or improve any such road, and for maintaining the same.

15. [*Cemetery to be inclosed and fenced*] (*a*).

(*a*) This section no longer applies to cemeteries provided under the Public Health (Interments) Act, 1879. See 63 & 64 Vict. c. 15, s. 10, *post*, p. 2615. It required the provision of a wall or fence at least eight feet high. Burial grounds provided under the Burial Acts are not subject to any statutory requirements as to the height of fences, but the M. of H. require all burial grounds to be effectually walled or fenced, and any fences to be of sufficiently close construction to exclude dogs and other animals.

Cemetery to be kept in repair.

16. The company shall keep the cemetery and the buildings and fences thereof in complete repair, and in good order and condition, out of the monies to be received by them by virtue of this and the special Act (*a*).

(*a*) The company are occupiers and rateable (*R.* v. *St. Mary Abbotts, Kensington* (1841), 12 A. & E. 824; and see *R.* v. *Abney Park Cemetery Co.* (1874), L. R. 8 Q. B. 515; 38 J. P. 822).

Compensation for damage.

17. Provided always, that in the exercise of the powers by this and the special Act granted to the company they shall do as little damage as can be, and shall make full compensation to all parties interested for all damage sustained by them through the exercise of such powers (*a*).

(*a*) See also *Crowhurst* v. *Amersham Burial Board* (1879), 4 Ex. D. 5, and the observations on that case in *Cheater* v. *Cater*, [1918] 1 K. B. 247.

And with respect to preventing nuisance from the cemetery, be it enacted as follows :

Prevention of nuisances.

Power to make sewers, drains, etc. in and about the cemetery.

18. The company shall make all necessary and proper sewers and drains in and about the cemetery, for draining and keeping the same dry, and they may from time to time, as occasion requires, cause any such sewer or drain to open into any existing sewer, with the consent in writing of the persons having the management of such sewer, and with the consent in writing of the persons having the management of the street or road, and of the owners and occupiers of the lands through which such opening is made, doing as little damage as possible to the road or ground wherein such sewer or drain may be made, and restoring it to the same or as good condition as it was in before being disturbed.

Provisions of 10 & 11 Vict. c. 17 incorporated with this Act.

19. When any street or road or sewer shall be opened with such consent as aforesaid, the clauses of the Waterworks Clauses Act, 1847 (*a*), with respect to breaking up of streets for the purpose of laying pipes, so far as the same are consistent with this Act and applicable thereto, shall be incorporated with this Act, and shall apply to the company, and to any ground broken by them for making any such sewer or drain as aforesaid to open into any existing sewer..

(*a*) Sections 28—34, *ante*, pp. 2184—2187.

Penalty on company for allowing water to be fouled.

20. If the company at any time cause or suffer to be brought or to flow into any stream, canal, reservoir, aqueduct, pond, or watering place, any offensive matter from the cemetery, whereby the water therein shall be fouled, they shall forfeit for every such offence the sum of fifty pounds (*a*).

(*a*) See also *Ballard* v. *Tomlinson* (1885), 29 Ch. D. 115 ; 49 J. P. 692.

By whom, how, and within what time, such penalty may be recovered.

21. The said penalty, with full costs of suit, may be recovered by any person having right to use the water fouled by such offensive matter, in any of the superior courts, by action of debt or on the case : Provided always, that the said penalty shall not be recoverable unless the same be sued for during the continuance of the offence, or within six months after it has ceased.

Damages, or a daily penalty during the continuance of the offence, after notice, may be recovered.

22. In addition to the said penalty of fifty pounds, (and whether such penalty is recovered or not,) any person having right to use the water fouled by such offensive matter may sue the company, in an action on the case, in any court of competent jurisdiction, for any damage specially sustained by him by reason of the water being so fouled ; or if no special damage be alleged, for the sum of ten pounds for each day during which such offensive matter is brought or flows as aforesaid after the expiration of twenty-four hours from the time when notice of the offence is served on the company by such person.

And with respect to burials in the cemetery, be it enacted as follows :

Burials.

Part of cemetery may be set apart for burial according to rites of Established Church.

23. The bishop of the diocese in which the cemetery is situated may, on the application of the company (*a*), consecrate any portion of the cemetery set apart for the burial of the dead according to the rites of the Established Church, if he be satisfied with the title of the company to such portion, and thinks fit to consecrate such portion ; and the part which is so consecrated shall be used only for burials according to the rites of the Established Church.

(*a*) It did not appear to be obligatory on the company to make this application. Therefore it would seem that no *mandamus* would lie to make them do it as it would in the case of a burial board under s. 12 of the Burial Act, 1857. And if no part of the cemetery is consecrated, then ss. 24—34 of this Act have no application. But now under 63 & 64 Vict. c. 15, s. 1, *post*, p. 2611, there is provision made for enforcing consecration of part in the case of a cemetery provided by a burial authority within the meaning of that Act.

Section 24.

Consecrated and unconsecrated ground to be defined.

24. The company shall define by suitable marks the consecrated and unconsecrated portions of the cemetery (*a*).

(*a*) No wall or fence between the consecrated and unconsecrated portions is necessary if sufficient boundary marks of iron or stone be maintained (Burial Act, 1857, s. 11). See also *R.* v. *Tiverton* (1849), 13 L. T. (o.s.) 233. An urban district council acting as a burial board proposed to use the word "general" instead of the word "unconsecrated." The L. G. B. stated that they were advised that if unconsecrated ground was not so described in documents it was essential that these should be so framed as to leave no doubt as to the intention to denote unconsecrated ground by any other description which might be adopted.

Chapel for Established Church service.

25. The company shall build, within the consecrated part of the cemetery and according to a plan approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rights of the Established Church (*a*).

(*a*) See, however, 63 & 64 Vict. c. 15, s. 2, *post*, p. 2611.

Removal of bodies from consecrated ground.

26. No body buried in the consecrated part of the cemetery shall be removed from its place of burial without the like authority as is by law required for the removal of any body buried in the churchyard belonging to a parish church (*a*).

(*a*) By s. 25 of the Burial Act, 1857, no body may be removed from a place of burial (except from one consecrated place of burial to another by faculty granted by the ordinary for that purpose), without licence under the hand of a Secretary of State. See also *St. Helen's, Bishopsgate, Rector* v. *Parishioners*, [1892] P. 259; *St. Mary-at-Hill* v. *Parishioners*, [1892] P. 394; 56 J. P. 824; *St. Botolph Without, Aldgate, Vicar* v. *Parishioners* (*No.* 1), [1892] P. 161; *Lee* v. *Hawtrey*, [1898] P. 63; *St. Nicholas, Leicester* v. *Langton*, [1899] P. 19. It is within the jurisdiction of the Consistory Court to grant a faculty for the examination of the contents of a coffin buried in consecrated ground, and s. 25 of the Burial Act, 1857, does not make the licence of the Home Secretary a condition precedent to such grant (*R.* v. *Tristram*, [1898] 2 Q. B. 371). But a consistory Court has no power to order the disinterment of a body, or to issue a citation to a cemetery company to show cause against the making of such an order (*R.* v. *Tristram* (1900), 63 J. P. 391; 80 L. T. 414).

27. [*Appointment and licensing of chaplain*] (*a*).

(*a*) By s. 7 of the Burial Act, 1900, *post*, p. 2614, the power of the burial authority to appoint a chaplain for a burial ground provided under the P. H. (Interments) Act, 1879, shall cease. This is because under the same section the incumbent of the parish is to perform the service for his own parishioners and those dying in his parish, as he does under the Burial Acts. The same section also provides for registration of the burials.

28. [*Burial service over bodies entitled to burial in consecrated ground.*]

Other clergymen of Established Church may be allowed to officiate.

29. Any clerk in holy orders of the Established Church, not being prohibited by the bishop, nor under ecclesiastical censure, at the request of the executor of the will of any deceased person, or any other person having the charge of the burial of the body of any deceased person, and with the consent of the chaplain for the time being of the cemetery, or if there be no chaplain with the consent of the bishop, may perform the said burial service over such body in the consecrated part of the cemetery.

30. [*Company to pay the chaplain a stipend approved by the bishop.*]

31. [*Stipend may be recovered by action at law.*]

Register of burials in the consecrated portion.

32. All burials in the consecrated part of the cemetery shall be registered in register books to be provided by the company, and kept for that purpose by the chaplain, according to the laws in force by which registers are required to be kept by the rectors, vicars, or curates of parishes or ecclesiastical districts in England (*a*); and such register books, or copies or extracts therefrom, shall be received in all courts in evidence of such burials; and copies or transcripts thereof shall be from time to time sent to the registrar of the ecclesiastical court of the bishop of the diocese in which the cemetery is situated, to be kept with the copies of the other register books of the parishes within his diocese.

(*a*) That is, under 52 Geo. 3, c. 146. See Brooke Little's Law of Burials. This, however, does not now apply to any burial in the consecrated part of a burial ground provided under the P. H. (Interments) Acts, 1879, but burials there are now under s. 7 of the Burial Act, 1900, *post*, p. 2614, registered like burials in the unconsecrated part.

Registers to be subject to the regulations of 6 & 7 Will. 4, c. 86, as to searches, etc.

33. The said register books, so far as respects searches to be made therein, and copies and extracts to be taken therefrom, shall be subject to the same regulations as are provided by the Births and Deaths Registration Act, 1836, so far as such regulations relate to register books of burials kept by any rector, vicar, or curate.

Appointment of clerk for consecrated part of the cemetery.

34. The company may, with the consent of the chaplain for the time being, from time to time appoint a clerk to assist in performing the services for burials in the consecrated part of the cemetery, and allow to such clerk such stipend (*a*) as they think proper out of the monies to be received by virtue of this and the special Act, and they may remove such clerk at their pleasure.

(*a*) By s. 3 (5) of the Burial Act, 1900, *post*, p. 2613, no fee other than fees payable to a sexton for services rendered by him, shall be paid to any clerk or other ecclesiastical officer in respect of interments in a burial ground maintained by a burial authority. This, however, is subject to a proviso for compensation in respect of rights existing at the date of the passing of the Act.

Burial of persons not members of Established Church.

35. The company may set apart the whole or a portion of that part of the cemetery which is not set apart for burials according to the rites of the Established Church as a place of burial for the bodies of persons not being members of the Established Church, and may allow such bodies to be buried therein, under such regulations as the company appoint (*a*).

(*a*) By s. 9 of the Burial Act, 1900, *post*, p. 2615, the unconsecrated part of a burial ground provided under the P. H. (Interments) Act, 1879, shall be allotted in such manner and in such portions as may be sanctioned by one of her Majesty's principal Secretaries of State.

Any burial service may be performed in chapels on unconsecrated part.

36. The company may allow, in any chapel built within the unconsecrated part of the cemetery (*a*), a burial service to be performed according to the rites of any church or congregation other than the Established Church, by any minister of such other church or congregation duly authorised by law to officiate in such church or congregation, or recognised as such by the religious community or society to which he belongs.

(*a*) See 63 & 64 Vict. c. 15, s. 2, *post*, p. 2611.

Power to appoint gravediggers, etc.

37. The company may appoint gravediggers and other servants necessary for the care and use of the cemetery, and may pay them such wages and allowances as they think fit out of the monies to be received by virtue of this and the special Act, and may remove them or any of them at their pleasure (*a*).

(*a*) A byelaw of a cemetery prohibited any discharged servant from being admitted to the cemetery except by special leave of the directors, and it authorised his removal. D., the owner of a grave, employed W., a discharged servant, to do some work :—*Held*, that there was nothing unreasonable in the byelaw, and that W. was rightly excluded by force from the cemetery (*Martin* v. *Wyatt* (1883), 48 J. P. 215).

Regulations.

38. The company shall make regulations for ensuring that all burials within the cemetery are conducted in a decent and solemn manner.

Section 39.

No burials under or close to chapels.

39. No body shall be buried in any vault under any chapel of the cemetery, or within fifteen feet of the outer wall of any such chapel.

Exclusive rights of burials.

And with respect to exclusive rights of burial, and monumental inscriptions, in the cemetery, be it enacted as follows:

Parts of the cemetery set apart for grant of exclusive rights of burial.

40. The company may set apart such parts of the cemetery as they think fit for the purpose of granting exclusive rights of burial therein, and they may sell, either in perpetuity or for a limited time, and subject to such conditions as they think fit, the exclusive right of burial in any parts of the cemetery so set apart, or the right of one or more burials therein, and they may sell the right of placing any monument or gravestone in the cemetery, or any tablet or monumental inscription on the walls of any chapel or other building within the cemetery (*a*).

(*a*) The sale of an exclusive right of burial under 15 & 16 Vict. c. 85, s. 33, was held not to deprive the burial authority of the general control of the burial ground under s. 38, or to prevent their removing a wreath covered with a glass shade and wire frame which had been placed on the grave (*McGough* v. *Lancaster Burial Board* (1888), 21 Q. B. D. 323; 52 J. P. 740). The grantee of an exclusive right of burial in a space upon which a vault is constructed with the consent of the burial authority has no freehold interest in the vault, no right to use the vault for private ceremonies and no right to open and enter the vault except for purposes of repair and burial without the consent of the burial authority (*Hoskyns-Abrahall* v. *Paignton U. D. C.*, [1929] 1 Ch. 375; 93 J. P. 93). The company are liable to pay income tax on sums paid to them for keeping private graves in order (*Paisley Cemetery Co.* v. *Reith*, W. N. (1899), 196; 63 J. P. 806).

Plan of parts set apart for grant of exclusive rights, and book of reference thereto, to be kept.

41. The company shall cause a plan of the cemetery to be made upon a scale sufficiently large to show the situation of every burial place in all the parts of the cemetery so set apart, and in which an extensive right of burial has been granted; and all such burial places shall be numbered, and such numbers shall be entered in a book to be kept for that purpose, and such book shall contain the names and descriptions of the several persons to whom the exclusive right of burial in any such place of burial has been granted by the company; and no place of burial, with exclusive right of burial therein, shall be made in the cemetery without the same being marked out in such plan, and a corresponding entry made in the said book, and the said plan and book shall be kept by the clerk of the company.

Grant of exclusive right, etc., may be according to form in Schedule.

42. The grant of the exclusive right of burial in any part of the cemetery, either in perpetuity or for a limited time, and of the right of one or more burials therein, or of placing therein any monument, tablet, or gravestone, may be made in the form in the Schedule to this Act annexed, or to the like effect, and where the company are not incorporated it may be executed by the company or any two or more of them (*a*).

(*a*) *Sic.* As to the form, see an adaptation for the use of local authorities, Form 26, Encyclopædia of Forms and Precedents, Vol. II., p. 615.

Register of grants to be kept.

43. A register of all such grants shall be kept by the clerk to the company, and within fourteen days after the date of any such grant an entry or memorial of the date thereof and of the parties thereto, and also of the consideration for such grant, and also a proper description of the ground described in such grant, so as the situation thereof may be ascertained, shall be made by the said clerk in such register; and such clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence, for every such entry or memorial; and the said register may be perused at all reasonable times by any grantee or assignee of any right conveyed in any such grant, upon payment of the prescribed sum, or if no sum be prescribed the sum of one shilling, to the clerk of the company.

Rights of burial may be assigned or bequeathed.

44. The exclusive right of burial in any such place of burial shall, whether granted in perpetuity or for a limited time, be considered as the personal estate of the grantee, and may be assigned in his lifetime or bequeathed by his will (*a*).

(*a*) A burial company having erected a memorial stone, removed and sold it because it was not paid for :—*Held*, that the proper remedy of the company was to sue for the money, and that they had no right to remove the stone (*Sims* v. *London Necropolis Co.* (1884), 1 T. L. R. 584).

Form of assignments.

45. Every such assignment made in the lifetime of the assignor shall be by deed duly stamped, in which the consideration shall be duly set forth, and may be in the Form in the Schedule to this Act annexed, or to the like effect (*a*).

(*a*) See also Form 27, Encyclopædia of Forms and Precedents, Vol. II., p. 616.

Assignments to be registered.

46. Every such assignment shall, within six months after the execution thereof, if executed in Great Britain . . . or within six months after the arrival thereof in Great Britain . . . if executed elsewhere, be produced to the clerk of the company, and an entry or memorial of such assignment shall be made in the register by the clerk of the company, in the same manner as that of the original grant ; and until such entry or memorial, no right of burial shall be acquired under any such memorial (*a*) ; and for every such entry or memorial the clerk shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence.

(*a*) *Sic. Quære*, a mistake for " assignment."

Probates of wills disposing of rights of burial to be registered.

47. An entry or memorial of the probate of every will by which the exclusive right of burial within the cemetery is bequeathed, and in case there be any specific disposition of such exclusive right of burial in the said will an entry of such disposition, shall, within six months after the probate of such will, be made in the said register, in the same manner as that of the original grant ; and until such entry no right of exclusive burial shall be acquired under such will ; and for every such entry or memorial the clerk of the company shall be entitled to demand such sum as the company think fit, not exceeding the prescribed sum, or if no sum be prescribed two shillings and sixpence.

Burials in places where exclusive right has been granted.

48. No body shall be buried in any place wherein the exclusive right of burial shall have been granted by the company, except with the consent of the owner for the time being of such exclusive right of burial.

No grant to give right in consecrated ground, etc. to persons not entitled to be buried according to rites of Established Church.

49. No such grant as aforesaid shall give the right to bury within the consecrated part of the cemetery the body of any person not entitled to be buried in consecrated ground according to the rites and usage of the Established Church, or to place any monument, gravestone, tablet, or monumental inscription respecting any such body within the consecrated part of the cemetery.

Power to remove monuments erected without authority.

50. The company may take down and remove any gravestone, monument, tablet, or monumental inscription which shall have been placed within the cemetery without their authority (*a*).

(*a*) If the right be granted to the grantee and his heirs, it is doubtful whether this section would apply. See *Matthews* v. *Jeffery* (1881), 6 Q. B. D. 290 ; 45 J. P. 361. An exclusive right of burial is an easement, and can only be granted by deed (*Bryan* v. *Whistler* (1828), 8 B. & C. 288). See also the Burial Act, 1852, s. 33, and *Ashby* v. *Harris* (1868), L. R. 3 C. P. 523 ; *McGough* v. *Lancaster*, *ante*, p. 2222.

Section 51.

Rights of bishop to object to monumental inscriptions in consecrated part of cemetery.

51. The bishop of the diocese in which the cemetery is situated, and all persons acting under his authority, shall have the same right and power to object to the placing, and to procure the removal of any monumental inscription within the consecrated part of the cemetery as he by law (*a*) has to object to or procure the removal of any monumental inscription in any church or chapel of the Established Church, or the burial ground belonging to such church or chapel, or any other consecrated ground.

(*a*) See *Maidman* v. *Malpas* (1794), 1 Hagg. Con. 205; *Harper* v. *Forbes* (1859), 5 Jur. (N.S.) 275; *Ex parte Medwin* (1853), 1 El. & Bl. 609; *Keet* v. *Smith* (1876), 1 P. D. 73.

Payments to incumbents of parishes.

And with respect to payments to incumbents of parishes or ecclesiastical districts, and to parish clerks, be it enacted as follows (*a*):

(*a*) Sections 52—57 entitled incumbents and parish clerks only to such fees as were prescribed by the special Act. They were extended to the disposition or interment of the ashes of a cremated body by s. 13 of the Cremation Act, 1902, *post*, p. 2658. Where a cemetery has been provided by a local authority under the P. H. (Interments) Act, 1879, *ante*, p. 751, that Act is the special Act (s. 3), and in such case the special Act prescribes no sums as payable to incumbents. In such a cemetery, ss. 52—57 are wholly inapplicable. But the Burial Act, 1900, by s. 3, *post*, p. 2612, now requires the burial authority to prepare a table of fees to be approved by a Secretary of State, and these fees are to be collected by the authority, and paid over to the minister or sexton performing the services.

* * * * * *

Protection of cemetery.

And with respect to the protection of the cemetery, be it enacted as follows:

Penalty for damaging the cemetery.

58. Every person who shall wilfully destroy or injure any building, wall, or fence belonging to the cemetery, or destroy or injure any tree or plant therein, or who shall daub or disfigure any wall thereof, or put up any bill therein or on any wall thereof or wilfully destroy, injure, or deface any monument, tablet, inscription, or gravestone within the cemetery, or do any other wilful damage therein, shall forfeit to the company for every such offence a sum not exceeding five pounds.

Disturbances and nuisances in cemetery.

59. Every person who shall play at any game or sport, or discharge firearms, save at a military funeral, in the cemetery, or who shall wilfully and unlawfully disturb any persons assembled in the cemetery for the purpose of burying any body therein, or who shall commit any nuisance within the cemetery, shall forfeit to the company for every such offence a sum not exceeding five pounds.

Annual accounts.

60. And with respect to the accounts to be kept by the company, be it enacted, that the company shall every year cause an account to be prepared, showing the total receipt and expenditure of all monies levied by virtue of this or the special Act for the year ending on the thirty-first day of December, or some other convenient day in each year, under the several distinct heads of receipt and expenditure, with a statement of the balance of such account, certified by the chairman of the company, and duly audited, and shall send a copy of the said account, free of charge, to the clerk of the peace for the county in which the cemetery is situated, on or before the expiration of one month from the day on which such accounts end, which last-mentioned account shall be open to the inspection of the public at all reasonable hours, on payment of the sum of one shilling for every such inspection; and if the company omit to prepare or send such account as aforesaid, they shall forfeit for every such omission the sum of twenty pounds (*a*).

(*a*) Section 61 (as to tender of amends) was repealed by the S. L. R. A., 1894. See now the Public Authorities Protection Act, 1893, *ante*, p. 939.

* * * * * *

And with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, be it enacted as follows:

Recovery of damages and penalties.

62. The clauses of the Railways Clauses Consolidation Act, 1845 (*a*), with respect to the recovery of damages not specially provided for, and of penalties, and to the determination of any other matter referred to justices, shall be incorporated with this and the special Act; and such clauses shall apply to the cemetery and to the company respectively (*b*).

Railways Clauses Consolidation Act (8 & 9 Vict. c. 20), incorporated as to damages, etc.

(*a*) *Ante*, p. 2139.

(*b*) Section 63 related only to penalties in Ireland, and was repealed by the S. L. R. A., 1875.

* * * * * *

64. All things herein or in the special Act, or any Act incorporated therewith, authorised or required to be done by two justices may and shall be done by any one magistrate having by law authority to act alone for any purpose with the powers of two or more justices.

Powers of justices.

65. [*False evidence*] (*a*).

(*a*) Repealed by the Perjury Act, 1911.

And with respect to affording access to the special Act, be it enacted as follows:

Access to special Act.

66. The company shall at all times after the expiration of six months after the passing of the special Act keep in their principal office of business a copy of the special Act, printed by the printers to her Majesty, or some of them, and shall also within the space of such six months deposit in the office of the clerk of the peace of the county in which the cemetery is situated a copy of such special Act, so printed as aforesaid; and the said clerk of the peace shall receive, and he and the company respectively shall keep, the said copies of the special Act, and shall allow all persons interested therein to inspect the same, and make extracts or copies therefrom, in the like manner, and upon the like terms, and under the like penalty for default, as is provided in the case of certain plans and sections by the Parliamentary Documents Deposits Act, 1837.

Copies of special Act to be open to inspection.

7 Will. 4 & 1 Vict. c. 83.

67. If the company fail to keep or deposit any of the said copies of the special Act, as hereinbefore-mentioned, they shall forfeit twenty pounds for every such offence, and also five pounds for every day afterwards during which such copy shall be not so kept or deposited.

Penalty on company failing to keep or deposit such copies.

68. Nothing herein contained shall be deemed to exempt the company from any general Act relating to burials in towns or populous places which may be passed in the same session of Parliament in which the special Act is passed, or any future session of Parliament.

Saving as to future Acts.

* * * * * *

SCHEDULES TO WHICH THE FOREGOING ACT REFERS.

FORM OF GRANT OF RIGHT OF BURIAL.

By virtue of [*here name the special Act*] we [*here state the name or description of the company*], in consideration of the sum of to us paid by , of , do hereby grant unto the said the exclusive right of burial [*or* the right of burying bodies, *as the case may be*,] [*or* the right of placing a monument, tablet, or gravestone,] in [*here describe the ground intended for the* *exclusive burial, or for placing a monument, tablet, or gravestone, as the case may be, so as to identify the same, and if a place of exclusive burial, add* "numbered on the plan of the cemetery, made in pursuance of the said Act,"] to hold the same to the said in perpetuity [*or the period agreed upon*] for the purpose of burial [*or as the case may be*].

Given under our common seal, [*or* under our hands and seals, *as the case may be*,] this day of in the year of our Lord .

FORM OF ASSIGNMENT OF RIGHT OF BURIAL.

I, *A.B.*, of , in consideration of the sum of paid to me by *C.D.*, of , do hereby assign unto the said *C.D.* the exclusive right of burial in [*here describe the place*], and numbered on the plan of the cemetery made in pursuance of the said Act, which was granted to me [*or* unto *A.B.* of] in perpetuity [*or as the case may be*] by [*here state the name of the company*], by a deed of grant bearing date the day of , and all my estate, title, and interest therein, to hold the same unto the said *C.D.* in perpetuity [*or, as the case may be,* for the remainder of the period for which the same was granted by the said company] subject to the conditions on which I held the same immediately before the execution hereof.

Witness my hand and seal, this day of .

THE TOWN POLICE CLAUSES ACT, 1847.

(10 & 11 VICT. c. 89)(*a*).

An Act for consolidating in one Act certain provisions usually contained in Acts for regulating the Police of Towns. [22nd July, 1847.]

Incorporation with special Act.

[**1.**] This Act shall extend only to such towns or districts in England or Ireland as shall be comprised in any Act of Parliament hereafter to be passed which shall declare that this Act shall be incorporated therewith; and all the clauses of this Act, save so far as they shall be expressly varied or excepted by any such Act, shall apply to the town or district which shall be comprised in such Act, and to the commissioners appointed for improving and regulating the same, so far as such clauses shall be applicable thereto respectively, and shall, with the clauses of every other Act which shall be incorporated therewith, form part of such Act, and be construed therewith as forming one Act.

(*a*) For the incorporation of parts of this Act with the P. H. A., 1875, see s. 171 of that Act, *ante*, p. 411. This Act is amended by 52 & 53 Vict. c. 14, *post*, p. 2524, which extends to omnibuses the provisions of certain sections relating to hackney carriages.

Interpretation.

And with respect to the construction of this Act, whether incorporated in whole or in part with any other Act, and of any Act incorporated therewith, be it enacted as follows:

"The special Act."

2. The expression "the special Act" used in this Act shall be construed to mean any Act which shall be hereafter passed for the improvement or regulation of any town or district defined or comprised therein, and with which this Act shall be incorporated; and the word "prescribed" used in this Act in reference to any matter herein stated, shall be construed to refer to such matter as the same shall be prescribed or provided for in the special Act, and the sentence in which such word shall occur shall be construed as if instead of the word "prescribed" the expression "prescribed for that purpose in the special Act" had been used; and the expression "the commissioners" shall mean the commissioners, trustees, or other persons or body corporate intrusted by the special Act with powers for executing the purposes thereof.

"Prescribed."

"The commissioners."

3. The following words and expressions in both this and the special Act, and any Act incorporated therewith, shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction; (that is to say),

Section 3.

Interpretations in this and the special Act.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number: — Number.

Words importing the masculine gender shall include females: — Gender.

The word "person" shall include a corporation, whether aggregate or sole: — "Person."

The word "lands" shall include messuages, lands, tenements, and hereditaments, of any tenure: — "Lands."

The word "street" shall extend to and include any road, square, court, alley, and thoroughfare, or public passage, within the limits of the special Act (*a*): — "Street."

The word "month" shall mean calendar month: — "Month."

The expression "superior courts" shall mean her Majesty's superior courts of record at Westminster. . . . — "Superior courts."

The word "oath" shall include affirmation in the case of Quakers, and any declaration lawfully substituted for an oath in the case of any other persons allowed by law to make a declaration instead of taking an oath: — "Oath."

The word "county" shall include riding or other division of a county having a separate commission of the peace, and shall also include county of a city or county of a town: — "County."

The word "justice" shall mean justice of the peace acting for the county, city, borough, liberty, cinque port, or other place where the matter requiring the cognizance of any such justice arises; and where any matter shall be authorised or required to be done by two justices, the expression "two justices" shall be understood to mean two or more justices met and acting together: — "Justice." "Two justices."

The expression "quarter sessions" shall mean quarter sessions as defined in the special Act, and if such expression be not there defined shall mean the general or quarter sessions of the peace which shall be held in or at the place nearest to the district comprised within the special Act for the county in which such district or some part thereof is situated, or for some division of such county having a separate commission of the peace: — "Quarter sessions."

The word "cattle" shall include horses, asses, mules, sheep, goats, and swine. — "Cattle."

(*a*) It appears from *Curtis* v. *Embery* (1872), L. R. 7 Ex. 369, that in this Act the definition here given must be adopted. See also *Jones* v. *Short* (1900), 69 L. J. Q. B. 473; 64 J. P. 247.

See as to the meaning of this term, *Maddock* v. *Wallasey L. B.*, *ante*, p. 2166; *Heatherton* v. *Watson* (1880), 7 Ct. of Sess. Cas. (4th ser.) (J.C.) 5. These cases decide that the seashore or foreshore is not a street; see also the notes to ss. 38 and 45, *post*, pp. 2242, 2245.

The P. H. A., 1907, s. 81 (*ante*, p. 1150), where in force extends this definition for the purposes of s. 28 of this Act, *post*, p. 2230.

And with respect to citing this Act, or any part thereof, be it enacted as follows:

Citing the Act.

4. In citing this Act in other Acts of Parliament, and in legal instruments, it shall be enough to use the expression "The Town Police Clauses Act, 1847."

Short title of this Act.

5. For the purpose of incorporating part only of this Act with any Act hereafter to be passed, it shall be enough to describe the clauses of this Act with respect to any matter in the words introductory to the enactment with respect to such matter, and to enact that the clauses so described, or that

Form in which portions of this Act may be incorporated with other Acts.

Section 5. this Act, with the exception of the clauses so described, shall be incorporated with such Act; and thereupon all the clauses of this Act so incorporated shall, save so far as they are expressly varied or excepted by such Act, form part of such Act, and such Act shall be construed as if such clauses were set forth therein with reference to the matter to which such Act relates.

* * * * * *

Obstructions and Nuisances.

And with respect to obstructions and nuisances in the streets, be it enacted as follows (*a*):

(*a*) It is to be observed that many of the offences mentioned in the following sections are punishable under the provisions of the Highway Acts and the Vagrancy Acts, which should, therefore, be referred to in further illustration of the meaning of these sections.

Power to make orders for preventing obstructions in the streets during public processions, etc.

21. The commissioners may from time to time make orders (*a*) for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets, within the limits of the special Act, in all times of public processions, rejoicings, or illuminations, and in any case where the streets are thronged or liable to be obstructed (*b*), and may also give directions to the constables for keeping order and preventing any obstruction of the streets in the neighbourhood of theatres and other places of public resort; and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding forty shillings.

(*a*) An urban authority acting under this section made an order that the constables stationed at certain crossings should give directions to the drivers of vehicles for the purpose of regulating the traffic. The driver of a motor cab was summoned for failing to stop his cab in accordance with the directions of the police officer, on duty, and was convicted. The Divisional Court held that the order implied an obligation on the part of drivers to obey the directions of the constable, and that, therefore, the appellant was rightly convicted (*Dudderidge* v. *Rawlings* (1913), 77 J. P. 167; 108 L. T. 802). See also s. 74 of the P. H. A., 1925, *ante*, p. 1620, and s. 9 of the London Traffic Act, 1924, *post*, p. 2860, as to the direction of traffic by police constables. As to the prohibition of hawking by costermongers at stated times, see *Teale* v. *Williams*, [1914] 3 K. B. 395; 78 J. P. 383; *Edwards* v. *Wanstall* (1930), 28 L. G. R. 38. An order under this section does not require confirmation by the M. of H. (*ibid.*).

(*b*) See s. 28, *post*, p. 2230, and *Fox* v. *Palmer* (1858), 22 J. P. 449, in regard to an obstruction by running horses in the access to a market. As to obstruction by a theatre queue, see the cases cited in note (*p*), to s. 28, *post*, p. 2234.

Power to regulate the route of persons driving stage carriages, etc. near places of worship during hours of Divine service.

22. On application to the commissioners by the minister or churchwardens or chapelwardens of any church, chapel, or other place of public worship within the limits of the special Act, the commissioners may make orders for regulating the route by which persons shall drive (*a*) any cart or carriage, or cattle, or the manner in which they shall drive them, in the neighbourhood of such places of worship, during the hours of Divine service on Sunday, Christmas Day, Good Friday, or any day appointed for a public fast or thanksgiving; and any orders so made shall be printed or put up on or near the church, chapel, or place of public worship to which the same refer, and in some conspicuous places near and leading thereto, and elsewhere as the commissioners direct; and every wilful breach of any such order shall be deemed a separate offence against this Act, and every person committing any such offence shall be liable to a penalty not exceeding forty shillings.

(*a*) A local Act for a parish in which there was a large cattle market enacted that it shall not be lawful for any drover or other person to conduct or drive through any of the streets in the parish any oxen, sheep, or other cattle during Sunday:—*Held*, that a person driving a van with horses, in which were calves being conveyed to the market, was not driving or conducting cattle within the meaning of the statute (*Triggs* v. *Lester* (1866), L. R. 1 Q. B. 259; 30 J. P. 238).

Power to stage carriages to deviate from route under

23. No proprietor of any stage carriage duly licensed to carry passengers for hire shall be liable to any penalty for any deviation from the route or line of route specified in his licence which the driver of such stage carriage

Section 23.

order of commissioners.

makes in consequence of any regulation or direction made or given by the commissioners (*a*).

(*a*) See *Chorlton* v. *Liggett* (1910), 74 J. P. 458; 103 L. T. 543. As no stage carriages are now licensed under the general law, this section is now inoperative.

Power to impound stray cattle.

24. If any cattle be at any time found at large in any street within the limits of the special Act, without any person having the charge thereof (*a*), any constable or officer of police, or any person residing within the limits of the special Act, may seize and impound such cattle in any common pound within the said limits, or in such other place as the commissioners appoint for that purpose, and may detain the same therein until the owner thereof pay to the commissioners a penalty not exceeding forty shillings, besides the reasonable expenses of impounding and keeping such cattle (*b*).

(*a*) Under 4 Geo. 4, c. 95, s. 75, horses grazing on the side of a turnpike road with a man in charge of them were held not liable to be impounded as wandering, straying, or lying about the road (*Morris* v. *Jeffries* (1866), L. R. 1 Q. B. 261).

(*b*) The Protection of Animals Act, 1911, s. 7 (1), requires persons impounding animals to supply them with food and water, and imposes a fine for neglect of the duty. This provision does not apply to the keeper of the pound (*Dargan* v. *Davies* (1877), 2 Q. B. D. 118; 41 J. P. 468, decided under corresponding repealed provisions). The Act of 1911 also allows strangers to enter the pound and provide food and water under certain circumstances. The reasonable cost of food and water supplied is recoverable from the owners summarily (s. 7 (2), (3)). Under 1 & 2 Phil. & M. c. 12, s. 2, no person may take for impounding more than fourpence for any one whole distress, under the pain of £5 to the party grieved.

Power to sell cattle impounded for payment of penalty and expenses, after notice or advertisement.

25. If the said penalty and expenses be not paid within three days after such impounding, the pound-keeper or other person appointed by the commissioners for that purpose may proceed to sell or cause to be sold any such cattle; but previous to such sale seven days' notice thereof shall be given to or left at the dwelling-house or place of abode of the owner of such cattle, if he be known, or if not, then notice of such intended sale shall be given by advertisement, to be inserted seven days before such sale in some newspaper published or circulated within the limits of the special Act; and the money arising from such sale, after deducting the said sums and the expenses aforesaid, and all other expenses attending the impounding, advertising, keeping, and sale of any such cattle so impounded, shall be paid to the commissioners, and shall be by them paid, on demand, to the owner of the cattle so sold.

Persons guilty of pound breach to be committed for three months.

26. Every person who releases or attempts to release any cattle from any pound or place where the same are impounded under the authority of this or the special Act, or who pulls down, damages, or destroys the same pound or place, or any part thereof, with intent to procure the unlawful release of such cattle, shall, upon conviction of such offence before any two justices, be committed by them to some common gaol or house of correction for any time not exceeding three months (*a*).

(*a*) Compare 6 & 7 Vict. c. 30, s. 1, as to pound-breach, and see *R.* v. *Gee* (1885), 49 J. P. 212, 243; 1 T. L. R. 388, decided with reference to that Act.

Power to provide a pound.

27. The commissioners may purchase a piece of land within the limits of the special Act for the purpose of a pound for stray animals, and may erect a pound thereon, and such pound when made shall be kept in repair by the commissioners (*a*).

(*a*) A person who distrains cattle is bound to impound them in a proper pound; and if the usual pound is in an unfit state, he must find another (*Bignell* v. *Clarke* (1860), 5 H. & N. 485; 29 L. J. Ex. 257). If the pound is wet and muddy, the distrainors are liable for any damage thereby caused to the distress (*Wilder* v. *Speer* (1838), 8 A. & E. 547; 7 L. J. Q. B. 249). As to the distance which animals may be taken to a pound, see *Coaker* v. *Willcocks*, [1911] 2 K. B. 124; 27 T. L. R. 357.

Penalty on persons committing any of the offences herein named.

28. Every person who in any street (*a*), to the obstruction, annoyance or danger (*b*) of the residents or passengers (*c*), commits any of the following offences, shall be liable to a penalty not exceeding forty shillings for each offence, or, in the discretion of the justice before whom he is convicted, may be committed to prison, there to remain for a period not exceeding fourteen days; and any constable (*d*) or other officer appointed by virtue of this or the special Act shall take into custody, without warrant, and forthwith convey before a justice, any person who within his view commits any such offence; (that is to say,)

Every person who exposes for show, hire, or sale (except in a market or market place or fair lawfully appointed for that purpose) any horse or other animal, or exhibits in a caravan or otherwise any show or public entertainment, or shoes, bleeds, or farries any horse or animal (except in cases of accident), or cleans, dresses, exercises (*e*), trains, or breaks, or turns loose any horse or animal (*f*), or makes or repairs any part of any cart or carriage (except in cases of accident (*g*) where repair on the spot is necessary):

Every person who suffers to be at large any unmuzzled ferocious dog, or sets on or urges any dog or other animal to attack, worry, or put in fear any person or animal (*h*):

Every owner of any dog who suffers such dog to go at large, knowing or having reasonable ground for believing it to be in a rabid state, or to have been bitten by any dog or other animal in a rabid state (*i*):

Every person who after public notice given by any justice, directing dogs to be confined on account of suspicion of canine madness, suffers any dog to be at large during the time specified in such notice:

Every person who slaughters or dresses any cattle, or any part thereof, except in the case of any cattle over-driven which may have met with some accident, and which for the public safety or other reasonable cause ought to be killed on the spot (*j*):

Every person having the care of any waggon, cart, or carriage, who rides on the shafts thereof, or who without having reins, and holding the same, rides upon such waggon, cart, or carriage, or on any animal drawing the same, or who is at such a distance from such waggon, cart, or carriage, as not to have due control over every animal drawing the same (*k*), or who does not, in meeting any other carriage, keep his waggon, cart, or carriage to the left or near side (*l*), or who in passing any other carriage does not keep his waggon, cart, or carriage on the right or off side of the road, (except in cases of actual necessity, or some sufficient reason for deviation,) or who, by obstructing the street, wilfully prevents any person or carriage from passing him, or any waggon, cart, or carriage under his care:

Every person who at one time drives more than two carts or waggons, and every person driving two carts or waggons who has not the halter of the horse in the last cart or waggon securely fastened to the back of the first cart or waggon, or has such halter of a greater length from such fastening to the horse's head than four feet (*m*):

Every person who rides or drives furiously any horse or carriage, or drives furiously any cattle (*n*):

Every person who causes any public carriage, sledge, truck, or barrow, with or without horses, or any beast of burden, to stand longer than is necessary for loading or unloading goods, or for taking up or setting down passengers, (except hackney carriages, and horses and other beasts of draught or burthen, standing for hire in any place appointed for that purpose by the commissioners or other lawful authority,) and every person who, by means of any cart, carriage, sledge, truck, or

barrow, or any animal, or other means (*o*) wilfully interrupts any public crossing, or wilfully causes any obstruction in any public footpath or other public thoroughfare (*p*):

Every person who causes any tree or timber or iron beam to be drawn in or upon any carriage, without having sufficient means of safely guiding the same:

Every person who leads or rides any horse or other animal, or draws or drives any cart or carriage, sledge, truck, or barrow, upon any footway of any street, or fastens any horse or other animal so that it stands across or upon any footway:

Every person who places or leaves any furniture, goods, wares, or merchandise, or any cask, tub, basket, pail, or bucket, or places or uses any standing-place, stool, bench, stall, or showboard, on any footway (*q*), or who places any blind, shade, covering, awning, or other projection over or along any such footway, unless such blind, shade, covering, awning, or other projection is eight feet in height at least in every part thereof from the ground:

Every person who places, hangs up, or otherwise exposes to sale any goods, wares, merchandise, matter, or thing whatsover, so that the same project into or over any footway, or beyond the line of any house, shop, or building at which the same are so exposed, so as to obstruct or incommode the passage of any person over or along such footway (*r*):

Every person who rolls or carries any cask, tub, hoop, or wheel, or any ladder, plank, pole, timber, or log of wood, upon any footway, except for the purpose of loading or unloading any cart or carriage, or of crossing the footway (*s*):

Every person who places any line, cord, or pole across any street, or hangs or places any clothes thereon (*t*):

Every common prostitute or nightwalker loitering and importuning passengers for the purpose of prostitution (*u*):

Every person who wilfully and indecently exposes his person (*x*):

Every person who publicly offers for sale or distribution, or exhibits to public view any profane, indecent, or obscene book, paper, print, drawing, painting, or representation, or sings any profane or obscene song or ballad, or uses any profane or obscene language (*y*):

Every person who wantonly discharges any firearm, or throws or discharges any stone or other missile, or makes any bonfire, or throws or sets fire to any firework (*z*):

Every person who wilfully and wantonly disturbs any inhabitant, by pulling or ringing any door bell, or knocking at any door (*aa*), or who wilfully and unlawfully extinguishes the light of any lamp:

Every person who flies any kite, or who makes or uses any slide upon ice or snow:

Every person who cleanses, hoops, fires, washes, or scalds any cask or tubs, or hews, saws, bores, or cuts any timber or stone, or slacks, sifts, or screens any lime:

Every person who throws or lays down any stones, coals, slate, shells, lime, bricks, timber, iron, or other materials (except building materials so inclosed as to prevent mischief to passengers) (*bb*):

Every person who beats or shakes any carpet, rug, or mat (except door mats beaten or shaken before the hour of eight in the morning):

Every person who fixes or places any flower-pot or box, or other heavy article, in any upper window, without sufficiently guarding the same against being blown down:

Every person who throws from the roof or any part of any house or other building any slate, brick, wood, rubbish, or other thing, except snow thrown so as not to fall on any passenger:

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Every occupier of any house or other building, or other person, who orders or permits any person in his service to stand on the sill of any window, in order to clean, paint, or perform any other operation upon the outside of such window, or upon any house or other building within the said limits, unless such window be in the sunk or basement story:

Every person who leaves open any vault or cellar, or the entrance from any street to any cellar or room underground, without a sufficient fence or handrail, or leaves defective the door, window, or other covering of any vault or cellar, or who does not sufficiently fence any area, pit, or sewer left open, or who leaves such open area, pit, or sewer without a sufficient light after sunset to warn and prevent persons from falling thereinto (*cc*):

Every person who throws or lays any dirt, litter, or ashes, or nightsoil, or any carrion, fish, offal, or rubbish, on any street, or causes any offensive matter to run from any manufactory, brewery, slaughter-house, butcher's shop, or dunghill, into any street (*dd*): Provided always, that it shall not be deemed an offence to lay sand or other materials in any street in time of frost, to prevent accidents, or litter or other suitable materials to prevent the freezing of water in pipes, or in case of sickness to prevent noise, if the party laying any such things causes them to be removed as soon as the occasion for them ceases:

Every person who keeps any pigsty to the front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance (*ee*).

(*a*) See the definition in s. 3, *ante*, p. 2227, and compare the definition in the P. H. A., 1875, s. 4, *ante*, p. 16. See also in relation to certain offences under this section the provisions of s. 81 of the P. H. A., 1907, *ante*, p. 1150.

(*b*) These words govern the whole of the section. Compare the language of the Highway Act, 1835, s. 72, and the cases decided thereon: *Stinson* v. *Browning* (1866), L. R. 1 C. P. 321; 30 J. P. 312; *Hill* v. *Somerset* (1887), 51 J. P. 356. See also *Brotherton* v. *Tittensor* (1896), 60 J. P. 72; *Strickland* v. *Hayes*, [1896] 1 Q. B. 290; 60 J. P. 164; *Mantle* v. *Jordan*, [1897] 1 Q. B. 248; 61 J. P. 119. But in proceedings for an offence it is not necessary to call persons who have been actually annoyed, etc. (*Woolley* v. *Corbishley* (1860), 24 J. P. 773; *Read* v. *Perrett*, *ante*, p. 2205; *R.* v. *Fermanagh JJ.* (1883), 14 L. R. Ir. 50; *McDonald* v. *White* (1882), 9 Ct. of Sess. Cas. (4th ser.), p. 43; *Black* v. *Simpson* (1883), 5 Coup., Ct. of Justiciary Cas. (Scotland), p. 212; *Semon* v. *Read* (1879), 4 Coup. 221; *Leisk* v. *Galloway* (1885), 12 Ct. of Sess. Cas. (4th ser.) (J. C.) 5; *Dunn* v. *Holt* (1904), 68 J. P. 271; *Hinde* v. *Evans* (1906), 70 J. P. 548; *Lees* v. *Stone* (1919), 88 L. J. K. B. 1159; 83 J. P. 163). See, however, *Stanley* v. *Ferndale* (1892), 56 J. P. 709, where a conviction under a local Act was quashed on the ground that there was no evidence besides that of the constable that there was any annoyance. But where a byelaw of a borough provided that if any person should make any noise in the streets to the annoyance of the inhabitants he should be guilty of an offence, upon a summons against a newspaper boy for shouting out the name of a newspaper incessantly for six minutes, etc., it was held that it was not necessary to prove that more than one inhabitant had in fact been annoyed thereby (*Innes* v. *Newman*, [1894] 2 Q. B. 292; 58 J. P. 543). But the information should state the name of the person alleged to have been annoyed; see *per* Lord Salvesen in *Graham* v. *M'Lennan*, [1911] S. C. (J.) 16.

(*c*) A byelaw contained the words "so as to constitute any reasonable ground of complaint to the passengers or the public," and the penalty was the same whichever class of persons had ground for complaint. Where an information and conviction described the offence as "contrary to the byelaw" without stating in terms any reasonable ground of complaint to the passengers or the public, or either of them, it was held that this statement was insufficient and the conviction was quashed (*Cotterill* v. *Lempriere* (1890), 24 Q. B. D. 634; 54 J. P. 583).

(*d*) This term includes any superintendent of police, and any constable or officer of police acting for or in the district of any urban authority (the P. H. A., 1875, s. 171, *ante*, p. 411). The police who arrest an offender against this section were held to require no authority to prosecute under s. 253 of the P. H. A., *ante*, p. 558 (*Jobson* v. *Henderson* (1900), 64 J. P. 425; 82 L. T. 260). See, however, the comments on that case in *Sheffield Corporation* v. *Kitson* (1929), 93 J. P. 135; 27 L. G. R. 533. In the last-mentioned case it was held that proceedings for a penalty under a provision of this Act incorporated with the P. H. A., 1875, must be recovered in accordance with s. 253 of the P. H. A., 1875, *ante*, p. 558.

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(*e*) See *Heatherton* v. *Watson*, *ante*, p. 2227.

(*f*) The owner of land adjoining a highway claiming the herbage on the side of the latter put his cattle thereon:—*Held*, that this was not turning an animal loose thereon (*Sherborn* v. *Wells* (1863), 27 J. P. 566; 3 B. & S. 784). See also the provisions of the Highway Acts as to animals straying upon highways, 5 & 6 Will. 4, c. 50, s. 74, and 27 & 28 Vict. c. 101, s. 25, and the cases decided on these sections; *Morris* v. *Jeffries* (1866), L. R. 1 Q. B. 261; 30 J. P. 198; *Lawrence* v. *King* (1868), L. R. 3 Q. B. 345; 32 J. P. 310; *Golding* v. *Stocking* (1869), L. R. 4 Q. B. 516; 33 J. P. 566: *Bothamley* v. *Danby* (1871), 24 L. T. 656. And see *Higgins* v. *Searle* (1909), 73 J. P. 185; 100 L. T. 280; *Jones* v. *Lee* (1911), 76 J. P. 137; 106 L. T. 123; *Ellis* v. *Banyard* (1911), 106 L. T. 51; 28 T. L. R. 122. See also the provisions of this Act as to impounding animals, ss. 24—27, *ante*, p. 2229. As to the liability of a person for damage caused by animals while being driven along a street, see *Phillips* v. *Nicoll* (1884), 11 Ct. of Sess. Cas. (4th ser.) 592; *Tillett* v. *Ward* (1882), 10 Q. B. D. 17; 47 J. P. 438; *Goodwyn* v. *Cheveley* (1859), 4 H. & N. 631; and generally as to leading or driving animals in streets, see s. 80 of the P. H. A., 1907; *Turnbull* v. *Wieland* (1917), 33 T. L. R. 143. It should be noticed that although the owner of animals may be liable to a penalty under the Highway Acts for allowing them to stray on a highway, these acts impose no civil liability on the owner. See *Heath's Garage, Ltd.* v. *Hodges*, [1916] 2 K. B. 370; 80 J. P. 321.

(*g*) A motor omnibus broke down and was unable to proceed on its journey under its own mechanism. It was pushed into a side street and there repaired. It was held that this was not a case where repair on the spot was necessary, as if it could be pushed so far it could be pushed further, and the owner was not protected by the excepting clause in a similar section (*Chapman* v. *Rawlings* (1909), 73 J. P. 512; 101 L. T. 605).

(*h*) See also 57 & 58 Vict. c. 57, s. 226, as to the powers of the Minister of Agriculture and Fisheries to make muzzling orders, and the Dogs Act, 1906, which deals with the liability of owners of dogs for injury to cattle, enables the Minister of Agriculture and Fisheries to make orders as to wearing of collars, etc., and provides for the seizure of stray dogs, etc. The Board made an Order as to the wearing of collars under the Diseases of Animals Acts, 1894—1909, dated February 8th, 1910. As to the proof of *scienter*, in case of damage to human beings, see *Worth* v. *Gilling* (1867), L. R. 2 C. P. 1; *Baldwin* v. *Casella* (1872), L. R. 7 Ex. 325; *Applebee* v. *Percy* (1874), L. R. 9 C. P. 647; 38 J. P. 567; *Parker* v. *Walsh* (1884), 1 T. L. R. 583; *Sanders* v. *Teape* (1884), 48 J. P. 757; 51 L. T. 263. As to liability of master for injury to a third person caused by servant setting on dog, see *Baker* v. *Snell*, [1908] 2 K. B. 825. As to liability of the owner for injuries to cattle, sheep, and poultry, see the Dogs Acts, 1906 and 1928. The following cases as to the law as it stood under the now repealed Dogs Act, 1865, may also be referred to, viz.: *Wright* v. *Pearson* (1869), L. R. 4 Q. B. 582; 33 J. P. 534; *Lewis* v. *Jones* (1884), 49 J. P. 198; *Grange* v. *Silcock* (1897), 61 J. P. 709; 77 L. T. 340; *Elliott* v. *Longden* (1901), 17 T. L. R. 648; *Gardner* v. *Hart* (1896), 44 W. R. 527; *M'Kone* v. *Wood* (1831), 5 C. & P. 1. The removal of a dog which is dangerous and is not kept under proper control from the jurisdiction of a police court after the date of the alleged offence and before the date of the information or complaint, does not take away the power of the magistrates under s. 2 of the Dogs Act, 1871, to make an order against the owner that the dog is to be destroyed, provided that there has been no bonâ fide disposal of the dog (*Lockett* v. *Withey* (1908), 72 J. P. 492; 25 T. L. R. 16). Where justices made an order under the same section that a dangerous dog "should be kept under proper control and led by a leash by day and chained up at night," the court refused to make absolute a rule for a *mandamus* to state a case on the ground that the point could have been more conveniently raised by *certiorari* (*R.* v. *Owen, Ex parte Scorell* (1907), 72 J. P. 60; 52 Sol. J. 132).

(*i*) Proof that the defendant knew his dog had been bitten by a mad dog was held sufficient evidence of *scienter* in *Jones* v. *Perry* (1796), 2 Esp. 482.

(*j*) See the Protection of Animals Act, 1911, empowering the police to cause injured animals to be slaughtered, without the consent of the owner, after obtaining a veterinary certificate; and making the expenses recoverable from the owner as a civil debt.

(*k*) See *Phythian* v. *Baxendale*, [1895] 1 Q. B. 678; 59 J. P. 217; *Hinde* v. *Evans* (1906), 70 J. P. 458.

(*l*) There is not at common law any such rule of the road as to make the left always the proper side. See *Finegan* v. *L. & N. W. Rail. Co.* (1889), 53 J. P. 663; 5 T. L. R. 598. As to the power of the local authority to make regulations as to street traffic, see s. 78 of the P. H. A., 1907, *ante*, p. 1149. The absence of other traffic on the road is a good defence to proceedings under a byelaw similar to the text (*Bolton* v. *Everett* (1911), 75 J. P. 534; 105 L. T. 830). And see *Chorlton* v. *Liggett* (1910), 74 J. P. 458; 103 L. T. 543; *Nuttall* v. *Pickering*, [1913] 1 K. B. 14; 77 J. P. 30. For a case of alleged obstruction in passing a tramway car in a street where there was a double set of lines, see *Sleith* v. *Godfrey* (1920), 18 L. G. R. 727; 85 J. P. 46. And as to passing led horses on a road, see *per* Lord Mackenzie in *Umphray* v. *Ganson*, [1917] S. C. 371.

(*m*) See *Robertson* v. *Burkitt* (1858), 7 W. R. 50.

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(*n*) See *Chatterton* v. *Parker*, [1914] 78 J. P. 339. Note that this clause, unlike 5 & 6 Will. 4, c. 50, s. 78, includes riding as well as driving furiously. See *Williams* v. *Evans* (1876), 1 Ex. D. 277; 41 J. P. 151. See also 24 & 25 Vict. c. 100, s. 35, and s. 74 of the P. H. A., 1925, *ante*, p. 1620. A bicycle is a carriage within this provision (*Taylor* v. *Goodwin* (1879), 4 Q. B. D. 228; 43 J. P. 653; *McKee* v. *Magrath* (1892), 30 L. R. Ir. 41). A motor bicycle is a carriage within the meaning of the Customs and Inland Revenue Act, 1888, s. 4 (*O'Donoghue* v. *Moon* (1904), 68 J. P. 349; 90 L. T. 843; and see *Elieson* v. *Parker* (1917), 81 J. P. 265). See, further, as to bicycles and tricycles, the L. G. A., 1888, s. 85, *ante*, p. 817. By s. 1 (1) (b) of the Locomotives on Highways Act, 1896, a light locomotive is a carriage within the meaning of this section, and by s. 9 of the Motor Car Act, 1903, no motor car shall travel along a public highway at a greater speed than twenty miles an hour, or than any less speed that may be prescribed for any limits by regulations of the Minister of Transport. Notice of a local speed limit must be given by notices on the highway. Penalties are imposed by s. 9 for an infringement of the speed limit.

(*o*) Three defendants were convicted by the defendant justices, under this section, for obstructing passengers in the public street and unlawfully preventing persons passing there. It appeared by the evidence of a police constable that the three defendants were standing, with three or four other persons on the pavement, blocking up the same. Several persons had to leave the footpath and go into the road in order to pass. The constable spoke to the defendants, and asked them to move off. They then walked up the street, all three abreast, causing passengers who met them to leave the footpath and go into the road:—*Held*, that the conviction was wrong, and could not be sustained (*R.* v. *Long* (1888), 52 J. P. 630; 59 L. T. 33). It was said in *Gill* v. *Carson* (*infra*) that *R.* v. *Long* had been impliedly overruled by *Hinde* v. *Evans*, *infra*. And see *R.* v. *Williams* (1891), 55 J. P. 406.

A shopkeeper in a borough placed goods upon the pavement in front of his shop for sale. Upon being summoned under this section for obstructing the footway, he contended that he bonâ fide claimed the right to place his goods there. The justices considered that their jurisdiction was ousted, but stated a case:—*Held*, that the justices ought to determine whether the land on which the goods were placed was part of the public highway or not, and that unless the defendant established a restricted dedication no question as to a claim of right arose (*Leicester Urban Sanitary Authority* v. *Holland* (1888), 52 J. P. 788, 57 L. J. M. C. 75). To a complaint before justices under the section for obstructing a public footway, it is a good defence that such footway was dedicated to the public subject to the right of the defendant to commit the acts of obstruction complained of, and such defence if raised bonâ fide ousts the jurisdiction of the justices. The evidence, however, to establish such a defence should be of a cogent character (*R.* v. *Londonderry JJ.*, [1902] 2 I. R. 266). See also note (*b*) to s. 69 of the T. I. C. Act, 1847, *ante*, p. 2204.

(*p*) When an undoubted obstruction is proved, the plaintiff need not call persons to prove that they were obstructed, and, on the other hand, no evidence can be called to prove that they were not obstructed. See *Read* v. *Perrett*, *ante*, p. 2205; *McDonald* v. *White*, *ante*, p. 2232. Whether a person wilfully causes an obstruction in a public thoroughfare is in each case a question of degree depending upon the particular facts (*Dunn* v. *Holt* (1904), 73 L. J. K. B. 341; 68 J. P. 271; *Lowdens* v. *Keaveney* (1903), 67 J. P. 378). The fact that a horse and cart have been placed in charge of some one does not afford a defence to proceedings if there has been obstruction in point of fact. See *Hinde* v. *Evans* (1906), 70 J. P. 548. On the other hand, there must be some evidence of obstruction, and where the only evidence was that two carters had left their carts outside a public house while they went in for refreshment, the Court quashed the conviction (*Gill* v. *Carson*, [1917] 2 K. B. 674; 81 J. P. 250). A person who had a caravan for the sale of goods stationed in a market place near what was described as a footpath, over which a crowd collected and obstructed the passage:—*Held*, that he was not guilty of an offence against this clause (*Ball* v. *Ward* (1875), 40 J. P. 213; 33 L. T. 170). An obstruction is not caused by persons stopping and talking in the street, unless it is done wilfully and pertinaciously (*Wemyss* v. *Black* (1881), 8 Ct. of Cess. Cas. (Just.) (4th ser.), 25). An indictable obstruction may be caused by attracting a crowd by means of pictures, etc., in shop windows (*R.* v. *Carlile* (1832), 6 C. & P. 636; and see 46 J. P. 19). A street preacher who collected a crowd in a highway was held rightly convicted under 5 & 6 Will. 4, c. 50, s. 72, though there was room outside the crowd for foot passengers and vehicles to pass and repass (*Homer* v. (*Cadman* 1886), 55 L. J. M. C. 110; 50 J. P. 454). And see *Back* v. *Holmes* (1887), 57 L. J. M. C. 37; 51 J. P. 693; *Ex parte Lewis* (1888), 21 Q. B. D. 191; 52 J. P. 773; *Burden* v. *Rigler*, [1911] 1 K. B. 337; 75 J. P. 36. A person who by carrying on a theatre causes a crowd to assemble and obstruct the highway, thereby creating a nuisance to private adjoining owners, is answerable for the obstruction if it be the necessary result of his acts, even though it be not his actual object (*Lyons, Son & Co.* v. *Gulliver and Capital Syndicate, Ltd.*, [1914] 1 Ch. 631; 78 J. P. 98; 30 T. L. R. 75). There is no difference of principle in this respect between outdoor and indoor entertain-

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ments (*Barber* v. *Penley*, [1893] 2 Ch. 447, and see *Wagstaffe* v. *Edison* (1893), 10 T. L. R. 80). A person riding a bicycle on a footpath by the side of a public road was held rightly convicted under an Irish Act (14 & 15 Vict. c. 92, s. 13) of obstructing the free passage of foot passengers, although no evidence was produced of any foot passengers having been actually obstructed (*McKee* v. *Magrath* (1892), 30 L. R. Ir. 41). See also *R.* v. *Simpson*, Times, January 23rd, 1895. Where there is a public way, though it may only be a bridleway or footway, the public are entitled to use the full width of it, though it may be a private way for carriages (*Pullen* v. *Deffel*, W. N. (1891), 39; 64 L. T. 134). But the presumption applicable to an ordinary public highway bounded by fences is not applicable to a public footpath which passes through a lane of irregular shape and of varying breadth between the fences. In such a case there is no presumption that the public right extends over the whole space between the fences (*Ford* v. *Harrow U. D. C.* (1903), 67 J. P. 248; 88 L. T. 394). Persons using a traction engine and trucks on a highway six hours daily for seven weeks cannot be found guilty on indictment for a nuisance, unless they create a substantial obstruction and occasion delay and inconvenience to the public substantially greater than would have been caused by horses and carts (*R.* v. *Chittenden* (1885), 15 Cox, C. C. 725). This clause will not apply to a place like a mews, which is not a street, and is only dedicated to the public subject to certain restrictions arising from its use (*Vestry of Chelsea* v. *Stoddart* (1879), 43 J. P. 782). The cases decided with reference to the Highway Act, 1835, s. 72, should be referred to in illustration of this clause, and see *Nuttall* v. *Pickering*, [1913] 1 K. B. 14; 77 J. P. 30. As to claims to erect booths, etc., on highways during a fair, see *Simson* v. *Wells* (1872), 26 L. T. 163; a claim to expose goods for sale on market day, *R.* (*Kennedy*) v. *Cork County JJ.*, [1912] 2 I. R. 391; a claim by an innkeeper to allow his guest's carriage to remain in the highway, *Gerring* v. *Barfield* (1864), 28 J. P. 615; holding a fair on a highway, *Elwood* v. *Bullock* (1844), 6 Q. B. 383; *R.* v. *Smith* (1802), 4 Esp. 109. To allow trees to grow over a highway is not a wilful obstruction (*Walker* v. *Horner* (1876), 1 Q. B. D. 4; 39 J. P. 773). Nor is there any liability under the Highway Acts on an occupier of land for failing to light a tree which has fallen across a road or to warn passengers of the obstruction thereby caused, *Hudson* v. *Bray*, [1917] 1 K. B. 520; 81 J. P. 105. But any unreasonable and unnecessary use of a highway is an obstruction, *e.g.*, leaving a horse-van and ploughing gear standing by the side of a highway (*Harris* v. *Mobbs* (1878), 3 Ex. D. 268); or leaving a roller (*Wilkins* v. *Day* (1884), 12 Q. B. D. 110; 48 J. P. 6); or a motor car (*Macfarlane* v. *Colam*, [1908] S C. 56) so as to frighten horses; leaving a heap of earth and refuse by the side of a highway, so as to frighten horses (*Brown* v. *Eastern and Midlands Rail. Co.* (1889), 22 Q. B. D. 391; 53 J. P. 342). As to obstructions caused by the erection of barbed wire fences by the side of a highway, see 56 & 57 Vict. c. 32, *post*, p. 2553; *Stewart* v. *Wright* (1893), 9 T. L. R. 480; *Collen* v. *Ellis* (1893), 32 L. R. Ir. 491. As to the liability of a highway surveyor for leaving heaps of stones on a highway, see *Hardcastle* v. *Bielby* and the other cases cited, *ante*, p. 274.

As to the liability of a landowner whose soil slips from the banks upon the highway, see *Gully* v. *Smith* (1884), 12 Q. B. D. 121; 48 J. P. 309.

(*q*) There is sometimes a strip of land between the footway and the carriageway which is not dedicated to the public as part of the street. This clause would not affect the right to place goods, etc., upon it. See *Le Neve* v. *Mile End Old Town Vestry*, *ante*, p. 20; *R.* v. *Wigan JJ.* (1879), 43 J. P. 220; *Jones* v. *Matthews* (1884), 1 T. L. R. 482; *Hitchman* v. *Watt* (1894), 58 J. P. 720. But in general, if a person asserts the right to obstruct the way by virtue of a qualified dedication he must prove it. See *Spice* v. *Peacock* (1875), 39 J. P. 581; *Whittaker* v. *Rhodes* (1881), 46 J. P. 182; *Openshaw* v. *Pickering* (1913), 77 J. P. 27. But in such cases it is for the justices to determine whether or not the place is a street (*R.* v. *Young* (1882), 52 L. J. M. C. 55; 47 J. P. 519; *Leicester Sanitary Authority* v. *Holland*, *ante*, p. 2234). As to projections causing inconvenience to passengers, see the Towns Improvement Clauses Act, 1847, s. 69, *ante*, p. 2204; and compare the cases of *Wyatt* v. *Gems*, [1893] 2 Q. B. 225; 57 J. P. 665; and *Winsborrow* v. *London Joint Stock Bank* (1903), 67 J. P. 289; 88 L. T. 803. As to what are extenuating circumstances which will justify the dismissal of the summons, see *Dunning* v. *Trainer* (1909), 73 J. P. 400; 101 L. T. 421.

(*r*) As applied to costermongers there must be a real and substantial annoyance in fact in order to justify a conviction (*R.* v. *Francis* (1899), 68 L. J. Q. B. 609; 63 J. P. 469); and as to the meaning of the word costermonger, see *Baker* v. *Bradley* (1911), 33 M. C. C. 6.

(*s*) As to the right of the occupier of premises to have free access to the highway for his goods, even though in taking these across the footway he injures it, see *St. Mary, Newington, Vestry* v. *Jacobs* (1871), L. R. 7 Q. B. 47; 36 J. P. 119. See also *Le Neve* v. *Mile End Old Town*, *ante*, p. 20; *Rowley* v. *Tottenham U. D. C.*, [1914] A. C. 95; 78 J. P. 97; and *Curtis* v. *Geeves* (1930), 28 L. G. R. 103. Sometimes, however, a local Act forbids certain acts which interrupt the use of a footway, *e.g.*, unloading coal during certain hours. See *Fletcher* v. *Fields*, [1891] 1 Q. B. 790; 55 J. P. 502.

(*t*) An iron pole and a canvas flag hanging therefrom do not constitute a "sign" within the meaning of a local Act (*Goldstraw* v. *Jones* (1907), 71 J. P. 22; 96 L. T. 30).

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(*u*) A similar clause in a Scotch Act was held not to apply to the case of a prostitute accosting men from the window of a house (*Ford* v. *Linton* (1879), 6 Ct. of Sess. Cas. (4th ser.) (J. C.) 49). As to the meaning of the expressions "prostitute" and "prostitution," see *R.* v. *De Munck*, [1918] 1 K. B. 635; 82 J. P. 160.

(*x*) Note that the offence here described must be committed in a street. But the offence may be the subject of indictment, though not committed in a public place (*R.* v. *Wellard* (1884), 14 Q. B. D. 63; 49 J. P. 296).

(*y*) Compare the provisions of the Vagrancy Act, 1824, ss. 3, 4. The 20 & 21 Vict. c. 83, contains other provisions to prevent the sale of obscene books, pictures, prints, and other articles. See *R.* v. *Hicklin* (1868), L. R. 3 Q. B. 360; *S. C. sub nom. R.* v. *Wolverhampton Recorder*, 18 L. T. 395; *Steele* v. *Brannan* (1872), L. R. 7 C. P. 264; 36 J. P. 676; *Scott* v. *Wolverhampton* (1868), 32 J. P. 533, as to what are obscene books, etc. See also the Indecent Advertisements Act, 1889.

A byelaw made under s. 46 of the Tramways Act, 1870, *post*, that no person shall swear or use obscene or offensive language whilst in or upon any carriage was held not *ultra vires* although this section was in force also in the same city (*Gentel* v. *Rapps*, [1902] 1 K. B. 160; 66 J. P. 117). A byelaw forbidding the use of indecent language in any street or public place to the annoyance of passengers cannot be held to apply to such language used in a public house and heard only by persons present therein (*Russon* v. *Dutton* (*No.* 2) (1911), 75 J. P. 209; 104 L. T. 601).

(*z*) This is practically abrogated as to fireworks by 38 & 39 Vict. c. 17, s. 80. See as to blasting in a quarry (*Murray* v. *Keith* (1895), 22 Ct. of Sess. Cas. (4th ser.) (J. C.) 17). A person may also be indicted at common law or under 2 Edw. 3, c. 3, for going about armed (*R.* v. *Meade* (1903), 19 T. L. R. 540). For a case in which it was alleged that there had been an offence under s. 72 of the Highway Act, 1835, by a member of a shooting party, see *Lees* v. *Stone* (1919), 88 L. J. K. B. 1159; 83 J. P. 163.

(*aa*) The mere fact of a man being instructed to deliver papers at a house is no answer to a complaint under this clause if the ringing, etc., is violent and at an unreasonable hour of the night (*Clarke* v. *Hoggins* (1862), 11 C. B. (n.s.) 545). By s. 1 of the Chimney Sweepers Act, 1894, any person who shall for the purpose of soliciting employment as a chimney sweeper knock at the houses from door to door, or ring a bell, or use any noisy instrument, or to the annoyance of any inhabitant thereof ring the door bell of any house, or cause anyone to do any of the acts aforesaid, shall be liable on summary conviction to a penalty not exceeding ten shillings for the first offence, and to a penalty not exceeding twenty shillings for any subsequent offence.

(*bb*) A claim of right does not necessarily oust jurisdiction under this section, for the court has to decide as a fact whether the place is a street (*R.* v. *Young*, *ante*, p. 2235).

(*cc*) See the cases collected in note (*b*) to s. 69, T. I. C. Act, 1847, *ante*, p. 2204.

(*dd*) This must be within the urban district. See *Flight* v. *Clarke* (1844), 13 M. & W. 155. "Litter" includes handbills scattered about the street (*Hills* v. *Davies* (1903), 67 J. P. 198; 88 L. T. 464). As to laying rubble on a highway contrary to the Highway Act, 1835, s. 72, see *Smith* v. *Perry*, [1906] 1 K. B. 262; 70 J. P. 93.

(*ee*) See also the P. H. A., 1875, ss. 44, 47, *ante*, pp. 120, 123.

Penalty on drunken persons, etc. guilty of riotous or indecent behaviour.

29. Every person drunk in any street, and guilty of any riotous or indecent (*a*) behaviour therein, and also every person guilty of any violent or indecent behaviour in any police office or any police-station house, within the limits of the special Act, shall be liable to a penalty not exceeding forty shillings for every such offence, or, in the discretion of the justice before whom he is convicted, to imprisonment for a period not exceeding seven days (*b*).

(*a*) See note (*u*) to s. 28, *supra*.

(*b*) Where a charge is made under this clause, and the justices do not find that the defendant has been guilty of riotous conduct in a street, they cannot convict of simple drunkenness (*Martin* v. *Pridgeon* (1859), 1 El. & El. 778; 28 L. J. M. C. 179). See also the Licensing Act, 1872, s. 12, and the Licensing Act, 1902, ss. 1—3.

Fires.

And with respect to fires, be it enacted as follows:

Penalty for wilfully setting chimneys on fire.

30. Every person who wilfully sets or causes to be set on fire any chimney within the limits of the special Act, shall be liable to a penalty not exceeding five pounds: Provided always, that nothing herein contained shall exempt the person so setting or causing to be set on fire any chimney from liability to be indicted for felony.

Penalty for accidentally

31. If any chimney accidentally catch or be on fire within the said limits, the person occupying or using the premises in which such chimney is situated shall be liable to a penalty not exceeding ten shillings: Provided always, that such forfeiture shall not be incurred if such person prove to the satisfaction of the justice before whom the case is heard that such fire was in nowise owing to omission, neglect, or carelessness of himself or servant (*a*).

allowing chimneys to catch fire.

(*a*) The occupier has not, as in London under s. 30 of the L. C. C. (General Powers) Act, 1900 (63 & 64 Vict. c. cclxviii), any remedy over against the servant or other person by whose wilful neglect or default the chimney caught fire. See, generally, as to chimneys on fire, 61 J. P. 179.

Commissioners may provide fire engines and firemen.

32. The commissioners may purchase or provide such engines for extinguishing fire, and such water buckets, pipes, and other appurtenances for such engines, and such fire escapes and other implements for safety or use in case of fire, and may purchase, keep, or hire such horses for drawing such engines, as they think fit, and may build, provide, or hire places for keeping such engines with their appurtenances, and may employ a proper number of persons to act as firemen, and may make such rules for their regulation as they think proper and give such firemen and other persons such salaries and such rewards for their exertions in case of fire, as they think fit (*a*).

(*a*) As to building a fire engine station in alleged disregard of restrictive conditions of sale on neighbouring unsold plots, see *Holford* v. *Acton U. D. C.*, [1898] 2 Ch. 240. A fire brigade established by an urban authority under this section and s. 171 of the P. H. A., 1875, *ante*, p. 411, may exclude from the premises on fire and their immediate neighbourhood all persons whose presence would interfere with their operations (*Carter* v. *Thomas*, [1893] 1 Q. B. 673; 57 J. P. 438). A boy was invited by the defendants' firemen to assist in pulling a fire engine, and in so assisting was injured. It was held that the doctrine of common employment applied, and judgment was entered for the defendants (*Bass* v. *Hendon U. D. C.* (1911), 76 J. P. 13; 28 T. L. R. 317). In places where Part VIII. of the P. H. A., 1907, *ante*, p. 1156, is in force s. 87 empowers constables to break open premises in case of fire; s. 88 empowers the police to control street traffic; and s. 89 gives the captain of the fire brigade the control of the operations for extinguishing the fire. The superintendent of an urban district fire brigade established under this section has implied authority to call in the assistance of the brigade of an adjoining district in case of necessity, and he will thereby render the council of his own district liable to pay for the services of the brigade so called in (*James* v. *Staines U. D. C.* (1900), 83 L. T. 426; 17 T. L. R. 2), but in places where Part VIII. of the P. H. A., 1907, is in force local authorities may, under s. 90 of that Act, make agreements for the common use of fire appliances. As to the erection of fire alarms in streets and public places, see P. H. A., 1925, s. 15, *ante*, p. 1555, and as to false alarms of fire, see 58 & 59 Vict. c. 28.

As to the delegation of its powers under this and the following section by a borough council to a watch committee, see the Police Act, 1893, s. 2, *post*, p. 2551.

An urban district council may borrow for the provision of fire engines, fire stations, etc., under ss. 233, 234 of the P. H. A., 1875, *ante*, pp. 519, 526. Any application to the M. of H. for sanction to a loan should be made by resolution of the council, of which a copy should be forwarded by the clerk, with a statement showing how the amount proposed to be borrowed is made up, plans of any buildings, a specification of the articles to be purchased, and financial particulars of the district (in a form supplied). It is well also to forward a certificate that any buildings proposed will comply with the byelaws in force, and to explain what arrangements have been made for a site. Local inquiries are not usually directed for this purpose alone.

The terms for repayment allowed by the M. of H. are: For buildings, thirty years; for fire engines and appliances, ten years. The Minister does not allow money to be borrowed for firemen's uniforms. He is also unwilling to sanction loans for the purchase of *manual* fire engines unless the district is a small one.

Fire alarms and telephonic apparatus may be provided, but in some cases the M. of H. require the urban district council to ascertain whether any licence from the Postmaster-General is required to the scheme proposed.

An urban district council was desirous of providing cottages for their firemen, which, being some distance from the fire station, would be fitted with fire alarms or telephones, and applied to the L. G. B. (predecessors of the M. of H.) for sanction to a loan for the purpose of erecting these cottages. The Board stated that they were advised that it was not within the powers of the council to provide such cottages apart from the fire station, and they were therefore unable to accede to the application. If, however, it can be shown that cottages which a council propose to purchase or build are in such close connection with a fire brigade station that the accommodation can be considered to be part of a place for keeping an engine with the appurtenances within the meaning of s. 32 of the Act of 1847, the scheme may be practicable.

Urban district councils may combine for the provision of fire engines under s. 285 of

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the P. H. A., 1875, *ante*, p. 620, and if necessary appoint a joint committee of management under s. 57 of the L. G. A., 1894, *ante*, p. 1022.

Agreements may also be made by which a fire engine provided by one district council is made available for another district. See s. 90 of the P. H. A., 1907, and notes thereto, *ante*, p. 1157.

As to pensions for professional firemen, see Fire Brigade Pensions Acts, 1925 and 1929, *post*, pp. 2886, 3033.

In a case in which the advice of the Board was sought as to the liability of a district council to the members of a so-called volunteer fire brigade under the Workmen's Compensation Act, 1906, the Board stated that they considered that there was some evidence of a contract of service between the council and brigade, but that they could not undertake to define the council's legal position under the Act.

A district council cannot pay the premiums for insurance against accidents of the members of the fire brigade unless such members are engaged by the council.

An urban district council proposed to discontinue the payment of premiums on fire insurance policies and to form a sinking fund for the purpose of insuring the buildings of the council against fire. The L. G. B., whose opinion was sought in the matter, expressed the view that any such change of practice as that contemplated by the council would be very inexpedient. The Board observed that it appeared to them that the council are in the position of trustees of public property, and that they should not neglect the usual and proper precaution of insuring against damage or destruction by fire. Moreover, the Board were not aware of any statutory authority empowering the council to create and administer an insurance fund of the kind referred to, and they thought it very doubtful whether the council had power to adopt the course suggested.

The powers of an urban district council with respect to fires may be conferred upon a rural district council by Order of the M. of H. under s. 276 of the P. H. A., 1875, *ante*, p. 613. A council desiring such an Order should apply by resolution, of which a copy should be forwarded by the clerk, with full information as to the arrangements contemplated. In view of the fact that action may be taken *parochially* for the provision of fire-extinguishing plant), the Minister does not confer the powers in respect of whole rural districts or aggregations of rural parishes without inquiring whether action has been taken under the enactments authorising such action (see note (*a*) to s. 53, *post*, p. 2239. It is of course undesirable that there should be two *fire* authorities at the same time in the same parish. The condition of each parish as to water supply must also be stated.

It is not essential that a rural district council should propose to purchase fire engines and equip a fire brigade. They may arrange for the use of the engine belonging to a neighbouring urban district council, but the Minister would not declare the provisions of ss. 30—33 of the Act of 1847 to be in force in the rural district unless a binding arrangement was entered into entitling the rural area to the use of the fire engine and the services of the brigade whenever required. It is important to remember that in such a case the urban district council cannot make a charge under s. 33, *infra*. The fire engine, when in the rural area, must be regarded as provided by the rural district council. A provision is usually inserted in such Orders that the expenses incurred shall be chargeable as special expenses.

No excise licence duty is payable under s. 13 of the Finance Act, 1920, in respect of any motor fire engine, or any motor car used by any local authority for fire brigade purposes (*ibid.*, s. 13 (4)).

As to personal injuries sustained by a pedestrian by being knocked down by a fire engine, see *Scudder* v. *London C. C.* (1909), 31 M. C. C. 365; Times, July 15th, 1909.

Commissioners may send engines and firemen beyond the limits of the special Act.

33. The commissioners may send such engines, with their appurtenances, and the said firemen, beyond the limits of the special Act, for extinguishing fire in the neighbourhood of the said limits; and the owner (*a*) of the lands or buildings where such fire shall have happened shall in such case defray the actual expense which may be thereby incurred, and shall also pay to the commissioners a reasonable charge for the use of such engines with their appurtenances, and for the attendance of such firemen (*b*); and in case of any difference between the commissioners and the owner of the said lands or buildings, the amount of the said expenses and charge, as well as the propriety of sending the said engines and firemen as aforesaid for extinguishing such fire, (if the propriety thereof be disputed,) shall be determined by two justices, whose decision shall be final; and the amount of the said expenses and charge shall be recovered by the commissioners as damages.

(*a*) The owner of a stack of hay standing on ground which he *occupied* was held to be within these words (*Lewis* v. *Arnold* (1875), L. R. 10 Q. B. 245; 39 J. P. 294, 519). But

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the decision has been overruled, and it has been held that the "owner" means the owner as defined by s. 4 of the P. H. A., 1875 (*Sale* v. *Phillips*, [1894] 1 Q. B. 349; 58 J. P. 460).

This section is an enabling and not a restricting provision; where, therefore, a fire brigade is summoned by a person in circumstances from which a contract by the person summoning may be inferred, the authority may recover under the contract by action in the courts. Accordingly, the tenant of premises may be liable under such circumstances (*Daventry Corporation* v. *Newbury*, [1926] 1 K. B. 383; 90 J. P. 59). The section is intended to deal with cases where the brigade is sent by the authority on their own initiative or in response to a summons under circumstances from which no contract by the person summoning can be implied (*ibid.*).

By the Parish Fire Engines Act, 1898, s. 1 (1), the power of a parish council under s. 29 of the Poor Law Amendment Act, 1867, or s. 44 of the Lighting and Watching Act, 1833, as respectively amended by ss. 6 and 7 of the L. G. A., 1894, to provide a fire engine for their parish shall include power to agree with the council of any neighbouring borough or district that any fire engines with their appurtenances and firemen provided by the council of that borough or district shall be used for extinguishing fires in the parish. And by s. 1 (2), where a fire engine is sent beyond the limits of a borough or district in pursuance of any such agreement, the owner of the lands or buildings where the fire occurred shall not by reason thereof be liable for any expense or charge under s. 33 of the Town Police Clauses Act, 1847. In the case of a combination of district councils for the provision of a fire engine, a charge for use can only be made outside the districts in respect of which the combination is made. See also s. 90 of the P. H. A., 1907, referred to in the note to s. 32, *ante*, p. 2238. As to the liability of the council within whose district the fire takes place, when firemen are sent from outside, see *R.* v. *Part* (1906), 70 J. P. 398.

(*b*) This provision impliedly negatives the right to charge for engines and apparatus when employed within the district (*Bridlington L. B.* v. *Bower* (1874), 38 J. P. 73; 22 W. R. 165). The right of a ratepayer to the gratuitous services of the local authority's fire brigade under this and the preceding section is not limited to a case in which fire has actually broken out on the premises, but exists wherever there is a reasonable apprehension of fire breaking out of such dimensions that he would be incapable of dealing with it himself. If, on the other hand, the apprehended fire is likely to be only of such small dimensions that he could easily extinguish it himself, so that it would be unreasonable to summon the fire brigade, he must, in the event of his doing so, pay for their services himself. His liability in the latter case being a common law liability to pay for services rendered at his request, and not arising under the statute, payment is recoverable by action in the ordinary courts, and not summarily under the P. H. A., 1875, s. 251, *ante*, p. 549 (*Grays U. D. C.* v. *Grays Chemical Works, Ltd.*, [1918] 2 K. B. 461; 82 J. P. 207).

Places of public resort.

And with respect to places of public resort, be it enacted as follows (*a*):

(*a*) Reference may be made to the provisions of the Refreshment Houses Act, 1860, as to refreshment houses, and of the Licensing Acts as to the prevention of offences against public order by drunkenness in the highways and disorderly conduct in licensed houses; also to the Gaming Act, 1845, and the Licensing Act, 1872, s. 75, as to public billiard rooms; the Gaming Act, 1845, and the Betting Act, 1853, as to gaming and betting houses. The following is a list of cases decided under the various statutes containing similar provisions, and also those decided under byelaws made pursuant to the Municipal Corporations Acts and other statutes dealing with good rule and government: *Hall* v. *MacWilliam* (lottery advertised in newspaper) (1901), 65 J. P. 742; 85 L. T. 239, decided under the Lotteries Act, 1823; *Bows* v. *Fenwick* (1874), L. R. 9 C. P. 339; 38 J. P. 440; *Galloway* v. *Maries* (1882), 8 Q. B. D. 275; 46 J. P. 326; *Henretty* v. *Hart* (1885), 13 Ct. of Sess. Cas. (4th ser.) (J.) 9; *Hawke* v. *Dunn*, [1897] 1 Q. B. 579; 61 J. P. 292; *Brown* v. *Patch*, [1899] 1 Q. B. 892; 63 J. P. 421; *Powell* v. *Kempton Park Racecourse Co.*, [1899] A. C. 143; 63 J. P. 260 (racecourse cases); *Haigh* v. *Sheffield Corporation* (1874), L. R. 10 Q. B. 102; 39 J. P. 230 (athletic ground); *Eastwood* v. *Miller* (1874), L. R. 9 Q. B. 440; 38 J. P. 647 (pigeon shooting match); *Oldham* v. *Ramsden* (1875), 44 L. J. C. P. 309; 39 J. P. 583; *Downes* v. *Johnson*, [1895] 2 Q. B. 203; 59 J. P. 487; *Jackson* v. *Roth*, [1919] 1 K. B. 102; 83 J. P. 26 (clubs); *R.* v. *Cook* (1884), 13 Q. B. D. 377; 48 J. P. 337 (bicycle races); *Snow* v. *Hill* (1885), 14 Q. B. D. 588; 49 J. P. 440; *Snow* v. *Harris* (1884), 1 T. L. R. 325 (dog races); *Sims* v. *Pay* (1889), 58 L. J. M. C. 39; 53 J. P. 420; *Davis* v. *Stephenson* (1890), 24 Q. B. D. 529; 54 J. P. 565; *Hornsby* v. *Raggett*, [1892] 1 Q. B. 20; 56 J. P. 135; *McWilliam* v. *Dawson* (1892), 56 J. P. 182; *R.* v. *Preedy* (1887), 17 Cox, C. C. 433; *R.* v. *Worton*, [1895] 1 Q. B. 227; *Bradford* v. *Dawson*, [1897] 1 Q. B. 307; 61 J. P. 134; *Belton* v. *Busby*, [1899] 2 Q. B. 380; 63 J. P. 709; *Tromans* v. *Hodkinson*, [1903] 1 K. B. 30; 67 J. P. 30; *Buxton* v. *Scott* (1909), 73 J. P. 133; 100 L. T. 390; *Bannister* v. *Clarke* (1920), 85 J. P. 12 (public-house cases); *Liddell* v. *Lofthouse*, [1896] 1 Q. B. 295; 60 J. P. 264; *McInaney* v. *Hildreth*, [1897] 1 Q. B. 600; 61 J. P. 325 (waste ground cases); *Bond* v. *Plumb*, [1894] 1 Q. B. 169; 58 J. P. 168; *Davis* v. *Stoddart*, [1902] 2 K. B. 21; 66 J. P. 469; *Gordon* v. *Chief Commissioner of Metropolitan*

Police, [1910] 2 K. B. 1080; 74 J. P. 437; *R.* v. *Mortimer*, [1911] 1 K. B. 70; 75 J. P. 37; *Traynor* v. *Macpherson*, [1911] S. C. 54; *Hodgson* v. *Macpherson*, [1913] S. C. 68; *Taylor* v. *Monk*, [1914] 2 K. B. 817; 78 J. P. 194; *Boulton* v. *Hunt* (1913), 77 J. P. 337; *Auld* v. *Logan* (1920), 57 Sc. L. R. 474; *M'Lauchlan* v. *Cameron*, [1916] S. C. (J.) 14 (private house cases); *Stoddart* v. *Sagar*, [1895] 2 Q. B. 474; 59 J. P. 598; *Hawke* v. *Mackenzie*, [1902] 2 K. B. 225; 61 J. P. 709; *Leng & Co.* v. *Mackintosh*, [1914] S. C. (J.) 77 (coupon competitions); *R.* v. *Humphrey*, [1898] 1 Q. B. 875; 62 J. P. 409 (private road); *Cox* v. *Andrews* (1884), 12 Q. B. D. 126; 48 J. P. 247 (newspaper advertisement); *R.* v. *Brown*, [1895] 1 Q. B. 119; 59 J. P. 435 (telegrams); *R.* v. *Hobbs*, [1898] 2 Q. B. 647; 62 J. P. 551 (sweepstake); and *Stoddart* v. *Hawke*, [1902] 1 K. B. 353; 66 J. P. 68 (receipt of money outside the United Kingdom); *R.* v. *Peers* (1917), 86 L. J. K. B. 797; 81 J. P. 143; *Granata* v. *Mackintosh*, [1916] S. C. (J.) 48; *Peers* v. *Caldwell*, [1916] 1 K. B. 371; *Forte* v. *McAlister*, [1917] 2 Ir. R. 387; *Panetta* v. *McIntyre*, [1918] S. C. 10 (automatic machines in shops), all decided under the Betting Act, 1853.

The following cases were decided under the Gaming Act, 1854:—*Jenks* v. *Turpin* (1884), 13 Q. B. D. 585; 49 J. P. 20; *Derby* v. *Bloomfield* (1904), 68 J. P. 391; 91 L. T. 99; *Barrett* v. *Flynn*, [1916] 2 Ir. R. 1 (clubs); *R.* v. *Davies*, [1897] 2 Q. B. 199 (private house); *Thompson* v. *Mason* (1903), 68 J. P. 270; 90 L. T. 649; *Roberts* v. *Harrison*, [1909] W. N. 163; 73 J. P. 439; *Pessers, Moody, Wraith and Curr, Ltd.* v. *Catt* (1913), 77 J. P. 429; 29 T. L. R. 381; *Donaghy* v. *Walsh*, [1914] 2 Ir. R. 261; *Forsythe* v. *Ross*, [1919] 2 Ir. R. 335; *Di Carlo* v. *M'Intyre*, [1914] S. C. (J.) 60 (slot machines); and *Morris* v. *Godfrey* (1912), 76 J. P. 297; 106 L. T. 890 (whist drive).

For cases decided under the Licensing Act, 1872, see *Bond* v. *Evans* (1888), 21 Q. B. D. 249; 52 J. P. 613 (skittle alley), and *Dyson* v. *Mason* (1889), 22 Q. B. D. 351; 53 J. P. 262 (skittle pool); and under the Betting Act, 1874, *Hawke* v. *Mackenzie*, *supra*. See also *Stead* v. *Aykroyd*, [1911] 1 K. B. 57; 74 J. P. 482 (racecourse), decided under the Street Betting Act, 1906, and *Taylor* v. *Wilson* (1911), 76 J. P. 69; 106 L. T. 44 (public-house), decided under the Licensing (Consolidation) Act, 1910.

For cases decided under the Vagrancy Acts, 1868 and 1873, see *Tollett* v. *Thomas* (1871), L. R. 6 Q. B. 514; 35 J. P. 359; *Lester* v. *Quested* (1901), 66 J. P. 54; 85 L. T. 487 (games of chance); and *Langrish* v. *Archer* (1883), 10 Q. B. D. 44; 47 J. P. 295 (railway carriage).

For a case decided under the Refreshment Houses Act, 1860, s. 32, see *Bracchi* v. *Rees* (1915), 79 J. P. 479.

For cases decided under the Lotteries Acts, see *Bartlett* v. *Parker*, [1912] 2 K. B. 497; 76 J. P. 280; *Minty* v. *Sylvester* (1915), 84 L. J. K. B. 1982; 79 J. P. 543; *Bottomley* v. *Director of Public Prosecutions* (1915), 84 L. J. K. B. 354; 79 J. P. 153; *Scott* v. *Director of Public Prosecutions*, [1914] 2 K. B. 868; 78 J. P. 267; *Dew* v. *Director of Public Prosecutious* (1920), 89 L. J. K. B. 1166; 37 T. L. R. 22.

Reference may be made to the following cases decided under byelaws dealing with streets and public places:—*Burnett* v. *Berry*, [1896] 1 Q. B. 641; 60 J. P. 375; *Godwin* v. *Walker* (1896), 12 T. L. R. 367; 60 J. P. 308; *Jones* v. *Walters* (1898), 62 J. P. 374; 78 L. T. 167; *Kitson* v. *Ashe*, [1899] 1 Q. B. 425; 63 J. P. 325; *White* v. *Morley*, [1899] 2 Q. B. 34; 63 J. P. 550; *Thomas* v. *Sutters*, [1900] 1 Ch. 10; 63 J. P. 724; *Hickey* v. *Hay* (1900), 65 J. P. 232; *Slowey* v. *Threshie* (1901), 3 F. (J.) 73; *Airton* v. *Scott* (1909), 73 J. P. 148; 100 L. T. 393.

Penalty on victuallers, etc. harbouring constables while on duty.

34. Every victualler or keeper of any public-house, or person licensed to sell wine, spirits, beer, cider, or other fermented or distilled liquors, by retail, to be drunk or consumed on the premises, within the limits of the special Act, who knowingly harbours or entertains or suffers to remain in his public-house or place wherein he carries on his business any constable during any part of the time appointed for his being on duty, unless for the purpose of quelling any disturbance or restoring order, shall, for every such offence, be liable to a penalty not exceeding twenty shillings (*a*).

(*a*) A similar clause is contained in the Licensing (Consolidation) Act, 1910, s. 78, as to which see *Mullins* v. *Collins* (1874), L. R. 9 Q. B. 292; 38 J. P. 629; *Somerset* v. *Hart* (1884), 12 Q. B. D. 360; 48 J. P. 327; *Newman* v. *Jones* (1886), 17 Q. B. D. 132; 50 J. P. 373; *Sherras* v. *De Rutzen*, [1895] 1 Q. B. 918; 59 J. P. 440.

Penalty on coffee-shop keepers, etc. harbouring disorderly persons.

35. Every person keeping any house, shop, room, or other place of public resort, within the limits of the special Act, for the sale or consumption of refreshments of any kind, who knowingly suffers common prostitutes or reputed thieves to assemble at and continue in his premises shall, for every such offence, be liable to a penalty not exceeding five pounds (*a*).

(*a*) See s. 76 of the Licensing (Consolidation) Act, 1910, and s. 10 of the Prevention of Crimes Act, 1871. The keeper of a licensed alehouse is not exempt from the operation

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of this clause (*Cole* v. *Coulton* (1860), 24 J. P. 596; 2 El. & El. 695). It is not unlawful to supply prostitutes, etc., with refreshments, nor does the mere doing so amount to permitting them to assemble. See *Greig* v. *Bendeno* (1858), El. B. & E. 133; 27 L. J. M. C. 294; *Purkis* v. *Huxtable* (1859), 1 El. & El. 780; 28 L. J. M. C. 221; *Whitfield* v. *Bainbridge* (1866), 30 J. P. 644; *Parker* v. *Green* (1862), 26 J. P. 247; 2 B. & S. 299; *Belasco* v. *Hannant* (1862), 26 J. P. 823; 2 B. & S. 13; *Wilson* v. *Stuart* (1863), 27 J. P. 661; 3 B. & S. 913; *Cole* v. *Coulton, supra*; *Allen* v. *Whitehead* (1929), 27 L. G. R. 652. A meeting to get up a subscription for a convicted thief's family, several thieves being in the company, is an assembly of thieves such as is forbidden by the Prevention of Crimes Act, 1871, s. 10, and presumably by this section (*Marshall* v. *Fox* (1871), L. R. 6 Q. B. 370; 35 J. P. 631).

Penalty on persons keeping places for bear-baiting, cock fighting, etc.

36. Every person who within the limits of the special Act keeps or uses or acts in the management of any house, room, pit, or other place, for the purpose of fighting, baiting, or worrying any animal shall be liable to a penalty of not more than five pounds, or, in the discretion of the justices before whom he is convicted, to imprisonment, with or without hard labour, for a time not exceeding one month; and the commissioners may, by order in writing, authorise the superintendent constable, with such constables as he thinks necessary, to enter any premises kept or used for any of the purposes aforesaid, and take into custody all persons found therein without lawful excuse, and every person so found shall be liable to a penalty not exceeding five shillings, and a conviction for this offence shall not exempt the owner, keeper, or manager of any such house, room, pit, or place from any penal consequence to which he is liable for the nuisance thereby occasioned (*a*).

(*a*) See generally as to cruelty to animals, the Protection of Animals Act, 1911, as amended by the Protection of Animals (Amendment) Act, 1927; and as to "baiting," see *Pitts* v. *Millar* (1874), L. R. 9 Q. B. 380; 38 J. P. 615.

Hackney carriages.

And with respect to hackney carriages, be it enacted as follows (*a*):

(*a*) See also as to tramcars and their drivers, conductors, etc., 33 & 34 Vict. c. 78, s. 48, *post*, p. 2306. The provisions of this part of the Act, as contained in ss. 37, 40—52, 54, 58, 60—67, are now applied to omnibuses by 52 & 53 Vict. c. 14, s. 4, *post*, p. 2525; and by the P. H. A., 1925, s. 76, *ante*, p. 1622, they apply also to hackney carriages standing or plying for hire at a railway station or on railway premises, other than carriages belonging to or used by railway companies for conveying passengers or their luggage.

See also as to hackney carriages, s. 11 of the Roads Act, 1920, *ante*, p. 1300.

Commissioners may license hackney carriages.

37. The commissioners may from time to time license (*a*) to ply for hire within the prescribed distance (*b*), or if no distance is prescribed, within five miles from the general post office of the city, town, or place to which the special Act refers, (which in that case shall be deemed the prescribed distance,) such number of hackney coaches or carriages of any kind or description (*c*) adapted to the carriage of persons as they think fit.

(*a*) The possession of a revenue licence to let horses and carriages under 2 & 3 Will. 4, c. 120, was held not to supersede the necessity of the proprietor of a hackney carriage having a licence under this Act (*Buckle* v. *Wrightson* (1865), 29 J. P. 326; 5 B. & S. 854). The commissioners may require an applicant for a licence to attend in person (*Banton* v. *Davies* (1892), 56 J. P. 294; 65 L. T. 192) The commissioners have a discretion to refuse the licence (see *Ex parte Mitcham* (1865), 5 B. & S. 585; 33 L. J. Q. B. 325), but *mandamus* will issue if their discretion is not exercised judicially (*R.* v. *Barry U. D. C.* (1900), 16 T. L. R. 565; *R.* v. *Brighton Corporation, Ex parte Thos. Tilling, Ltd.* (1916), 85 L. J. K. B. 1552; 80 J. P. 219), or the rates of fares to be charged are taken into consideration (*R.* v. *Farnborough U. D. C., Ex parte Aldershot District Traction Co., Ltd.*, [1920] 1 K. B. 234; 83 J. P. 290. Since the decision in the last case, however, the Roads Act, 1920, came into operation, and by s. 14 (3) of that Act, *ante*, p. 1302, an appeal is given from the refusal of an authority to grant a licence or against conditions attached to the grant of a licence to the Minister of Transport. The Minister was held entitled upon such an appeal to take the question of fares into consideration (*R.* v. *Minister of Transport, Ex parte H. C. Motor Works, Ltd.*, [1927] 2 K. B. 401; 91 J. P. 83). In that case TALBOT, J., expressed the view that the decision in the *Farnborough case, supra*, only decided that an authority cannot in dealing with licences do that indirectly which it cannot do directly, viz., fix the fares to be charged by omnibuses. In *R.* v. *Bradford Corporation, Ex parte Minister of Transport*, [1926] 90 J. P. 140; 135 L. T. 227, it was held that conditions might be attached to the grant of a license under this section. But as to the metropolis, see *R.* v. *Metropolitan*

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Police Commissioner, Ex parte Holloway, [1911] 2 K. B. 1131; 75 J. P. 490, a decision which overrules *R.* v. *Metropolitan Police Commissioner, Ex parte Pearce* (1911), 80 L. J. K. B. 223; 75 J. P. 85. In the case of *R.* v. *Metropolitan Police Commissioner, Ex parte Randall* (1911), 75 J. P. 486; 27 T. L. R. 505, the court followed *R.* v. *Metropolitan Police Commissioner, Ex parte Pearce, supra*, which had not at that time been overruled. As to omnibuses within the London Traffic Area, see the London Traffic Act, 1924, *post*, p. 2850. As to the discretion of the licensing authority where they have themselves a competing tramway, see *R.* v. *Blackpool Corporation* (1899), 63 J. P. 787; 21 M. C. C. 572. Where a licensing authority granted a licence to a taxi which exceeded the dimensions allowed by the byelaws, it was held that the authority had exceeded their jurisdiction (*R.* (*Ex parte Sloan*) v. *Belfast Corporation* (1923), 57 I. L. T. 71).

(*b*) That is, within the urban district. See s. 171 of the P. H. A., 1875, *ante*, p. 411.

(*c*) As to tramcars, see 33 & 34 Vict. c. 78, s. 48, *post*, p. 2306, and *Blackpool and Fleetwood Tramroad Co.* v. *Bailey*, [1920] 1 K. B. 380; 84 J. P. 1; and as to omnibuses, see 52 & 53 Vict. c. 14, s. 4 (1), *post*, p. 2525. A carriage similar to a tramcar and used to carry passengers at separate fares over a light railway by virtue of Provisional Orders made under the Light Railways Act, 1896, is not a hackney carriage within the meaning of the Town Police Clauses Act, 1847 (*Yorkshire* (*Woollen District*) *Electric Tramways, Ltd.* v. *Ellis*, [1905] 1 K. B. 396; 69 J. P. 67).

What vehicles to be deemed hackney carriages.

38. Every wheeled carriage, whatever may be its form or construction, used in standing or plying for hire in any street within the prescribed distance (*a*), and every carriage standing upon any street within the prescribed distance, having thereon any numbered plate required by this or the special Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid, shall be deemed to be a hackney carriage within the meaning of this Act (*b*); and in all proceedings at law or otherwise the term "hackney carriage" shall be sufficient to describe any such carriage: Provided always, that no stage coach (*c*) used for the purpose of standing or plying for passengers to be carried for hire at separate fares, and duly licensed for that purpose, and having thereon the proper numbered plates required by law to be placed on such stage coaches, shall be deemed to be a hackney carriage within the meaning of this Act (*d*).

Proviso as to stage coaches.

(*a*) A hackney carriage while on the premises of a railway company, by their leave for the accommodation of passengers by their trains, is not plying for hire *in a street;* the stations are private property (*Case* v. *Storey* (1868), L. R. 4 Ex. 319; 33 J. P. 470; and see *Hole* v. *Digby* (1879), 27 W. R. 884). But the dictum of KELLY, C.B., in that case, that they were not then *plying for hire* in that they were not at the disposal of the public, was not followed in *Clarke* v. *Stanford* (1871), L. R. 6 Q. B. 357; 35 J. P. 662; and in *Allen* v. *Tunbridge* (1871), L. R. 6 C. P. 481; 35 J. P. 695, it was held that a brougham, the owner of which, by agreement with a railway company, attended at their station to await the arrival of trains for the conveyance of any passenger who chose to use it, and whose driver solicited passengers, was a hackney carriage *plying for hire.* And see *Foinett* v. *Clark* (1877), 41 J. P. 359. These conflicting decisions are now resolved by the P. H. A., 1925, s. 76, *ante*, p. 1622, referred to in note (*a*), *ante*, p. 2241. Where the owner of omnibuses being refused a licence ran them regularly over the route for the use of the public free of charge, but with a box in each omnibus for voluntary contributions, the conductor being ready to give change if asked, it was held that the omnibuses were plying for hire (*Cocks* v. *Mayner* (1894), 58 J. P. 104; 70 L. T. 403). Plying for hire in an open unenclosed piece of private ground to which the public have access, but over which there is no public right of way, is not plying for hire in a *street* (*Skinner* v. *Usher* (1872), L. R. 7 Q. B. 423). A piece of ground adjoining a railway station, and belonging to the company, metalled and separated from the street only by a gutter, was used as an approach to the station. Private carriages were allowed to stand there, but no hackney carriages, except those of the appellant, who had, by agreement with the company, the sole right of standing carriages there:—*Held*, that the plying for hire there was not plying for hire in a street (*Curtis* v. *Embery* (1872), L. R. 7 Ex. 369). In the city of E. was a square in front of a hotel, unenclosed, and where the public could pass freely, except when the hotel keeper's carriages stood there. The square was let with the hotel, and was used for the hotel cabs when plying for hire:—*Held*, that the square was part of the street (*Marks* v. *Ford* (1881), 45 J. P. 157). The words "used in standing or plying for hire" indicate the period of time during which a carriage is to be deemed a hackney carriage, and are not limited to the period during which it is actually standing or plying for hire in a street. Therefore, in executing a booked order, even if the number plate is covered up, the carriage does not cease to be a hackney carriage within the meaning of the Act, and the byelaws under s. 68 are still applicable to it (*Hawkins* v. *Edwards*, [1901] 2 K. B. 169;

65 J. P. 423). In a case under the Metropolitan Public Carriage Act, 1869, it was *held* that a charabanc which picked up in public streets only passengers who had previously booked seats and paid for tickets at a booking-office was not plying for hire in a particular street in which passengers were waiting (*Sales* v. *Lake*, [1922] 1 K. B. 553 ; 86 J. P. 80). Where, however, a charabanc picked up passengers who booked seats at a stopping place after the charabanc had left its starting point but before its arrival at the stopping place, it was held to be plying for hire (*Greyhound Motors* v. *Lambert*, [1928] 1 K. B. 322 ; 91 J. P. 198).

Where return tickets were issued outside the prescribed distance which entitled the holders to return on any bus belonging to a member of an association of omnibus proprietors from within the prescribed distance, an omnibus picking up the holders of such tickets within the prescribed distance was held to be plying for hire (*Armstrong* v. *Ogle*, [1926] 2 K. B. 438 ; 90 J. P. 146). Where, however, the return ticket was available only on any bus belonging to the company by whom the ticket was issued, the case was held to fall within *Sales* v. *Lake*, *supra*, and the bus was held not to be plying for hire (*Leonard* v. *Western Services*, [1927] 1 K. B. 702 ; 91 J. P. 18). All these cases were considered and explained in *Griffin* v. *Grey Coaches, Ltd.*, [1928] 93 J. P. 61 ; 27 L. G. R. 39. In that case it was held that a charabanc was plying for hire where tickets were purchased at a booking office prior to the arrival of the vehicle, but at the time of such booking the proprietors had a vehicle available and by means of advertisements at the booking office solicited persons to ride in the vehicle. See also *Att.-Gen.* v. *Sharp* (1929), 45 T. L. R. 628.

(*b*) As to what is a hackney carriage apart from any statutory definition, see *Bateson* v. *Oddy* (1874), 43 L. J. M. C. 131; 38 J. P. 598. By s. 1 (1) (b) of 59 & 60 Vict. c. 36, a light locomotive may be a hackney carriage if in other respects it would come within this section. See *ante*, p. 817.

(*c*) As to what is a stage coach, see *R.* v. *Ruscoe* (1838), 8 Ad. & E. 386 ; *Craik* v. *Wood* (1920), 58 Sc. L. R. 142. Reference may also be made to *Dennis* v. *Miles*, [1924] 2 K. B. 399 ; *Smith* v. *Mackintosh*, [1926] S. C. (J.) 15 ; *Kirkby* v. *Minty*, [1929] 2 K. B. 165 ; and *M'Kee* v. *Weir*, [1929] S. C. (J.) 14.

(*d*) The proviso was held to apply to an omnibus (*Cousins* v. *Stockbridge* (1866), 30 J. P. 166). The licence here referred to was an excise licence, now abolished by 32 & 33 Vict. c. 14. But though no licence can now be obtained the law officers of the Crown had advised that the exemption remained. But see now the provisions of the Town Police Clauses Act, 1889, *post*, p. 2524. An ordinary omnibus running along a fixed route was held to be a hackney carriage within the meaning of 51 Vict. c. 8, s. 4 (*Hickman* v. *Birch* (1889), 24 Q. B. D. 172 ; 54 J. P. 406).

Fee to be paid for licence.

39. For every such licence there shall be paid to the clerk of the commissioners, or other person appointed by them to receive the same, such sum as the commissioners direct, not exceeding five shillings (*a*).

(*a*) No fee is now payable in respect of the licensing of any vehicle (other than a tramcar) to any county council, local or police authority (s. 14 (1), Roads Act, 1920, *ante*, p. 1302). As to the excise duty payable for hackney carriage licences, see 47 & 48 Vict. c. 25, s. 3.

Persons applying for licence to sign a requisition.

40. Before any such licence is granted a requisition for the same, in such form as the commissioners from time to time provide for that purpose, shall be made and signed by the proprietor or one of the proprietors of the hackney carriage (*a*) in respect of which such licence is applied for ; and in every such requisition shall be truly stated the name and surname and place of abode of the person applying for such licence, and of every proprietor or part proprietor of such carriage, or person concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of such carriage ; and any person who, on applying for such licence, states in such requisition the name of any person who is not a proprietor or part proprietor of such carriage, or who is not concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, and also any person who wilfully omits to specify truly in such requisition as aforesaid the name of any person who is a proprietor or part proprietor of such carriage, or who is concerned as aforesaid in the keeping, employing, or letting to hire of such carriage, shall be liable to a penalty not exceeding ten pounds.

Penalty for omissions, etc. in requisition.

(*a*) This includes a tramcar (see 33 & 34 Vict. c. 78, s. 48, *post*, p. 2306), and an omnibus (52 & 53 Vict. c. 14, s. 4 (1), *post*, p. 2525), but not a light railway car, see note (*c*), *ante*, p. 2242. As to the liability of the registered proprietor of a hackney carriage for the negligence of the driver, see *Bygraves* v. *Dicker*, [1923] 2 K. B. 585 ; 129 L. T. 688.

What shall be specified in the licences.

41. In every such licence shall be specified the name and surname and place of abode of every person who is a proprietor or part proprietor of the hackney carriage in respect of which such licence is granted, or who is concerned, either solely or in partnership with any other person, in the keeping, employing, or letting to hire of any such carriage, and also the number of such licence which shall correspond with the number to be painted or marked on the plates to be fixed on such carriage, together with such other particulars as the commissioners think fit.

Licences to be registered.

42. Every licence shall be made out by the clerk of the commissioners, and duly entered in a book to be provided by him for that purpose; and in such book shall be contained columns or places for entries to be made of every offence committed by any proprietor or driver or person attending such carriage; and any person may at any reasonable time inspect such book, without fee or reward.

Licence to be in force for one year only.

43. Every licence so to be granted shall be under the common seal of the commissioners, if incorporated, or, if not incorporated, shall be signed by two or more of the commissioners, and shall not include more than one carriage so licensed, and shall be in force for one year only from the day of the date of such licence, or until the next general licensing meeting, in case any general licensing day be appointed by the commissioners (*a*).

(*a*) The licence may be for less than a year (52 & 53 Vict. c. 14, s. 5, *post*, p. 2525).

Notice to be given by proprietors of hackney carriages of any change of abode.

44. So often as any person named in any such licence as the proprietor or one of the proprietors, or as being concerned, either solely or in partnership with any person, in the keeping (*a*), employing, or letting to hire of any such carriage, changes his place of abode, he shall, within seven days next after such change, give notice thereof in writing, signed by him, to the commissioners, specifying in such notice his new place of abode; and he shall at the same time produce such licence at the office of the commissioners, who shall by their clerk or some other officer, endorse thereon and sign a memorandum specifying the particulars of such change; and any person named in any such licence as aforesaid as the proprietor, or one of the proprietors, of any hackney carriage, or as being concerned as aforesaid, who changes his place of abode and neglects or wilfully omits to give notice of such change, or to produce such licence in order that such memorandum as aforesaid may be endorsed thereon, within the time and in the manner limited and directed by this or the special Act, shall be liable to a penalty not exceeding forty shillings.

(*a*) For the meaning of this word as used in the Customs and Inland Revenue Act, 1869, s. 27, see *London C. C.* v. *Fairbank*, [1911] 2 K. B. 32; 75 J. P. 356.

Penalty for plying for hire without a licence.

45. If the proprietor or part proprietor of any carriage, or any person so concerned as aforesaid, permits the same to be used as a hackney carriage plying for hire within the prescribed distance without having obtained a licence as aforesaid for such carriage, or during the time that such licence is suspended as hereinafter provided, or if any person be found driving, standing, or plying for hire with any carriage within the prescribed distance for which such licence as aforesaid has not been previously obtained, or without having the number of such carriage corresponding with the number of the licence openly displayed on such carriage, every such person so offending shall for every such offence be liable to a penalty not exceeding forty shillings (*a*).

(*a*) Proceedings for a penalty under this section must be instituted in accordance with s. 251 of the P. H. A., 1875, *ante*, p. 549. The director of a rival omnibus company is not a "person aggrieved" within that section so as to be able to institute proceedings for a penalty under the section in the text in relation to the bus of another company (*Sheffield*

Note to Section 45.

Corporation v. *Kitson* (1929), 93 J. P. 135). A person plying for hire with a licensed carriage cannot be convicted if in the course of such plying for hire he obtains a private contract for the hire of an unlicensed carriage (*Cavill* v. *Amos* (1900), 64 J. P. 309).

A railway company provided a cab-stand upon a piece of ground which was their private property subject to a public right of footway alongside it which was metalled and paved like an ordinary street, and formed the side approach to one of their stations:—*Held* (1) that the piece of ground was not a "street" within the meaning of s. 3 of this Act; and (2) that the driver of a carriage for which a licence had not been obtained by standing for hire upon the cab-stand, which was within the district, committed no offence against the latter part of s. 45 (*Jones* v. *Short* (1900), 69 L. J. Q. B. 473; 64 J. P. 247). See now, however, s. 76 of the P. H. A., 1925, *ante*, p. 1622, referred to in note (*a*), *ante*, p. 2241.

It was provided in a local Act that if the driver of any hackney carriage "shall be found standing or plying for hire" within the limits of the Act without a licence he should be liable to a penalty. There was no definition of "hackney carriage" in the Act. It was held that the words "hackney carriage" must be taken to mean a carriage exposed for hire to the public, whether standing in the public street or in a private yard (*Bateson* v. *Oddy* (1874), 43 L. J. M. C. 131; 30 L. T. 712). This case was cited in *Jones* v. *Short*, *supra*.

Under the Town Police Clauses Act, 1889, an omnibus becomes a hackney carriage for any of the purposes of this Act, and an omnibus plying for hire within the prescribed limits without a licence is within this section, although it does not stand or ply for hire in a street (*Birmingham and Midland Motor Omnibus Co.* v. *Thompson*, [1918] 2 K. B. 105; 82 J. P. 213; *Crack* v. *Holt* (1927), 91 J. P. 36; 25 L. G. R. 114). See also *Sales* v. *Lake* and other cases cited in note (*a*) to s. 38, *ante*, p. 2243.

A carriage similar to a tramcar and used to carry passengers at separate fares over a light railway by virtue of Provisional Orders made under the Light Railways Act, 1896, is not a hackney carriage within the meaning of this section (*Yorkshire* (*Woollen District*) *Electric Tramways, Ltd.* v. *Ellis*, [1905] 1 K. B. 396; 69 J. P. 67). See also the Town Police Clauses Act, 1889, s. 3, *post*, p. 2524).

Drivers not to act without first obtaining a licence.

46. No person shall act as driver (*a*) of any hackney carriage licensed in pursuance of this or the special Act to ply for hire within the prescribed distance without first obtaining a licence from the commissioners, which licence shall be registered by the clerk to the commissioners, and a fee of one shilling shall be paid for the same; and every such licence shall be in force until the same is revoked, except during the time that the same may be suspended as after mentioned (*b*).

(*a*) This includes the conductor of a tramcar (33 & 34 Vict. c. 78, s. 48, *post*, p. 2306), and of an omnibus (52 & 53 Vict. c. 14, s. 4 (2), *post*, p. 2525).

(*b*) The licence of the driver is only to be in force for one year. See P. H. A., 1875, s. 171, *ante*, p. 411. The commissioners have a discretion as to granting a licence which must be properly exercised (*R.* v. *Barry U. D. C.* (1900), 16 T. L. R. 565). And they may require applicants to attend in person (*Banton* v. *Davies*, *ante*, p. 2241).

Penalty on drivers acting without licence, or proprietors employing unlicensed drivers.

47. If any person acts as such driver (*a*) as aforesaid without having obtained such licence, or during the time that his licence is suspended, or if he lend or part with his licence, except to the proprietor of the hackney carriage, or if the proprietor of any such hackney carriage employ any person as the driver thereof who has not obtained such licence, or during the time that his licence is suspended, as hereinafter provided, every such driver and every such proprietor shall for every such offence respectively be liable to a penalty not exceeding twenty shillings.

(*a*) See note (*a*) to s. 46, *supra*.

Proprietor to retain licences of drivers, and to produce the same before justices on complaint.

48. In every case in which the proprietor of any such hackney carriage permits or employs any licensed person to act as the driver thereof, such proprietor shall cause to be delivered to him, and shall retain in his possession, the licence of such driver, while such driver remains in his employ; and in all cases of complaint, where the proprietor of a hackney carriage is summoned to attend before a justice, or to produce the driver, the proprietor so summoned shall also produce the licence of such driver, if he be then in his employ; and if any driver complained of be adjudged guilty of the offence alleged

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against him, such justice shall make an endorsement upon the licence of such driver, stating the nature of the offence and the amount of the penalty inflicted; and if any such proprietor neglect to have delivered to him and to retain in his possession the licence of any driver while such driver remains in his employ, or if he refuse or neglect to produce such licence as aforesaid, such proprietor shall for every such offence be liable to a penalty not exceeding forty shillings (*a*).

(*a*) In a case under the Metropolitan Public Carriage Act, 1869, it was *held* that the entry of a person's name as "proprietor" on the register of licences was not conclusive evidence that such person was the owner of a taxicab (*Kemp* v. *Elisha*, [1918] 1 K. B. 228; 82 J. P. 81). As to the liability of the registered proprietor for the negligence of a driver, see *Bygraves* v. *Dicker*, [1923] 2 K. B. 585; 129 L. T. 688.

Proprietor to return licence to drivers except in case of misconduct.

49. When any driver (*a*) leaves the service of the proprietor by whom he is employed without having been guilty of any misconduct, such proprietor shall forthwith return to such driver the licence belonging to him (*b*); but if such driver have been guilty of any misconduct, the proprietor shall not return his licence, but shall give him notice of the complaint which he intends to prefer against him, and shall forthwith summon such driver to appear before any justice to answer the said complaint; and such justice, having the necessary parties before him, shall inquire into and determine the matter of complaint, and if upon inquiry it appear that the licence of such driver has been improperly withheld, such justice shall direct the immediate re-delivery of such licence, and award such sum of money as he thinks proper to be paid by such proprietor to such driver by way of compensation.

(*a*) See note (*a*) to s. 46, *ante*, p. 2245.
(*b*) As to marking the licence, see *Hurrell* v. *Ellis* (1845), 2 C. B. 265; 15 L. J. C. P. 18; *Rogers* v. *Macnamara* (1853), 14 C. B. 27; 23 L. J. C. P. 1; *Norris* v. *Birch*, [1895] 1 Q. B. 639.

Revocation of licences of proprietors or drivers.

50. The commissioners may, upon the conviction for the second time of the proprietor or driver (*a*) of any such hackney carriage for any offence under the provisions of this or the special Act, with respect to hackney carriages, or any byelaw made in pursuance thereof, suspend or revoke, as they deem right, the licence of any such proprietor or driver.

(*a*) This includes the conductor of a tramcar (33 & 34 Vict. c. 78, s. 48, *post*, p. 2306), and of an omnibus (52 & 53 Vict. c. 14, s. 4 (2), *post*, p. 2525).

Number of persons to be carried in a hackney carriage to be painted thereon.

51. No hackney carriage (*a*) shall be used or employed or let to hire, or shall stand or ply for hire, within the prescribed distance, unless the number of persons to be carried by such hackney carriage, in words at length, and in form following, (that is to say,) "To carry   persons," be painted on a plate placed on some conspicuous place on the outside of such carriage, and in legible letters, so as to be clearly distinguishable from the colour of the ground whereon the same are painted, one inch in length, and of a proportionate breadth; and the driver (*b*) of any such hackney carriage shall not be required to carry in or by such hackney carriage a greater number of persons than the number painted thereon.

(*a*) See note (*a*) to s. 40, *ante*, p. 2243, and *Black* v. *Neilson*, cited in the note to s. 34 of the Tramways Act, 1870, *post*, p. 2296.
(*b*) See note (*a*) to s. 50, *supra*.

Penalty for neglect to exhibit the number, or for refusal to carry the prescribed number.

52. If the proprietor of any hackney carriage permit the same to be used, employed, or let to hire, or if any person stand or ply for hire with such carriage, without having the number of persons to be carried thereby painted and exhibited in manner aforesaid, or if the driver (*a*) of any such hackney carriage refuse, when required by the hirer thereof, to carry in or by such hackney carriage the number of persons painted thereon, or any less number, every proprietor or driver so offending shall be liable to a penalty not exceeding forty shillings.

(*a*) See note (*a*) to s. 50, *ante*, p. 2246.

Penalty on driver for refusing to drive.

53. A driver of a hackney carriage standing at any of the stands for hackney carriages appointed by the commissioners, or in any street, who refuses or neglects, without reasonable excuse (*a*), to drive such carriage to any place (*b*) within the prescribed distance, or the distance to be appointed by any byelaw of the commissioners, not exceeding the prescribed distance, to which he is directed to drive by the person hiring or wishing to hire such carriage (*c*), shall for every such offence be liable to a penalty not exceeding forty shillings.

(*a*) The driver may refuse to carry persons suffering from infectious disease. See the P. H. A., 1875, s. 127, *ante*, p. 248; and in places where Part IV. of the P. H. A., 1907, is in force, ss. 63 and 64 of that Act, *ante*, p. 1142, contain additional provisions on the subject. See also 53 & 54 Vict. c. 34, s. 11, *ante*, p. 861, as to the disinfection of public conveyances after carrying corpses.

(*b*) Place here means any place to which the driver can get admittance, although it is private property (*Ex parte Kippins*, [1897] 1 Q. B. 1; 60 J. P. 791).

(*c*) These words were *held* to include a chauffeur in the employ of a motor-car proprietor who requested the driver of a hackney carriage to execute an order which had been given to him but which he could not fulfil (*Shepherd* v. *Hack* (1917), 81 J. P. 210).

Penalty for demanding more than the sum agreed for.

54. If the proprietor or driver of any such hackney carriage (*a*), or if any other person on his behalf, agree beforehand with any person hiring such hackney carriage to take for any job a sum less than the fare (*b*) allowed by this or the special Act, or any byelaw made thereunder, such proprietor or driver shall be liable to a penalty not exceeding forty shillings if he exact or demand for such job more than the fare so agreed upon.

(*a*) As to omnibuses and conductors of omnibuses, see 52 & 53 Vict. c. 14, s. 4 (1), (2), *post*, p. 2525.

(*b*) As to omnibus fares, see 52 & 53 Vict. c. 14, s. 4 (3), *post*, p. 2525.

Agreement to pay more than the legal fare

55. No agreement whatever made with the driver, or with any person having or pretending to have the care of any such hackney carriage, for the payment of more than the fare allowed by any byelaw made under this or the special Act, shall be binding on the person making the same; and any such person may, notwithstanding such agreement, refuse, on discharging such hackney carriage, to pay any sum beyond the fare allowed as aforesaid: and if any person actually pay to the driver of any such hackney carriage, whether in pursuance of any such agreement or otherwise, any sum exceeding the fare to which such driver was entitled, the person paying the same shall be entitled, on complaint made against such driver before any justice of the peace, to recover back the sum paid beyond the proper fare, and moreover such driver shall be liable to a penalty for such exaction not exceeding the sum of forty shillings; and in default of the repayment by such driver of such excess of fare, or of payment of the said penalty, such justice shall forthwith commit such driver to prison, there to remain for any time not exceeding one month, unless the said excess of fare and the said penalty be sooner paid.

Agreements to carry passengers a discretionary distance for a fixed sum.

56. If the proprietor or driver of any such hackney carriage, or if any other person on his behalf, agree with any person to carry in or by such hackney carriage persons not exceeding in number the number so painted on such carriage as aforesaid, for a distance to be in the discretion of such proprietor or driver, and for a sum agreed upon, such proprietor or driver shall be liable to a penalty not exceeding forty shillings if the distance which he carries such persons be under that to which they were entitled to be

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carried for the sum so agreed upon, according to the fare allowed by this or the special Act, or any byelaw made in pursuance thereof.

Deposit to be made for carriages required to wait.

57. When any hackney carriage is hired and taken to any place, and the driver thereof is required by the hirer there to wait with such hackney carriage, such driver may demand and receive from such hirer his fare for driving to such place, and also a sum equal to the fare of such carriage for the period, as a deposit over and above such fare, during which he is required to wait as aforesaid, or if no fare for time be fixed by the byelaws, then the sum of one shilling and sixpence for every half hour during which he is so required to wait, which deposit shall be accounted for by such driver when such hackney carriage is finally discharged by such hirer; and if any such driver who has received any such deposit as aforesaid refuses to wait as aforesaid, or goes away, or permits such hackney carriage to be driven or taken away without the consent of such hirer, before the expiration of the time for which such deposit was made, or if such driver on the final discharge of such hackney carriage refuse duly to account for such deposit, every such driver so offending shall be liable to a penalty not exceeding forty shillings (*a*).

(*a*) There is no summary remedy outside the metropolis similar to the London Cab Act, 1896, for what is called "bilking" a cabman.

Penalty on proprietors, etc., convicted of overcharging.

58. Every proprietor or driver of any such hackney carriage (*a*) who is convicted of taking as a fare (*b*) a greater sum than is authorised by any byelaw (*c*) made under this or the special Act shall be liable to a penalty not exceeding forty shillings, and such penalty may be recovered before one justice; and in the conviction of such proprietor or driver an order may be included for payment of the sum so overcharged, over and above the penalty and costs; and such overcharge shall be returned to the party aggrieved, . . . (*d*).

(*a*) See note (*a*) to s. 54, *ante*, p. 2247.

(*b*) See note (*b*) to s. 54, *ante*, p. 2247.

(*c*) A byelaw made under a local Act prescribed fares chargeable by drivers of hackney carriages and distinguished between carriages drawn by one and two horses respectively. Special regulations were subsequently made which applied the byelaws and Acts of Parliament respecting hackney carriages to motor cabs, and prescribed a scale of charges for motor cabs. A driver of a motor cab demanded and was paid the sum registered by his taximeter, which was in accordance with the scale of charges under the regulations, but in excess of that under the byelaw. On an appeal by the driver from a conviction for breach of the byelaw it was held that the byelaw did not apply to motor cabs and the conviction was quashed (*Gibson* v. *Brown* (1909), 31 M. C. C. 3). As to the right to charge a fare in excess of that authorised by the byelaw where the journey takes the driver outside the limits of the special Act, see *Ely* v. *Godfrey* (1922), 86 J. P. 82; 20 L. G. R. 268. An infant in arms is not a person in respect of whom an extra payment for an additional person can be demanded under byelaws (*Kemp* v. *Lubbock*, [1920] 1 K. B. 253; 83 J. P. 270).

(*d*) The remainder of this section permitting the party aggrieved to give evidence in proof of the offence was repealed by the S. L. R. A., 1894, as no longer necessary.

Penalty for permitting persons to ride without consent of hirer.

59. Any proprietor or driver of any such hackney carriage which is hired who permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the express consent of the person hiring the same, shall be liable to a penalty not exceeding twenty shillings.

No unauthorised person to act as driver.

60. No person authorised by the proprietor of any hackney carriage to act as driver of such carriage shall suffer any other person to act as driver of such carriage without the consent of the proprietor thereof; and no person, whether licensed or not, shall act as driver of any such carriage without the consent of the proprietor; and any person so suffering another person to act as driver, and any person so acting as driver without such consent as aforesaid, shall be liable to a penalty not exceeding forty shillings for every such offence.

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Penalty on drivers for drunkenness, furious driving, etc.

61. If the driver or any other person having or pretending to have the care of any such hackney carriage be intoxicated while driving, or if any such driver or other person by wanton and furious driving, or by any other wilful misconduct, injure or endanger any person in his life, limbs, or property, he shall be liable to a penalty not exceeding five pounds; and in default of payment thereof the justices before whom he is convicted of such offence may commit him to prison, there to remain for any time not exceeding two months (*a*).

(*a*) See note (*a*) to s. 54, *ante*, p. 2247. Persons convicted under s. 61 of being intoxicated while driving a hackney carriage may either in addition to or in substitution for any other penalty be ordered to enter into a recognisance with or without sureties to be of good behaviour under s. 3 of the Licensing Act, 1902.

Penalty in case of carriages being unattended at places of public resort.

62. If the driver of any such hackney carriage (*a*) leave it in any street or at any place of public resort or entertainment, whether it be hired or not, without some one proper to take care of it, any constable may drive away such hackney carriage and deposit it, and the horse or horses harnessed thereto, at some neighbouring livery stable or other place of safe custody; and such driver shall be liable to a penalty not exceeding twenty shillings for such offence; and in default of payment of the said penalty upon conviction, and of the expenses of taking and keeping the said hackney carriage and horse or horses, the same, together with the harness belonging thereto, or any of them, shall be sold by order of the justice before whom such conviction is made, and after deducting from the produce of such sale the amount of the said penalty, and of all costs and expenses, as well of the proceedings before such justice as of the taking, keeping, and sale of the said hackney carriage, and of the said horse or horses and harness, the surplus (if any) of the said produce shall be paid to the proprietor of such hackney carriage.

(*a*) See note (*a*) to s. 54, *ante*, p. 2247.

Compensation for damage done by driver.

63. In every case in which any hurt or damage has been caused to any person or property as aforesaid by the driver of any carriage (*a*) let to hire, the justice before whom such driver has been convicted may direct that the proprietor of such carriage shall pay such a sum, not exceeding five pounds, as appears to the justice a reasonable compensation for such hurt or damage; and every proprietor who pays any such compensation as aforesaid may recover the same from the driver, and such compensation shall be recoverable from such proprietor, and by him from such driver, as damages (*b*).

(*a*) See note (*a*) to s. 54, *ante*, p. 2247.

(*b*) Compensation accepted under this section is a bar to a subsequent action for the same damage. See *Wright* v. *London General Omnibus Co.* (1877), 2 Q. B. D. 271; 41 J. P. 486. Apart from this provision the proprietor of a cab may be responsible for damages caused by the negligence of the driver, the relationship between them being generally that of master and servant. See *Venables* v. *Smith* (1876), 2 Q. B. D. 279; 41 J. P. 551; *Rayner* v. *Mitchell* (1876), 2 C. P. D. 357; 25 W. R. 633; *King* v. *Spurr* (1882), 8 Q. B. D. 104; *Playle* v. *Kew* (1886), 2 T. L. R. 859; *King* v. *London Improved Cab Co.* (1889), 23 Q. B. D. 281; 53 J. P. 788; *Keen* v. *Henry*, [1894] 1 Q. B. 292; 58 J. P. 262; *Gates* v. *Bill*, [1902] 2 K. B. 38; *Bygraves* v. *Dicker*, [1923] 2 K. B. 585. As to the master's responsibility for the negligence of a volunteer called in to drive in case of emergency, see *Gwilliam* v. *Twist*, [1895] 2 Q. B. 84; 59 J. P. 484, or for that of a servant not acting within the scope of his authority, *e.g.*, a conductor driving an omnibus to its starting place, see *Beard* v. *London General Omnibus Co.*, [1900] 2 Q. B. 530; *Ricketts* v. *Thomas Tilling, Ltd.* (1913), 30 T. L. R. 132.

Penalty on drivers obstructing other drivers.

64. Any driver of any hackney carriage (*a*) who suffers the same to stand for hire across any street or alongside of any other hackney carriage, or who refuses to give way, if he conveniently can, to any other carriage, or who obstructs or hinders the driver of any other carriage in taking up or setting down any person into or from such other carriage, or who wrongfully in a forcible manner prevents or endeavours to prevent the driver of any other hackney carriage from being hired, shall be liable to a penalty not exceeding twenty shillings.

(*a*) See note (*a*) to s. 61, *ante*, p. 2249.

Compensation to drivers attending to answer complaints not substantiated.

65. If the driver of any such hackney carriage (*a*) be summoned or brougth before any justice to answer any complaint or information touching or concerning any offence alleged to have been committed by such driver against the provisions of this or the special Act, or any byelaw made thereunder, and such complaint or information be afterwards withdrawn or quashed or dismissed, or if such driver be acquitted of the offence charged against him, the said justice, if he think fit, may order the complainant or informant to pay to the said driver such compensation for his loss of time in attending the said justice touching or concerning such complaint or information as to the said justice seems reasonable; and in default of payment of such compensation the said justice may commit such complainant or informant to prison for any time not exceeding one month, unless the same shall be sooner paid.

(*a*) See note (*a*) to s. 61, *ante*, p. 2249.

Fare unpaid may be recovered as a penalty.

66. If any person refuse to pay on demand to any proprietor or driver of any hackney carriage the fare (*a*) allowed by this or the special Act, or any byelaw made thereunder, such fare may, together with costs, be recovered before one justice as a penalty (*b*).

(*a*) See notes (*a*) and (*b*) to s. 54, *ante*, p. 2247.
(*b*) The amount of the fare is recoverable only as a civil debt under ss. 6 and 35 of the S. J. A., 1879 (*R.* v. *Kerswill* or *Torquay JJ.*, [1895] 1 Q. B. 1; 59 J. P. 342).

Penalty and compensation for damaging carriage.

67. Any person using any hackney carriage (*a*) plying under a licence granted by virtue of this or the special Act, who wilfully injures the same, shall for every such offence be liable to a penalty not exceeding five pounds, and shall also pay to the proprietor of such hackney carriage reasonable satisfaction for the damage sustained by the same; and such satisfaction shall be ascertained by the justices before whom the conviction takes place, and shall be recovered by the same means as the penalty.

(*a*) See note (*a*) to s. 54, *ante*, p. 2247.

Byelaws for regulating hackney carriages.

68. The commissioners may from time to time (subject to the restrictions of this and the special Act) make byelaws for all or any of the purposes following; (that is to say,) (*a*)

For regulating the conduct of the proprietors and drivers (*b*) of hackney carriages plying within the prescribed distance in their several employments (*c*), and determining whether such drivers shall wear any and what badges, and for regulating the hours within which they may exercise their calling:

For regulating the manner in which the number of each carriage, corresponding with the number of its licence, shall be displayed:

For regulating the number of persons to be carried by such hackney carriages, and in what manner such number is to be shown on such carriage, and what number of horses or other animals is to draw the same, and the placing of check strings to the carriages, and the holding of the same by the driver, and how such hackney carriages are to be furnished or provided (*d*):

For fixing the stands (*e*) of such hackney carriages, and the distance to which they may be compelled to take passengers, not exceeding the prescribed distance:

For fixing the rates or fares, as well for time as distance, to be paid for such hackney carriages within the prescribed distance, and for securing the due publication of such fares (*f*):

For securing the safe custody and re-delivery of any property accidentally left in hackney carriages, and fixing the charges to be made in respect thereof.

(*a*) Model byelaws have been issued by the Ministry of Health under this section. As to the confirmation of these byelaws, see 47 & 48 Vict. c. 12, *ante*, p. 762.

(*b*) A corporation made the following byelaw under a local Act (not requiring confirmation by the Ministry of Health): "The owner of every motor hackney carriage shall have fitted on such carriage an efficient lamp solely for the purpose of illuminating the dial of the taximeter, whenever it is necessary, in such a manner that the amount of fare recorded can be clearly seen from the inside of the carriage at all times, and every driver shall see that the lamp is properly lighted and adjusted and so kept." On a summons against a driver for breach of this byelaw, he was discharged upon the ground that the byelaw was invalid for uncertainty and unreasonableness, since it imposed two duties, one on the owner and one on the driver: that although the duty on the owner was to fit an efficient lamp for illuminating the dial "whenever it was necessary," these words did not appear in the part of the byelaw relating to the driver, and further that the byelaw did not contain adequate information as to the driver's duties. The Divisional Court held that the words "whenever it was necessary" applied both to the owner and the driver; that it required the lamp to be fitted by the owner and kept alight by the driver; that it was not unreasonable that the light should be solely for the purpose of lighting the dial, and therefore that the byelaw was valid (*Dunning* v. *Maher* (1912), 76 J. P. 255; 106 L. T. 846).

(*c*) A byelaw prohibiting the plying for hire in any street or place within the district (except on one of the stands fixed by the local board) was held to be valid though the actual locality of the stand was not set out in it. A driver on the sea beach passed a stand, and then got off his carriage and took up a fare:—*Held*, that he had been properly convicted of a breach of the byelaw (*Blackpool L. B.* v. *Bennett* (1859), 4 H. & N. 127; 28 L. J. M. C. 203). For some years, however, the Local Government Board and Ministry of Health have declined to confirm byelaws as to stands and stopping places under this power which did not "fix" the actual situations, holding that, under modern conditions of traffic, the owners of vehicles and of adjoining property are alike entitled to the opportunity given by s. 184 of the P. H. Act, 1875, *ante*, p. 462, of considering the stands, etc., before they are made operative—a view supported by the careful provision made by Parliament for antecedent publicity when a parking place is fixed under s. 68 of the P. H. Act, 1925, *ante*, p. 1611. A byelaw provided that "a person shall not in any public thoroughfare in the district tout for a hackney carriage." The respondent stood on a triangular piece of land at a street corner touting for hackney carriages, having received permission from the freeholders of the land to stand on it for the purpose of his business. The land was always open for the public to pass over, and the street (including the piece of land) had been declared a public highway. It was held that the fact that the piece of land in question belonged to private persons did not prevent his act from being an offence against the byelaw (*Derham* v. *Strickland* (1911), 75 J. P. 300; 104 L. T. 820). As to loitering, see *Fairfoul* v. *Somerville* (1895), 23 Ct. of Sess. Cas. (4th ser.) (J. C.) 6; *Murphy* v. *Neilson* (1901), 3 F. (Just. Cas.) 77. The following byelaw was held not to be *ultra vires* under similar words in the Edinburgh Municipal and Police Act, 1879, viz., "the driver of a hackney carriage shall not stand with the same longer than is necessary for taking up or setting down passengers on any part of the public streets not allowed as a hackney carriage stand except at the dismissal of theatres, assemblies, public meetings, and the like." And it was held that a driver was properly convicted under it, who waited outside an hotel for about an hour in pursuance of an arrangement between his employers and the hotel manager, but without being hired by anyone wishing to take the cab (*Mackenzie* v. *Somerville* (1901), 3 F. (Just. Cas.) 4).

(*d*) Byelaws made under this section prior to the introduction of motor vehicles provided in one part of a byelaw that no greater number of passengers should be conveyed in "any omnibus" than was there indicated, the subsequent part of the byelaw and other byelaws contained references to horse omnibuses, but it was held that the provision relating to "any omnibus" applied to motor omnibuses (*Neal* v. *Guy*, [1928] 2 K. B. 451; 92 J. P. 119). See also as to proceedings under the Railway Passenger Duty Act, 1842, for the overcrowding of motor omnibuses as stage carriages (*Dennis* v. *Miles*, [1924] 2 K. B. 399; *Kirkby* v. *Minty*, [1929] 2 K. B. 165; and *M'Kee* v. *Weir*, [1929] S. C. (J.) 14).

(*e*) Although the provisions of this Act now apply to hackney carriages standing at railway stations, a local authority cannot fix the site of a stand in any railway station or railway premises or in any yard belonging to a railway company except with the consent of that company (s. 76, P. H. A., 1925, *ante*, p. 1622. In *R.* v. *Rawlinson* (1836), 6 B. & C.

Note to Section 68.

23; 5 L. J. M. C. 16, it was held that the commissioners may remove a stand altogether if it be an obstruction, but this decision turned on a local Act empowering them to "direct and regulate" stands. Under the general law, they can remove a stand by "fixing," *by byelaws*, other stands (or repealing a byelaw which has fixed the first-named stand) irrespective of obstruction.

(*f*) See note (*c*) to s. 58, *ante*, p. 2248. *Ely* v. *Godfrey* (1922), 86 J. P. 82; 20 L. G. R. 268; and *Kemp* v. *Lubbock*, [1920] 1 K. B. 253; 83 J. P. 270. Tramway fares cannot be regulated by the refusal of licences until the tramway company adopt fares satisfactory to the local authority (*R.* v. *Farnborough U. D. C., Ex parte Aldershot District Traction Co., Ltd.*, [1920] 1 K. B. 234; 83 J. P. 290). See this case commented on in *R.* v. *Minister of Transport, Ex parte H. C. Motors, Ltd.*, [1927] 2 K. B. 401; 91 J. P. 83.

Bathing.

And with respect to public bathing, be it enacted as follows:—

Byelaws for regulating public bathing-places.

69. Where any part of the sea-shore or strand of any river used as a public bathing-place is within the limits of the special Act, the commissioners may make byelaws for the following purposes (*a*); (that is to say,)

For fixing the stands of bathing machines on the sea-shore or strand, and the limits within which persons of each sex shall be set down for bathing, and within which persons shall bathe:

For preventing any indecent exposure of the persons of the bathers (*b*):

For regulating the manner in which the bathing machines shall be used, and the charges (*b*) to be made for the same:

For regulating the distance at which boats and vessels let to hire for the purpose of sailing or rowing for pleasure shall be kept from persons bathing within the prescribed limits.

(*a*) Model byelaws have been issued under this section. As to the confirmation of these byelaws, see 47 & 48 Vict. c. 12, *ante*, p. 762. The licence of an urban district council to use a bathing machine gives no authority to place the machine on the seashore, the ownership of which belongs to a private person, without his consent (*Mace* v. *Philcox* (1864), 28 J. P. 297; 15 C. B. (N.S.) 600). As to revocation of licences, see *Pelham* v. *Littlehampton U. D. C.* (1899), 63 J. P. 88. As to indecent bathing on the seashore, see *R.* v. *Crunden* (1809), 2 Camp. 89; *R.* v. *Reed* (1871), 12 Cox, C. C. 1, and generally as to the origin of this section, and the supposed general right to bathe, see *Blundell* v. *Catterall* (1833), 5 B. & A. 268; *Brinckman* v. *Matley*, [1904] 2 Ch. 313; 68 J. P. 534. Special powers for regulating the use of the seashore by byelaws are also given by s. 82 of the P. H. A., 1907, *ante*, p. 1152. And see also s. 92 of that Act, *ante*, p. 1159, which when adopted enables a local authority to make byelaws as to public bathing.

(*b*) See *Parker* v. *Clegg* (1904), 2 L. G. R. 609.

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THE BURIAL ACT, 1857.

(20 & 21 VICT. c. 81) (*a*).

An Act to amend the Burial Acts. [25th August, 1857.]

(*a*) The short title of this Act is as enacted by the Short Titles Act, 1896. The following sections are such as concern the appointment and duties of local authorities as burial boards. It is of course impossible to include in the Appendix all the provisions of the Burial Acts, for which reference should be made to Brooke Little's Law of Burials, 3rd edition. See also 23 & 24 Vict. c. 64, *post*, p. 2258, and 25 & 26 Vict. c. 100, *post*, p. 2261. See also the P. H. A., 1875, ss. 310, 343, and Sched. V., Part 3, *ante*, pp. 653, 671, 702.

* * * * * *

Local board of health or improvement commissioners may, by order in council, be constituted a burial board.

4. In case it appear to her Majesty in Council, upon the petition of the local board of health of any district established under the Public Health Act, or upon the petition of any commissioners elected by the ratepayers and acting under or by virtue of the powers of any local Act of Parliament for the improvement of any town, parish, or borough, stating that the district of such local board of health or of such commissioners is co-extensive with a district for which it is proposed to provide a burial ground, and that no burial board has been appointed for such district, and that an Order in Council has been made for closing all or any of the burial grounds within the said district, it shall be lawful for her Majesty, with the advice of her Privy Council, in case her Majesty see fit so to do, to order that such local board shall be a burial board for the district of such local board, or that such commissioners shall be a burial board for the district of such commissioners; and thereupon such local board or such commissioners, as the case may be, shall be a burial board for such district accordingly; and the powers and provisions of the Acts hereinbefore mentioned (except the provisions relating to the constitution or appointment and resignation of members of burial boards), and the provisions herein contained, shall extend to the district of such board, and to such board, or to the district of such commissioners, and to such commissioners, and to any burial ground and places for the reception of the bodies of the dead previously to interment which may be provided by such board or by such commissioners, in like manner as to any parish or parishes and the burial board thereof, and any burial ground and any such places as aforesaid provided by such last-mentioned board, save that no approval, sanction, or authorisation of any vestry shall be requisite: Provided always, that notice of such petition, and of the time when it shall please her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the London Gazette, and in one of the newspapers usually circulating in the district of such local board or of such commissioners, one month at least before such petition is so considered: Provided also, that this enactment shall not apply to any such district as aforesaid exclusively consisting of the whole or part of one corporate borough within the meaning of the Public Health Act, 1848 (*a*). 11 & 12 Vict. c. 63.

(*a*) See the P. H. A., 1875, s. 4, *ante*, p. 4.

Burial board may be established for a district not maintaining its own poor, and which has had no separate burial ground.

5. The vestry, or meeting in the nature of a vestry, of any parish, new parish, township, or other district not separately maintaining its own poor, and which has had no separate burial ground, may appoint a burial board; and such vestry or meeting, and the burial board appointed by it, shall exercise and have all the powers which they might have exercised and had under the said Acts and this Act if such parish, new parish, township, or district had had a separate burial ground before the passing of the said Act of the eighteenth and nineteenth years of her Majesty: Provided always, that all the powers of any other vestry or meeting and burial board, if any, shall then cease and determine, so far as relates to such parish, new parish, township, or district as aforesaid; and until a burial ground shall be so provided as aforesaid *and consecrated* (*a*) for any new parish or district created or to be created pursuant to the provisions of the New Parishes Act, 1843, the New Parishes Act, 1844, and the New Parishes Act, 1856, or any or either of them, and to which the said Acts, or any or either of them, may apply, the incumbent of such new parish or district, (if any burial ground has been or shall be provided under the herein recited Acts for the burial of the dead, or any or either of them, for any parish or parishes out of rates to which such new parish or district, or any part thereof, shall have contributed or contribute or be liable,) shall, with respect to the burial in such last-mentioned burial ground of the remains of the parishioners or inhabitants of such new parish or district, or of such part thereof as shall have contributed or contribute as aforesaid, as the case may be, perform the same duties, and have the same rights, privileges, and authorities, *and be entitled to the same fees* (*a*), and also the clerk and sexton of such new parish or district shall, when necessary, respectively perform the same duties, *and be entitled to the same fees* (*a*), in respect of such burials, as if the said burial ground were exclusively the

6 & 7 Vict. c. 37.
7 & 8 Vict. c. 94.
19 & 20 Vict. c. 104.

Section 5. burial ground of such new parish or district, subject nevertheless to all provisions to which the incumbents, clerks, and sextons of original parishes are respectively subject in and by the said burial Acts, or any or either of them: Provided also, that nothing herein contained shall affect the rights or privileges of any existing incumbent, clerk, or sexton without the consent of such incumbent, clerk, or sexton respectively.

(*a*) The words here printed in italics were repealed by the Burial Act, 1900, s. 12, and Sched., *post*. See now ss. 1 and 3 of that Act, *post*, pp. 2611, 2612, as to consecration and fees.

* * * * * *

Resolutions, etc. of vestries not to be void by reason of irregularity of notices, etc.

27. No resolution or proceeding of any vestry, or meeting in the nature of a vestry, for the purposes of the said recited Acts and this Act, or any of them, shall be void or voidable by reason of any defect or irregularity of or in notice of such vestry or meeting, or any other error in form in the calling of such vestry or meeting, or in the proceedings thereat, unless notice in writing of such defect or irregularity or error shall have been given at such vestry or meeting, or within seven days after the day of the holding thereof, to the churchwardens or other persons to whom it belongs to call meetings of such vestry, or such meeting in the nature of a vestry, who shall thereupon call another meeting for the purpose of considering the previous resolution or proceeding or the matter thereof; and no such resolution and proceeding made or taken at any such vestry, or meeting in the nature of a vestry, before the passing of this Act, which shall not have been objected to by notice in writing to such churchwardens or persons as aforesaid, shall be deemed invalid by reason of any such defect, irregularity or error.

Meaning of "burial board."

28. In the construction of this Act the expression "burial board" shall mean a burial board constituted under the hereinbefore recited Acts (*a*) or any of them, or under this Act.

(*a*) These are the Burial Act, 1852; the Burial Act, 1853; the Burial Act, 1854; the Burial Act, 1855.

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Recited Acts and this as one.

30. The hereinbefore recited Acts and this Act shall be construed together as one Act.

THE PUBLIC HEALTH ACT, 1858.

(21 & 22 VICT. C. 97) (*a*).

An Act for vesting in the Privy Council certain Powers for the Protection of the Public Health. [2nd August, 1858.]

1. [*Powers of General Board of Health under* 18 & 19 *Vict. c.* 116, *added to those of the Privy Council*] (*b*).

(*a*) This Act was made perpetual by 22 & 23 Vict. c. 3.
(*b*) Sections 1, 3, 5, and 6 are repealed by the S. L. R. A., 1893 (No. 1), the powers and duties of the Privy Council under those sections having been transferred to the L. G. B. by 34 & 35 Vict. c. 70, and now to the Minister of Health by 9 & 10 Geo. 5, c. 21, s. 3, *post*.

2. [*Certain powers in relation to Public Vaccination vested in the Privy Council*] (*a*).

(*a*) Repealed by 30 & 31 Vict. c. 84, s.1.

3. [*Privy Council may direct inquiries*] (*a*).

(*a*) See note (*b*) to s. 1, *supra*.

Section 4.

Privy Council to appoint medical officer, etc.

4. The powers of appointing and removing a medical officer, vested in the General Board of Health under the General Board of Health Continuance Act, 1855, shall, upon the discontinuance of that board, be vested in the Privy Council (*a*); . . . and the Privy Council may also from time to time employ such other persons as they deem necessary for the purposes of this Act; and there shall be paid to the medical officer such salary not exceeding fifteen hundred pounds per annum, and to such other persons such remuneration and allowances, as the Treasury may direct; and such salary, remuneration, and allowances shall be paid out of such moneys as shall be provided by Parliament (*b*).

(*a*) The next clause of this section as it originally stood was repealed by the S. L. R. A., 1878.

(*b*) Section 4 is repealed by the S. L. R. A., 1875, in so far as it relates to the salary of the medical officer. As to the salary of this officer, see the P. H. A., 1875, Sched. V., Part 3, *ante*, p. 705. The medical officer of the Privy Council was attached to the L. G. B. by 34 & 35 Vict. c. 70, s. 6 (see 35 & 36 Vict. c. 79, s. 38), and was transferred to the Minister of Health by 9 & 10 Geo. 5, c. 21, s. 6.

5. [*Medical officer to report annually as to the execution of this Act*] (*a*).

(*a*) See note (*b*) to s. 1, *ante*, p. 2254.

6. [*Reports to be laid before Parliament*] (*a*).

(*a*) See note (*b*) to s. 1, *ante*, p. 2254.

Exercise of powers vested in the Privy Council, etc.

7. All powers vested in the Privy Council by this Act may be exercised by any three or more of the lords and others of the Privy Council, . . . (*a*) and all orders, regulations, directions, and acts of the Privy Council under this Act shall be sufficiently made and signified by a written or printed document, signed by one of the clerks of the Privy Council, or such officer as may be appointed by the Privy Council in this behalf; and all orders, regulations, directions, and acts made or signified by any written or printed document purporting to be so signed shall be deemed to have been duly made, issued, and done by the Privy Council; and every such document shall be received in evidence in all courts and before all justices and others without proof of the authority or signature of such clerk or other officer, or other proof whatsoever, until it be shown that such document was not duly signed by the authority of the Privy Council (*b*).

(*a*) Certain words are here repealed by 62 & 63 Vict. c. 33, s. 1 (3).

(*b*) See also the Documentary Evidence Acts, 1868 and 1882, and *Tyrrell* v. *Cole* (1919), 83 J. P. 53.

8. [*Proceedings for penalties under Vaccination Acts*] (*a*).

(*a*) Repealed by 22 & 23 Vict. c. 3.

Short title.

9. This Act may be cited as "The Public Health Act, 1858" . . .

THE PUBLIC IMPROVEMENTS ACT, 1860.

(23 & 24 VICT. c. 30.)

An Act to enable a Majority of Two Thirds of the Ratepayers of any Parish or District, duly assembled, to rate their District in aid of Public Improvements for general benefit within their District (*a*).

[3rd July, 1860.]

Ratepayers may hold land, etc. for purpose of

1. It shall be lawful for the ratepayers of any parish (*b*) maintaining its own poor, the population of which, according to the last account from time to time forming public walks, etc. and levy rates for maintaining the same, etc.

taken thereof by the authority of Parliament, exceeds five hundred persons, to purchase or lease lands, and to accept gifts and grants of land, for the purpose of forming any public walk, exercise or play ground, and to levy rates for maintaining the same, and for removal of any nuisances or obstruction to the free use and enjoyment thereof, and for improving any open walk or footpath, or placing convenient seats, or shelters from rain, and for other purposes of a similar nature.

(*a*) This Act does not affect sanitary authorities other than those of boroughs, and it is in fact practically superseded by later enactments. It may, however, be adopted by *any* rural parish. See s. 7 of the L. G. A., 1894.

It will be observed from s. 164 of the P. H. A., 1875, and s. 8 of the L. G. A., 1894, that district and parish councils may provide recreation grounds under those provisions. There may be some value in the distinct provision as to seats in open walks.

(*b*) See the definition of "parish" in R. and V. A., 1925, s. 68 (4), *ante*, p. 1752.

Adoption of Act.

9 & 10 Vict. c. 74.

2. This Act may be adopted for any borough, or for any parish having a population of five hundred or upwards (according to the last account for the time taken by authority of Parliament), in the same manner as the Baths and Washhouses Act, 1846, may be adopted in such borough or parish (*a*).

(*a*) The 9 & 10 Vict. c. 74, may be adopted in manner provided by ss. 1, 5 of that Act, *ante*, pp. 2143, 2144.

Application of certain provisions of 9 & 10 Vict. c. 74.

3. Where the Act is adopted in a borough or in such a parish, the provisions of the Baths and Washhouses Act, 1846, for the purposes below specified, applicable in the like cases where that Act is adopted, shall take effect for the purposes of this Act, viz.: All the provisions concerning—

1. The authority by which and the manner in which the Act is to be carried into execution (*a*);
2. The mode of providing the expenses of carrying the Act into execution (excluding the provisions for borrowing money for such expenses) (*b*);
3. The appointment (in the case of a parish) of commissioners, the tenure of office and procedure, and the audit of their accounts (*c*);
4. The powers of the councils and commissioners for the purposes of the Act (except the powers of borrowing money) (*d*).

(*a*) 9 & 10 Vict. c. 74, s. 7, *ante*, p. 2145.
(*b*) 9 & 10 Vict. c. 74, s. 16, *ante*, p. 2146, and s. 21, *ante*, p. 2147.
(*c*) 9 & 10 Vict. c. 74, ss. 6—15, *ante*, pp. 2145, 2146.
(*d*) 9 & 10 Vict. c. 74, ss. 24—40, *ante*, pp. 2148–2153.

Ratepayers, after notice given, to rate parishes.

4. After the adoption of this Act it shall be lawful for the ratepayers in meeting assembled to rate such parish to a separate rate, to be called the "Parish Improvement Rate"; provided, that such rate be agreed to by a majority of at least two-thirds (*a*) . . . of the ratepayers assembled at such meeting (*b*).

(*a*) The words "in value", here following were repealed by s. 89 of the L. G. A., 1894.
(*b*) The rate will now be raised as an additional item of the general rate under s. 2 (5), R. and V. Act, 1925, *ante*, p. 1641.

Corporate bodies may attend and vote.

5. Corporate bodies shall be allowed to attend meetings to be held as aforesaid and to vote thereat by some person to be deputed by them for that purpose under their corporate seal.

One half of the estimated cost to be raised by private subscription.

6. Provided always, that previous to any such rate being imposed a sum in amount not less than at least one half of the estimated cost of such proposed improvement shall have been raised, given, or collected by private subscription or donation.

Limit of rate.

7. Such rate shall not exceed sixpence in the pound (*a*).

(*a*) The maximum limit of the rate is increased to 8*d*. by s. 75 of the L. G. A., 1929, *ante*, p. 1940, subject to the provisions of that section.

THE LOCAL TAXATION RETURNS ACT, 1860.

(23 & 24 VICT. c. 51) (*a*).

An Act to provide for an Annual Return of Rates, Taxes, Tolls, and Dues levied for Local Purposes in England. [23rd July, 1860.]

Clerks of bodies empowered to levy rates, etc. to make annual returns to Secretary of State.

1. The clerk to any corporation, justices, commissioners, district or other board, vestry, inspectors, trustees, or other body or persons authorised to levy or to order to be levied any of the rates (*b*), taxes, tolls, or dues mentioned in the Schedule to this Act, or any other compulsory rates, taxes, tolls, or dues in England, (other than such as are levied for the public revenue of the United Kingdom,) shall make a return of the sums levied or received by or in respect of such rates, taxes, tolls, and dues, and of the expenditure thereof to one of her Majesty's principal Secretaries of State . . . in every year (*c*) ; . . .

(*a*) This Act is repealed as to boroughs within the Municipal Corporations Act, 1882, Sched. I., Part II. As to returns to be made in such boroughs, see. s. 28 of that Act. This Act was amended by 40 & 41 Vict. c. 66, *post*, p. 2400, and was extended to highway accounts by 42 & 43 Vict. c. 39, and 45 & 46 Vict. c. 67. The provisions of this Act are modified by the Local Government (Emergency Provisions) Act, 1916, 6 & 7 Geo. 5, c. 12, s. 13 (1), *ante*, p. 1232 (made permanent by 15 & 16 Geo. 5, c. 76, s. 1, and Sched. I., Pt. I.), which provides that a summary of the local taxation returns may be laid before Parliament instead of the abstract required by s. 6, *post*, p. 2258.

(*b*) As to the consolidation of local rates in the general rate, see the R. and V. Act, 1925, *ante*, p. 1633.

(*c*) The annual return must be made for the year ending March 25th, and must be sent to the Ministry of Health; but no return need now be made, unless specially called for, where the accounts are audited by a district auditor (40 & 41 Vict. c. 66, s. 1 ; 42 & 43 Vict. c. 6, s. 3, *post*, pp. 2401, 2405).

Contents of returns.

2. Such returns . . . shall show the amounts levied and expended respectively, with such other particulars and in such form as shall from time to time be ordered by such Secretary of State (*a*).

(*a*) See note (*c*) to s. 1, *supra*.

Who are to make returns in certain cases.

3. . . . where any such rates, taxes, tolls, or dues are levied and expended or to be accounted for by churchwardens, chapelwardens, or any officers or persons not authorised to act as a board, such returns as hereinbefore mentioned in respect of such rates, taxes, tolls, or dues, and the expenditure thereof, shall be made by such churchwardens, chapelwardens, or other officers or persons; and they shall be severally liable in respect of any neglect to make the same (*a*).

(*a*) See 40 & 41 Vict. c. 66, s. 2, *post*, p. 2401.

Penalty for default.

4. Any . . . churchwarden, officer, or other person required as aforesaid to make such return, who neglects so to do in the month of June in any year, shall be liable to a penalty not exceeding twenty pounds for every such offence, to be recoverable on summary conviction thereof before two justices (*a*).

(*a*) See also 40 & 41 Vict. c. 66, s. 2, *post*, p. 2401. The words "clerk, treasurer" omitted from this section after the word "any," and before the word "churchwarden," were repealed by the S. L. R. A., 1892.

Saving for cases where returns are already required.

5. Where any annual return is now by law required to be made to the Secretary of State, or to any public department, under any Act of Parliament, this Act shall not render necessary any further or other return in respect of the same matters: Provided always, that the said Secretary of State may, by his order published in the London Gazette, direct that all or any of such

Section 5. returns now required as aforesaid shall in future be made under this Act, and shall be subject to the provisions and penalties thereof.

Abstracts of returns to be laid before Parliament

6. The said Secretary of State shall every year cause the returns transmitted to him under this Act to be abstracted, and the abstract thereof to be laid before both Houses of Parliament (*a*).

(*a*) See the amending provision in 6 & 7 Geo. 5, c. 12, s. 13 (1), referred to in note (*a*) to s. 1, *ante*, p. 2257.

Poor rate returns to be made to Poor Law Board as heretofore.

7. This Act shall not extend to the rates levied for the relief of the poor (*a*), or the expenditure thereof; but the returns thereof shall continue to be made to the Poor Law Board (*b*), as by the orders of such Board shall from time to time be directed.

(*a*) The poor rate now forms part of the general rate, see R. & V. Act, 1925, *ante*, p. 1633.
(*b*) Now the Ministry of Health, who have succeeded to the powers and duties of the L. G. B., who succeeded the Secretary of State under 34 & 35 Vict. c. 70.

Saving for companies and private rights of toll, etc.

8. This Act shall not extend to any tolls or dues taken by any railway, canal, or joint stock company as profits of their undertaking, or to any tolls or dues taken by prescription or otherwise as private property.

SCHEDULE.

Church rates and chapel rates; whether made by the common law or under the Church Building Acts, or under any other Act of Parliament.

Sewers rates and "general sewers tax," and all rates, scots, and taxes levied by courts or commissioners of sewers; whether levied under the Acts of the 3 & 4 Will. 4, c. 22, and 4 & 5 Vict. c. 45, or under any other Act of Parliament, or by charter usage, or custom (*a*).

Rates under the Act for the lighting and watching of parishes, 3 & 4 Will. 4, c. 90.

Rates levied by improvement commissioners or other commissioners, or by any trustees or corporation acting under any local Act for the paving, draining, cleansing, or watching, improvement or regulation of any town or district.

Rates levied by or under the order of any vestry or district board, under the Act 18 & 19 *Vict. c.* 120, *for the better local management of the metropolis* (*b*).

Tolls and dues levied under the authority of Parliament in respect of markets, bridges, or harbours (*c*).

(*a*) As to returns by sanitary authorities, see 40 & 41 Vict. c. 66, ss. 2, 3, *post*, p. 2401.
(*b*) Now superseded by the London Government Act, 1899.
(*c*) As to the extinction of customary tolls by tolls under Act of Parliament, see *New Windsor Corporation* v. *Taylor*, [1899] A. C. 41; 63 J. P. 164.

THE BURIAL ACT, 1860.

(23 & 24 VICT. c. 64) (*a*).

An Act to make further provision for the Expenses of Local Boards of Health and Improvement Commissioners acting as Burial Boards.

[6th August, 1860.]

Expenses of local board constituted a burial board may be paid out of general district rate, or by a separate rate

1. Any money required by any local board constituted a burial board for defraying the expense of carrying into execution the powers and provisions of the Burial Acts and of this Act in the district for which they may have been so constituted a burial board, or for paying any moneys borrowed or annuities granted under the authority of the said Acts, or any interest on moneys borrowed, or for providing a sinking fund for the repayment of such moneys, may, if the local board so think fit, be paid out of the general district tithes leviable within such district; and such local board may levy as part of

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are general district rate, or by a separate rate, under the name and designation of a burial rate, to be assessed and recovered in like manner as a general district rate within the district for which they act as a burial board, such sums of money as shall be from time to time necessary for the purposes aforesaid, or any of them (*b*).

(*a*) See 20 & 21 Vict. c. 81, *ante*, p. 2252, and 25 & 26 Vict. c. 100, *post*, p. 2261.
(*b*) See 21 & 22 Vict. c. 98, s. 49, *ante*, p. 703. The general rate now supersedes the general district rate and all other rates which the rating authority have power to make within their district.

Expenses of improvement commissioners, when acting as a burial board, may be paid out of improvement rate, or by a separate rate.

2. Any money required by any such commissioners as aforesaid who shall have been constituted a burial board for defraying the expense of carrying into execution the powers and provisions of the Burial Acts in the district for which they may have been so constituted a burial board, or for paying any moneys borrowed or annuities granted under the authority of the said Acts, or any interest on moneys borrowed, or for providing a sinking fund for the repayment of such moneys, may, if the commissioners so think fit, be paid out of the improvement rate leviable within such district; and the commissioners as such burial board may levy as part of the improvement rate, or by a separate rate, under the name and designation of a burial rate, to be assessed and recovered in like manner as an improvement rate, such sums of money as shall be from time to time necessary for the purposes aforesaid, or any of them (*a*).

(*a*) See 25 & 26 Vict. c. 100, s. 1, *post*, p. 2261. Improvement Commissioners became urban district councils under s. 21 of the L. G. A., 1894.

Separate accounts to be kept, etc.

3. The local board and the commissioners respectively who may have been constituted a burial board shall keep distinct accounts of their receipts and expenditure in the exercise of their functions as such burial board; and where their expenses are defrayed by moneys raised under the provisions of this Act, such accounts shall be audited in the same manner as other accounts of the receipts and expenditure of such local board and commissioners respectively; and any surplus of the moneys raised by any rate made under this Act, and of the income of any burial ground provided by means of moneys raised or paid under the provisions of this Act, which may remain after payment of the expenses and moneys which should be defrayed or paid under the Burial Acts, shall be applied in aid of the general district rate or improvement rate, as the case may be, levied within the district, which shall have been or might have been charged with a separate rate under this Act (*a*).

(*a*) As to the form of financial statement, see the Financial Statements Order, 1921, in App. II., *post*, p. 3036. Income tax is payable on the surplus (*Paddington Burial Board* v. *Commissioners of Inland Revenue* (1884), 13 Q. B. D. 9; 48 J. P. 311). See also the R. and V. Act, 1925, *ante*, p. 1633.

Consent of Secretary of State to appointment of burial board in certain cases.

4. Where any parish or place has been divided into two or more parts or districts for all or any ecclesiastical purposes, and any one of such parts has a separate burial ground, it shall not be lawful for the vestry or meeting in the nature of a vestry for such entire parish or place to appoint a burial board without the approval of one of her Majesty's principal Secretaries of State (*a*).

(*a*) See *R.* v. *Walcot St. Swithin Overseers* (1862), 2 B. & S. 571; 31 L. J. M. C. 221. By s. 4 of the Burial Act, 1900, *post*, p. 2613, the powers and duties of the Secretary of State under this section were transferred to the L. G. B. and are now vested in the Minister of Health under 9 & 10 Geo. 5, c. 21, s. 3. For the mode of obtaining approval of the appointment of a burial board, see s. 1 of the Burial Act, 1871.

THE LANDS CLAUSES CONSOLIDATION ACTS AMENDMENT ACT, 1860.

(23 & 24 VICT. c. 106)(*a*).

An Act to amend the Lands Clauses Consolidation Acts, 1845, *in regard to Sales and Compensation for land by way of a Rentcharge, Annual Feu Duty or Ground Annual, and to enable her Majesty's principal Secretary of State for the War Department to avail himself of the Powers and Provisions contained in the same Acts.* [20th August, 1860.]

Part of section 10 of recited Act repealed.

1. *So much of the tenth section of the Lands Clauses Consolidation Act,* 1845, *as provides that, save in the case of lands of which any person is seised in fee or entitled to dispose absolutely for their own benefit, the consideration to be paid for any lands, or for any damage done thereto, shall be in a gross sum, is hereby repealed* (*b*).

(*a*) See 8 & 9 Vict. c. 18, *ante*, p. 2088; and 46 & 47 Vict. c. 15, *post*, p. 2460. The collective title of the Acts is now the Lands Clauses Acts.

(*b*) This section was repealed by the S. L. R. A., 1875, but it is retained here to explain the repeal effected by it. See 8 & 9 Vict. c. 18, s. 10, *ante*, p. 2092.

Powers in 8 & 9 Vict. c. 18, ss. 10, 11, to sell lands for a rentcharge, and to recover rentcharge, extended to all sales, etc. where parties are under disability.

2. The power to sell and convey lands in consideration of an annual rentcharge provided by the tenth section of the said Act, and the power to recover such rentcharge provided by the eleventh section of the said Act, are hereby extended to all cases of sale and purchase or compensation under the said Act where the parties interested in such sale, or entitled to such compensation, are under any disability or incapacity, and have no power to sell or convey such lands, or to receive such compensation, except under the provisions of the said Act (*a*).

(*a*) See these sections, *ante*, p. 2092; s. 3 relates to Scotland only. As to the removal of certain disabilities by the Property Acts of 1925, see note (*a*) to s. 7 of the 1845 Act at p. 2091, *ante*.

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Amount of rentcharge to be settled in manner directed in 8 & 9 Vict. c. 18, s. 9, etc. (*a*).

4. In every case of such sale or compensation by any parties other than parties seised in fee or entitled to dispose absolutely of the lands so sold or damaged, the amount of such rentcharge, . . . hereinbefore mentioned, shall be settled in the manner directed in the ninth section of each of the said Acts respectively: Provided, that the amount of such annual rentcharge, . . . shall in no case be less than one-fourth part greater than the net annual rent received by the parties beneficially interested in such lands, upon an average of the last seven years; and that a charge of five per cent. on the gross sum estimated or fixed as aforesaid by way of compensation for any damage that may be done to the said lands shall in all such cases be added to and shall form a part of the said rentcharge, . . . and that no fine, . . . premium, or other consideration in the nature thereof, shall be paid or taken in respect of the lands so sold or damaged, other than the annual rentcharge . . . made payable for such lands: Provided also, that such rentcharge shall be and remain upon and for the same uses, trusts, and purposes as those upon which the rents and profits of the land so conveyed stood settled or assured at or immediately before the conveyance thereof, and shall be a first charge on the tolls and rates, if any, payable under the special Act.

(*a*) See the section, *ante*, p. 2092. Words relating to Scotland only are omitted from this and the following section.

The Law of Property Act, 1922, 12 & 13 Geo. 5, c. 16, s. 39, provided that the power conferred by 8 & 9 Vict. c. 18, s. 10 (*ante*, p. 2092), to sell and convey land in consideration of an annual rentcharge shall extend to a tenant for life in like manner in all respects as if he had been entitled to dispose of the settled land absolutely, and accordingly s. 4 of the above Act shall not apply to such a sale. That section is, however, repealed by the Settled Land Act, 1925 (15 Geo. 5, c. 18), which does not contain an identical provision though the same effect results from the combined operation of ss. 38 and 39, *ibid.*, and s. 9 and Sched. IX. of the Law of Property (Amendment) Act, 1924 (15 Geo. 5, c. 5). **Note to Section 4.**

5. In case the promoters of the undertaking shall be empowered, by any Act or Acts relating thereto, to be passed after the passing of this Act, to borrow money to an amount not exceeding a prescribed sum, then in the event of the promoters of the undertaking agreeing at any time after the passing of this Act with any person, under the powers of this Act and of either of the Acts hereinbefore mentioned, or of either of the said Acts only, for the purchase of any lands in consideration of the payment of a rentcharge . . . the powers of the promoters of the undertaking for borrowing money shall be reduced by an amount equal to twenty years purchase of any rentcharge, . . . so for the time being payable. If lands are purchased by way of rent-charge, the borrowing powers of the promoters shall be reduced proportionally.

6. [*Purchase of lands by municipal corporations*] (*a*).

(*a*) The whole of this section is repealed, except as to Ireland, by the S. L. R. A., 1892, having been superseded as to England by certain provisions of the Municipal Corporations Act, 1882, Part V.

* * * * * *

8. This Act shall be read and construed as part of the said Lands Clauses Consolidation Act, 1845, . . . in all matters in which it relates to the said Act . . . and in citing this Act in other Acts of Parliament, and in legal instruments, it shall be sufficient to use the expression of "The Lands Clauses Consolidation Acts Amendment Act, 1860." This Act and 8 & 9 Vict. c. 18 to be construed together. Short title.

THE BURIAL ACT, 1862.

(25 & 26 VICT. c. 100) (*a*).

An Act to authorise Improvement Commissioners acting as Burial Boards to mortgage certain Rates for the purposes of the Burial Acts.

[7th August, 1862.]

1. Any commissioners elected by the ratepayers, and acting under or by virtue of the powers of any local Act of Parliament for the improvement of any town, parish, or borough, who shall have been constituted a burial board for any district, may, with the approval of the Treasury, from time to time borrow at interest on mortgage of the improvement rate and burial rate, or either of them, leviable within the district, such sums of money as may be required by the burial board for the purposes of the Burial Act within the district (*b*). Commissioners, with consent of Treasury, may mortgage improvement rate and burial rate or either.

(*a*) The short title of this Act is authorised by the Short Titles Act, 1896. The preamble to this Act reciting 23 & 24 Vict. c. 64, was repealed by the S. L. R. A., 1893 (No. 1). See 20 & 21 Vict. c. 81, *ante*, p. 2252, and 23 & 24 Vict. c. 64, *ante*, p. 2258.

(*b*) This is an amendment of 23 & 24 Vict. c. 64, s. 2, *ante*, p. 2259.

2. The clauses and provisions of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners (*a*), shall be incorporated with this Act, and shall be applicable to all mortgages created under the provisions thereof. 10 & 11 Vict. c. 16, to apply to mortgages under this Act.

(*a*) See 10 & 11 Vict. c. 16, ss. 75—88; Brooke Little's Law of Burials, 3rd ed., p. 674.

THE TOWN GARDENS PROTECTION ACT, 1863.

(26 & 27 VICT. c. 13) (*a*).

An Act for the Protection of certain Garden or Ornamental Grounds in Cities and Boroughs. [4th May, 1863.]

Gardens in squares, etc. may be taken charge of by the Metropolitan Board of Works or other corporate authority, etc.

1. Where in any city or borough any enclosed garden or ornamental ground has been set apart otherwise than by the revocable permission of the owner thereof in any public square, crescent, circus, street, or other public place, for the use or enjoyment of the inhabitants thereof, and where the trustees, commissioners, or other body appointed for the care of the same have neglected to keep it in proper order, or where such garden or ground has not been vested in or placed under the management of any trustees, commissioners, or other body for the care of the same, and from the want of such care, or from any other cause, has been neglected, the Metropolitan Board of Works (*b*), where the same is in any place under their jurisdiction, except the city of London (where the provisions of this Act shall be carried into effect by the corporation of the said city), and the corporate authorities in any other city or borough, shall take charge of the same, putting up a notice or notices to that effect in such garden or ornamental ground, and, if after due inquiry the person entitled to any estate of freehold in the same cannot be found, or if it shall be vested in any person by whom it is held, subject to any condition or reservation for keeping the same as and for a garden or pleasure ground, or that the same shall not be built upon, but not otherwise, shall cause any buildings or other encroachment made thereinwithin the period of twenty years before the passing of this Act to be removed, and (if requested by a majority of two-thirds of the owners and of the occupiers of the houses surrounding the same) shall vest such garden or ornamental ground in a committee consisting of not more than nine nor fewer than three of the rated inhabitants of such houses to be chosen annually by such inhabitants, in order that the same may be kept as a garden or ornamental ground for the use of such inhabitants; and the vestry or board of any and every parish or district within which the same or any part thereof is situate shall from time to time cause to be raised the sums required by such committee for defraying the expenses of the maintenance and management of such enclosed garden or ornamental ground, or of such part thereof as is situate within their parish or district, by an addition to the general rate to be assessed on the occupiers of such houses; or if the said owners and occupiers shall not agree as aforesaid to undertake the charge of such garden or ornamental ground, the Metropolitan Board of Works or corporate authority aforesaid shall, within six months after the notice hereinbefore mentioned shall have been put up within the same, or within such further time as the said board or authority may think it expedient to allow for such agreement to be come to, vest the same in such vestries or boards, who shall thenceforth take charge of and maintain the same as an open place or street in such manner as shall appear to them most advantageous to the public, subject to the approval of the Metropolitan Board of Works or corporate authority, as the case may require; saving and always reserving to every person and persons, his and their heirs, executors, administrators, and assigns, all such estate, right, title, and interest, as he, she, or they would or ought to have had and enjoyed of, in, to, from, or out of the gardens and grounds aforesaid in case this Act had not passed.

(*a*) The short title of this Act is as enacted by the Short Titles Act, 1896. It is not absolutely incorporated by any of the P. H. A., but is referred to in the notes to s. 164

of the P. H. A., 1875, *ante*, p. 390; and see *Tulk* v. *Metropolitan Board of Works*, there cited. The preamble and clause of enactment of this Act were repealed by the S. L. R. A., 1893 (No. 1). **Note to Section 1.**

(*b*) Now the London C. C., see L. G. A., 1888, s. 40 (8).

Protection from encroachment.

2 . . . (*a*). Where any right to require that any garden or ornamental ground as aforesaid be kept and maintained as such, or that the same shall not be built upon, shall belong to any person in right of any house or other property, and he shall by notice in writing signed by him addressed to the Metropolitan Board of Works where the same is in any place under their jurisdiction, except the city of London, where the same shall be addressed to the corporation of the said city, or to the corporate authorities in any other city or borough, requesting the said Metropolitan Board of Works or corporate authority to protect the right before mentioned, the said Metropolitan Board of Works or corporate authority, after due inquiry, may, if they shall think fit, accede to such request; and then and thereupon the right of such person to require that such garden or ornamental ground to be maintained as such, or that the same shall not be built upon, shall thenceforth be vested in such Metropolitan Board of Works or corporate authority, who shall be fully empowered, for and in their own name, to exercise all the rights, powers, and privileges in relation thereto, and take such legal proceedings for asserting, defending, and protecting the same, as the said person might have exercised or taken.

(*a*) The preamble to this section reciting that it is expedient that the same should be protected from undue encroachment, is repealed by the S. L. R. A., 1893 (No. 1).

Expenses, how to be defrayed.

18 & 19 Vict. c. 120.

5 & 6 Will. 4, c. 76.

3. Any charge incurred by the Metropolitan Board of Works in the execution of this Act shall be deemed to be expenses of the said board for payment whereof provision is made by the Metropolis Management Act, 1855; and the expenses incurred by any corporate authority shall be deemed to be expenses necessarily incurred by them in carrying into execution within and for their city or borough the Municipal Corporations Act, 1835, and any other Act amending the same (*a*).

(*a*) See now the Municipal Corporations Act, 1882.

Byelaws for management of garden, etc.

4. Where any such garden or ground is managed by any committee of the inhabitants of any square, crescent, circus, street, or place, such committee may make, and from time to time revoke and alter, byelaws for the management of the same, and for the preservation of the trees, shrubs, plants, flowers, rails, fences, seats, summer-houses, and other things therein, which byelaws shall be entered in a book kept for that purpose by the committee, signed by the chairman of the meeting at which the same shall be passed, and which book shall and may be produced and read, and taken as evidence of such byelaws, in all courts whatever; and any inhabitant or servant, or other person admitted to such garden by any inhabitant, offending against the same, after they shall have been duly allowed as hereinafter provided, upon proof thereof before a magistrate acting for the district in which such garden is situate, shall be liable for each offence to a penalty not exceeding five pounds: Provided always, that such byelaws shall not come into operation until the same shall have been allowed by some judge of one of the superior courts, or by the justices in quarter sessions; and it shall be incumbent on such judge or justices, on the request of such committee, to inquire into any byelaws tendered to them for that purpose, and to allow or disallow the same as they think meet (*a*).

(*a*) The power of making byelaws conferred by this section is extended to the trustees or other persons having the care and management of any open space within the meaning of the Open Spaces Act, 1906, who in pursuance of that Act admit to the enjoyment of the open space any persons not owning, occupying, or residing in any house fronting thereon. See s. 15 (3) of that Act, *post*, p. 2683.

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Penalty for injuring garden.

5. Any police constable who shall see any person throwing any rubbish into any such garden, or trespassing therein, or getting over the railings or fence, or stealing or damaging the flowers or plants, or committing any nuisance therein, may apprehend such person, under the authority hereby given to him; and any person convicted before any magistrate acting for the district shall be liable for each and every offence aforesaid to a penalty not exceeding forty shillings, or to imprisonment for any period not exceeding fourteen days; and in case it shall be necessary to state in any proceedings the ownership of the property of such garden, flowers, or plants, it shall be sufficient to describe the same as the property of the committee by the name of A. B. and others.

Certain provisions of 18 & 19 Vict. c. 120, to be incorporated with this Act, and to apply to penalties within metropolitan district.

11 & 12 Vict. c. 43, to apply to penalties elsewhere.

6. The provisions contained in the two hundred and twenty-fifth, two hundred and twenty-sixth, two hundred and twenty-seventh, and two hundred and twenty-eighth sections of the Metropolis Management Act, 1855, shall be incorporated in this Act, and shall apply to any penalty or forfeiture imposed by this Act, or any byelaw made in pursuance thereof, in and for every matter or thing done or omitted to be done within the metropolitan district; and the Summary Jurisdiction Act, 1848, shall apply to every penalty or forfeiture imposed by this Act, or any byelaw made in pursuance thereof, or any matter or thing done or omitted to be done within any other part of England and Wales.

Act not to extend to property of the Crown, etc.

14 & 15 Vict. c. 95.

7. Nothing in this Act shall extend to or include any garden, ornamental ground, or other land belonging to her Majesty in right of her Crown or of her Duchy of Lancaster, or any garden, ornamental ground, or other land for the time being under the management of the Commissioners of Works, or of the commissioners for the time being acting under the Crown Estate Paving Act, 1851, or to any garden, ornamental or other ground, for which special provision is made for the due care and protection thereof by any public or private Act of Parliament.

Extent of Act.

8. Nothing in this Act shall extend to Scotland or Ireland.

THE WATERWORKS CLAUSES ACT, 1863.

(26 & 27 Vict. c. 93) (*a*).

An Act for consolidating in one Act certain Provisions frequently inserted in Acts relating to Waterworks. [28th July, 1863.]

10 & 11 Vict. c. 17.

Whereas the Waterworks Clauses Act, 1847, was passed in order to comprise in one Act sundry provisions which were at the time of the passing of that Act usually introduced into Acts of Parliament authorising the construction of certain waterworks:

And whereas sundry provisions of the like nature, but not comprised in the said Act, are now frequently introduced into Acts of Parliament relating to waterworks, and it is expedient to comprise such last-mentioned provisions also in one Act, and that as well for the purpose of avoiding the necessity of repeating such provisions in special Acts relating to waterworks, as for ensuring greater uniformity in the provisions themselves (*b*).

(*a*) See 10 & 11 Vict. c. 17, and note (*a*), *ante*, p. 2178.
(*b*) The clause of enactment was repealed by the S. L. R. A., 1893 (No. 1).

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PRELIMINARY.

1. This Act may be cited as the Waterworks Clauses Act, 1863; and the Waterworks Clauses Act, 1847, and this Act may be cited together as the Waterworks Clauses Acts, 1847 and 1863. Short title. 10 & 11 Vict. c. 17.

2. This Act shall apply to any waterworks to which any special Act (*a*) hereafter passed and incorporating this Act relates; and every such special Act is hereinafter referred to as "the special Act." Application of Act and interpretation of terms.

Terms used in this Act have the same meanings as the same terms have when used in the Waterworks Clauses Act, 1847. 10 & 11 Vict. c. 17.

The provisions respecting the recovery of penalties contained in the last-mentioned Act shall be incorporated with this Act (*b*).

(*a*) See the P. H. A., 1875, s. 316, *ante*, p. 655.

(*b*) 10 & 11 Vict. c. 17, s. 85. The procedure for recovery of penalties is that provided by 8 & 9 Vict. c. 20, ss. 140 *et seq.*, *ante*, p. 2139.

SECURITY OF RESERVOIRS.

And with respect to the security of the reservoirs constructed by the undertakers, be it enacted as follows:

3. Whenever any person interested complains to two justices that any reservoir constructed by the undertakers is in a dangerous state, such justices shall forthwith make inquiry into the truth of the complaint; or two justices, on their own view, and without complaint by any person, may proceed under the present provisions as if a complaint had been so made to them. Power for justices to inquire as to danger of reservoir.

4. If, on any such inquiry, the justices are satisfied that the complaint is well founded, and that the reservoir is in a dangerous state, and that the danger is so imminent as not to admit of delay in removing the cause of complaint, they shall order such person as they think fit to enter on the property of the undertakers, and to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint. Order of justices for immediate repair.

5. If, on any such inquiry, the justices are satisfied that there is good cause of complaint, but are not satisfied that the reservoir is in such an imminently dangerous state as not to admit of delay in removing the cause of complaint, they shall issue their summons to the undertakers to answer the complaint; and upon hearing the parties, the justices may, or upon default of appearance of the undertakers, then in their absence, the justices shall, order the undertakers, within such period as the justices think reasonable and specify in the order, to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint. Order of justices on undertakers to repair reservoir.

If the undertakers fail to execute or do within that period any such work or thing, the justices who made the order, or any other two justices, on being satisfied of such failure, may either order such persons as the justices think fit to enter on the property of the undertakers, and to lower the water in the reservoir, and to execute and do all such works and things as the justices think requisite and proper for removing the cause of complaint; or may, if they think fit, by order impose on the undertakers a penalty, not exceeding ten pounds, for every day during which such failure continues after the making of the order imposing the penalty. Order of justices on failure of undertakers to repair.

6. Any order of justices made in any of the cases aforesaid shall be in writing under their hands, and may be in the form set forth in the Schedule to this Act, with such variations as circumstances require. Form of order.

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Persons acting under order not trespassers, etc.

7. Any person acting under and in pursuance of any such order shall not be deemed a trespasser; and if any person wilfully obstructs any person lawfully acting in obedience to any such order, or wilfully does, or instigates, or suffers to be done, anything in contravention thereof, he shall for every such offence be liable to a penalty not exceeding fifty pounds.

Order for payment of costs and expenses.

8. The justices may order all, or such part as they think fit, of the costs of and incident to the applying for and obtaining of any such order to be paid by the undertakers, and also all, or such part as the justices think fit, of the expenses of the works and things executed and done in pursuance of any such order by any person other than the undertakers, to be paid by the undertakers to such person as the justices appoint.

If the justices before whom the complaint is made think that there is no sufficient ground for the complaint, they may, if they think fit, order the complainant to pay to the undertakers the whole or any part of their costs of or incident to the complaint.

Appeal by undertakers.

8 & 9 Vict. c. 20.

9. If the undertakers consider themselves aggrieved by any order or determination of justices under the present provisions, they may in like manner and subject to the like conditions as by the Railways Clauses Consolidation Act, 1845 (*a*), are provided in the case of appeals in respect of penalties, appeal to the court of general or quarter sessions for the county or place where the cause of appeal arises; and that court may, on the hearing of the appeal, either affirm or quash the order or determination, or make such other order in the premises as may seem fit, and may make such order as to the costs, both of the original proceedings and of the appeal, as may seem fit; but the order or determination appealed against shall, pending the appeal, continue in force.

(*a*) 8 & 9 Vict. c. 20, s. 157, *ante*, p. 2142.

Undertakers not to be responsible for consequences of order.

10. Notwithstanding anything in the special Act contained, the undertakers shall not be liable to pay any damages, penalties, costs, charges, or expenses for or in respect of, or be answerable or accountable for, any diminution or cessation of the supply of water, or any other breach or non-performance of their or any of their duties, liabilities, or obligations under the special Act, that may be occasioned by or result from the execution of any such order.

Application of Act, etc.

11. The present provisions with respect to the security of reservoirs shall apply to England . . . (*a*).

(*a*) The rest of s. 11 relates to Scotland and Ireland only.

SUPPLY OF WATER.

And with respect to the supply of water to be furnished by the undertakers, be it enacted as follows:

Supply for other than domestic purposes.

12. A supply of water for domestic purposes (*a*) shall not include a supply of water for cattle, or for horses, or for washing carriages, where such horses or carriages are kept for sale or hire or by a common carrier, or a supply for any trade, manufacture, or business, or for watering gardens, or for fountains, or for any ornamental purpose.

(*a*) See 10 & 11 Vict. c. 17, s. 53, *ante*, p. 2190, and the notes thereto, and compare *Smith* v. *Muller*, [1894] 1 Q. B. 192; 58 J. P. 167.

Want of supply for other than domestic pur-

13. Where the undertakers are authorised by the special Act to supply water for other than domestic purposes, they shall not be liable, in the absence poses, when excused.

of express stipulation, under any agreement for the supply of water for other than domestic purposes, to any penalty or damages for not supplying such water, if the want of such supply arises from frost, unusual drought, or other unavoidable cause or accident (*a*).

(*a*) This section exempts the undertakers from penalties or damages for not supplying water under any agreement to supply it for other than domestic purposes, if the want of such supply arises from frost, unusual drought or other unavoidable cause or accident. But this section is expressly limited to the case of water supplied under an agreement, and does not apply to water supplied compulsorily. *Per* CAVE, J., in *Sheffield Waterworks Co.* v. *Carter* (1882), 8 Q. B. D., at p. 644.

Power to let meters, etc. for hire.

14. Where the undertakers are authorised by the special Act (*a*) to supply water by measure, they may let for hire to any consumer of water so supplied any meter or instrument for measuring the quantity of water supplied and consumed, and any pipes and apparatus for the conveyance, reception, or storage of the water, for such remuneration in money as may be agreed upon between them and the consumer, which shall be recoverable in the same manner as rates due to the undertakers for water; and the meters, instruments, pipes, and apparatus shall not be subject to distress . . . . for rent of the premises where the same are used, or be attached or taken in execution under any process of any court of law or equity, or under or in pursuance of any adjudication or order in bankruptcy, or other legal proceeding, against or affecting the consumer of the water or the occupier of the premises, or other the person in whose possession the meters, instruments, pipes, and apparatus may be (*b*).

(*a*) Section 58 of the P. H. A., 1875, *ante*, p. 142, authorises a supply by meter where the local authority are the undertakers.

(*b*) Words relating to Scotland only are omitted from this and the following section. An obligation on the part of a consumer to provide a meter cannot be implied from this section (*Sheffield Waterworks Co.* v. *Carter* (1882), 8 Q. B. D. 632; 46 J. P. 548). As to the duty of a consumer to provide some means of measuring the water, see *Sheffield Waterworks Co.* v. *Bingham* (1884), 52 L. J. Ch. 624; 48 L. T. 604. See these cases more fully set out, *ante*, p. 142.

See further as to the right to demand a supply by meter, *Cooke* v. *New River Co.*, *ante*, p. 2188.

Power of entry for ascertaining quantity consumed by meter and for removing meters, &c.

15. The officers of the undertakers may enter any house, building, or lands, to, through, or into which water is supplied by them by measure, in order to inspect the meters, instruments, pipes, and apparatus for the measuring, conveyance, reception, or storage of water, or for the purpose of ascertaining the quantity of water supplied or consumed, and may from time to time enter any house, building, or lands, for the purpose of removing any meter, instrument, pipe, or apparatus the property of the undertakers; and if any person hinders any such officer from entering or making such inspection, or effecting such removal, he shall for every such offence be liable to a penalty not exceeding five pounds; but, except with the consent of a justice . . . this power of entry shall be exercised only between the hours of ten in the forenoon and four in the afternoon (*a*).

(*a*) See also the P. H. A., 1875, s. 58, *ante*, p. 142.

PROTECTION OF WATER.

And with respect to the waste or misuse of the water supplied by or belonging to the undertakers, be it enacted as follows:

Power to cut off water in certain cases.

16. If any person supplied with water by the undertakers wrongfully does or causes or permits to be done anything in contravention of any of the provisions of the special Act, or wrongfully fails to do anything which,

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under any of those provisions, ought to be done for the prevention of the waste, misuse, undue consumption, or contamination of the water of the undertakers, they may (without prejudice to any remedy against him in respect thereof) cut off any of the pipes by or through which water is supplied by them to him, or for his use, and may cease to supply him with water, so long as the cause of injury remains or is not remedied (*a*).

(*a*) For a case where a covenant to give a free supply to a farm house was held to be determined by its conversion into a mansion with a garage for motor cars, see *Hadham R. D. C.* v. *Crallan*, [1914] 2 Ch. 138; 78 J. P. 361.

Penalty for waste, etc. of water by non-repair of pipes, etc.

17. If any person supplied with water by the undertakers wilfully or negligently causes or suffers any pipe, valve, cock, cistern, bath, soil-pan, watercloset, or other apparatus or receptacle to be out of repair (*a*), or to be so used or contrived as that the water supplied to him by the undertakers is or is likely to be wasted, misused, unduly consumed, or contaminated, or so as to occasion or allow the return of foul air, or other noisome or impure matter, into any pipe belonging to or connected with the pipes of the undertakers, he shall for every such offence be liable to a penalty not exceeding five pounds.

(*a*) As to who is the "person supplied with water" in cases where the landlord pays the water rate, under s. 72 of the 1847 Act (see *Brock* v. *Harrison*, [1899] 1 Q. B. 958), or voluntarily by agreement (see *Deeley* v. *Caink* (a case at quarter sessions) (1923), 87 J. P. N. 765). It has been held that where a stop-tap is affixed to a service pipe by the owner of the service pipe, he has committed an offence against the section, although the affixing could not lead to any waste or misuse of the water (*Williams* v. *Llandudno U. D. C.* (1897), 14 T. L. R. 18; 42 Sol. J. 34). See the judgments of DARLING and PHILLIMORE, JJ., in *Colne Valley Water Co.* v. *Hall* (1907), 71 J. P. 173; 96 L. T. 395, as to the liability to repair a communication pipe, not the property of the consumer, under a public highway. The Court of Appeal in affirming the decision refrained from giving their approval to the reasoning of the Divisional Court; see 72 J. P. 25; 98 L. T. 398; and cf. *Parnell* v. *Portsmouth Waterworks Co.* (1911), 75 J. P. 99; 8 L. G. R. 1029.

Penalty for unauthorised application of water.

18. If any person—

First, not having from the undertakers a supply of water for other than domestic purposes (*a*), uses, for other than domestic purposes (*b*), any water supplied to him by the undertakers; or

Secondly, having from the undertakers a supply of water for any other than domestic purposes, uses, for any purposes other than those for which he is entitled to use the same, any water supplied to him by the undertakers,—

he shall for every such offence be liable to a penalty not exceeding forty shillings, without prejudice to the right of the undertakers to recover from him the value of the water misused (*c*).

(*a*) As to the meaning of this phrase, see *ante*, p. 2191.

(*b*) The use of water for washing a cart used in business is a use for "other than domestic purposes," and for washing a yard used for a trade and made dirty by such trade is a use for a trade purpose (*Cambridge University and Town Waterworks Co.* v. *Hancock* (1910), 74 J. P. 477; 103 L. T. 562).

(*c*) Where a rural district council agreed with a water company for a supply of water for street watering, and other specified purposes, and one of the ratepayers in the district took water from the stand-pipe from which the council received such supply, and then used it for his own trade purposes, it was held that the ratepayer was liable to be convicted under this section (*Andrews* v. *Witt* (1899), 65 J. P. 281; 84 L. T. 124). Where a railway company had obtained a supply of water by meter to a railway station, it was held that they were not authorised to use part of the supply to another railway station (*Great Northern Ry. Co.* v. *Bradford Corporation* (1919), 88 L. J. Ch. 101; 83 J. P. 33).

Penalty for unauthorised extension or alteration of pipes.

19. It shall not be lawful for the owner or occupier of any premises supplied with water by the undertakers, or any consumer of the water of the undertakers, or any other person, to affix or cause or permit to be affixed any pipe

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or apparatus to a pipe belonging to the undertakers, or to a communication or service pipe belonging to or used by such owner, occupier, consumer, or other person, or to make any alteration in any such communication or service pipe, or in any apparatus connected therewith, without the consent in every such case of the undertakers; and if any person acts in any respect in contravention of the provisions of the present section, he shall for every such offence be liable to a penalty not exceeding five pounds, without prejudice to the right of the undertakers to recover damages from him in respect of any injury done to their property, and without prejudice to their right to recover from him the value of any water wasted, misused, or unduly consumed (*a*).

(*a*) The addition of a stop-tap on the service pipe requires the consent of the undertakers under this section (*Williams* v. *Llandudno U. D. C.* (1897), 14 T. L. R. 18; 42 Sol. J. 34). As to the affixing of a temporary hose-pipe to a communication pipe, see *Cambridge University and Town Waterworks Co.* v. *Hancock* (1910), 74 J. P. 477; 103 L. T. 562. See also *Kyffin* v. *Metropolitan Water Board* (1908), 72 J. P. 517; 99 L. T. 809.

Penalty for wrongful taking of water.

20. If any person, not being supplied with water by the undertakers, wrongfully takes or uses any water from any reservoir, watercourse, conduit, or pipe belonging to the undertakers, or from any pipe leading to or from any such reservoir, watercourse, conduit, or pipe, or from any cistern or other like place containing water belonging to the undertakers, or supplied by them for the use of any consumer of the water of the undertakers, he shall for every such offence be liable to a penalty not exceeding five pounds (*a*).

(*a*) See also 10 & 11 Vict. c. 17, s. 59, *ante*, p. 2193.

RECOVERY OF RATES.

And with respect to the recovery of water rates and other money, be it enacted as follows:

Recovery of rates by action.

21. If any person refuses or neglects to pay to the undertakers any rate or sum due to them under the special Act, they may recover the same, with costs, in any court of competent jurisdiction; and their remedy under the present section shall be in addition to their other remedies for the recovery thereof (*a*).

(*a*) See 10 & 11 Vict. c. 17, s. 74, *ante*, p. 2200, and *Metropolitan Water Board* v. *Bunn*, cited in the notes to that section.

SCHEDULE.

Section 6.

FORM OF ORDER OF JUSTICE (*a*).

To *A. B.* , etc.

We the undersigned, two of her Majesty's justices of the peace acting for the [county] of , do hereby order and direct you [and such person and persons as you may require to aid and assist you herein] forthwith to lower the water in the [*here describe the reservoir and the extent to which the water is to be lowered*], and to do all such works and things as are requisite to repair and make secure the said reservoir [and you shall do as little injury as possible to the property of the , and for acting as you are hereby directed this shall be your sufficient warrant].

Given under our hands this day of one thousand eight hundred and .

A. B.
C. D.

(*a*) See s. 6, *ante*, p. 1320.

Section 1.

THE AGRICULTURAL GANGS ACT, 1867.

(30 & 31 VICT. c. 130)(*a*).

An Act for the Regulation of Agricultural Gangs. [20th August, 1867.]

Short title.

1. This Act may be cited for all purposes as "The Agricultural Gangs Act, 1867."

(*a*) See the L. G. A., 1894, ss. 27 (1) (a), 32 *ante*, pp. 991, 994. The preamble, clause of enactment, and second section of this Act are repealed by the S. L. R. A., 1893 (No. 1).

* * * * * *

Interpertation.

3. The following words and expressions shall in this Act have the meanings hereby assigned to them unless there is something in the context inconsistent with such meanings; that is to say,

"Child" shall mean a child under the age of thirteen years:

"Young person" shall mean a person of the age of thirteen years and under the age of eighteen years:

"Woman" shall mean a female of the age of eighteen years or upwards:

"Gangmaster" shall mean any person, whether male or female, who hires children, young persons, or women with a view to their being employed in agricultural labour on lands not in his own occupation; and, until the contrary is proved, any children, young persons, or women employed in agricultural labour on lands not in the occupation of the person who hired them shall be deemed to have been hired with the aforesaid view:

"Agricultural gang" shall mean a body of children, young persons, and women, or any of them, under the control of a gangmaster.

Regulations as to employment of children, young persons, and women by gangmasters.

4. The following regulations shall be observed by every gangmaster with respect to the employment of children, young persons, and women:

(1) . . . (*a*):

(2) No females shall be employed in the same agricultural gang with males:

(3) No female shall be employed in any gang under any male gangmaster unless a female licensed to act as a gangmaster is also present with that gang:

And any gangmaster employing any child, young person, or woman in contravention of this section, and any occupier of land on which such employment takes place, unless he proves that it took place without his knowledge, shall respectively be liable to a penalty not exceeding twenty shillings for each child, young person, or woman so employed.

(*a*) This sub-section, enacting that no child under the age of eight years should be employed in any agricultural gang, was repealed by s. 16 of the Agricultural Children Act, 1873, which substituted an enactment raising the age to ten. But that Act is now itself repealed by the Education Act, 1921, which by s. 92 (1) prohibits the employment of children under the age of twelve and imposes restrictions on the employment of children between the ages of twelve and fourteen. Powers are also given to local education authorities by s. 90 of the same Act to regulate or prohibit by means of byelaws the employment of children under the age of fourteen.

Gangmasters to be licensed.

5. No person shall act as a gangmaster unless he has obtained a licence to act as such under this Act.

Any person acting as a gangmaster without a licence under this Act shall incur a penalty not exceeding twenty shillings for every day during which he so acts.

6. No licence shall be granted to any person who is licensed to sell beer, spirits, or any other exciseable liquor.

Licences not to be granted to keepers of public-houses.

Licences to gangmasters to be granted by justices.

7. Licences to gangmasters shall be granted by two or more justices in divisional petty sessions (*a*), on due proof to the satisfaction of such justices that the applicant for a licence is of good character, and a fit person to be entrusted with the management of an agricultural gang.

The justices (*a*) shall annex to their licence a condition limiting, in such manner as they think expedient, the distances within which the children employed by such gangmaster are to be allowed to travel on foot to their work; and any gangmaster violating the condition so annexed to his licence shall for each offence be liable to a penalty not exceeding ten shillings.

Any person aggrieved by the refusal of the justices (*a*) to grant him a licence to act as gangmaster may appeal to the next practicable court of general or quarter sessions; and it shall be lawful for such court, if they see cause, to grant a licence to the applicant, which shall be of the same validity as if it had been granted by the justices in petty sessions.

(*a*) Licences are now granted by district councils and not by the justices. See the L. G. A., 1894, s. 27, *ante*, p. 991.

Duration and renewal of licences.

8. Licences under this Act shall be in force for six months only, and may be renewed on similar proof to that on which an original licence is granted.

Fees in respect of licences and renewals.

9. There shall be charged in respect of each grant or renewal of licence a fee of one shilling, and such fee shall be accounted for and applied in manner in which the fees ordinarily received by the authority granting the licence are applicable.

Licence, how affected by first and other convictions of gangmaster.

10. On any conviction of a gangmaster of any offence against this Act the justices who convict him shall endorse on his licence the fact of such conviction; and on any conviction of such gangmaster of a second offence against this Act the justices may, in addition to any other penalty, withhold his licence for a period not exceeding three months; and on any conviction of any gangmaster of a third offence against this Act the justices may, in addition to any other penalty, withhold his licence for a period not exceeding two years.

And after a fourth conviction for an offence against this Act the gangmaster shall be disqualified from holding or receiving a licence under this Act.

Recovery of penalties. 11 & 12 Vict. c. 43, etc.

11. All penalties under this Act may be recovered summarily before two or more justices in manner directed by the Summary Jurisdiction (England) Acts.

Extent of Act.

12. This Act shall not apply to Scotland or Ireland.

THE REGULATION OF RAILWAYS ACT, 1868.

(31 & 32 VICT. c. 119) (*a*).

An Act to amend the Law relating to Railways. [31st July, 1868.]

PRELIMINARY.

Short title.

1. This Act may be cited as the Regulation of Railways Act, 1868.

(*a*) The sections of this Act here set out are those which relate to arbitration, and are incorporated by s. 63 of the L. G. A., 1888, *ante*, p. 815, and applied by s. 17 of the Town Planning Act, 1925, *ante*, p. 1507. The preamble was repealed by the S. L. R. A., 1893 (No. 1).

* * * * * *

VI.—ARBITRATIONS BY BOARD OF TRADE (*a*).

Appointment by Board of Trade of arbitrator to act for them.

30. Whenever the Board of Trade are required to make any award or to decide any difference in any case in which a company is one of the parties, they may appoint an arbitrator to act for them, and his award or decision shall be deemed to be the award or decision of the Board of Trade (*b*).

If the arbitrator dies, or in the judgment of the Board of Trade becomes incapable or unfit, the Board of Trade may appoint another arbitrator.

(*a*) For the Board of Trade it is necessary to read the Minister of Transport or Health, and for the company the county council, urban authority, or other party to the arbitration.

(*b*) Observe that the award is made by the arbitrator, and when made is to be deemed to have been made by the Minister. See *In re Kent C. C. and Sandgate L. B.*, [1895] 2 Q. B. 43; 59 J. P. 456.

Remuneration of arbitrators or umpires appointed by Board of Trade.

31. The Board of Trade may fix the remuneration of any arbitrator or umpire appointed by them in pursuance of this or any other Act in any case where a company is one of the parties, and may, if they think fit, frame a scale of remuneration for arbitrators or umpires so appointed by them; and no arbitrator or umpire so appointed by them shall be entitled to any larger remuneration than the amount fixed by the Board of Trade.

Costs, etc. of arbitrations where one of the parties is not a railway company. 22 & 23 Vict. c. 59.

32. The provisions of section eighteen to twenty-nine, both inclusive, of the Railway Companies Arbitration Act, 1859 (*a*), shall so far as is consistent with the tenor thereof, apply to an arbitrator appointed by the Board of Trade, and to his arbitration and award, notwithstanding that one of the parties between whom he is appointed to arbitrate may not be a railway company; and in construing those sections for the purpose of this Act, the word "companies" shall be construed to mean the parties to the arbitration.

(*a*) 22 & 23 Vict. c. 59, s. 18, empowers the arbitrator to call for books and documents and administer oaths; s. 19 gives him discretion as to the manner of proceeding with the arbitration; s. 20 enables him to proceed in the absence of parties; s. 21 enables him to make several awards each on part of the matters referred; s. 22 makes the award conclusive; s. 23 gives the arbitrator power to extend the time for making an award; s. 24 prevents the setting aside of an award for irregularity; s. 25 provides that parties shall obey awards; s. 26, that all courts shall give effect to awards; s. 27, that costs shall be in the discretion of the arbitrator; s. 28, that in absence of order, costs are to be borne by parties equally; and s. 29, that submission may be made a rule of court.

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THE GAS AND WATER WORKS FACILITIES ACT, 1870.

(33 & 34 VICT. c. 70) (*a*).

An Act to facilitate in certain cases the obtaining of Powers for the Construction of Gas and Water Works and for the Supply of Gas and Water.

[9th August, 1870.]

PRELIMINARY.

Short title.

1. This Act may be cited for all purposes as the Gas and Water Works Facilities Act, 1870.

(*a*) Incorporated with the P. H. A., 1875, by s. 161, *ante*, p. 382, for the purpose of enabling a local authority to supply gas, and amended by 36 & 37 Vict. c. 89, *post*, p. 2339. Preamble repealed by the S. L. R. A., 1893 (No. 2). The provisions of this Act are, however, modified or superseded, so far as it relates to gas undertakings by the Gas Regulation Act, 1920, 10 & 11 Geo. 5, c. 28, *post*, p. 2807, and the Gas Undertakings Act, 1929, 19 & 20 Geo. 5, c. 24, *post*, p. 3025. The provisions of the Act as regards water undertakings may now be considered to apply to companies only. Local authorities derive full powers as to water supply from the Public Health Acts and incorporated enactments. The central department as regards *all* water undertakings is the Ministry of Health in pursuance of an Order in Council, dated November 9th, 1920, and as regards gas undertakings the Board of Trade in pursuance of another Order in Council of the same date.

Note to Section 1.

Interpretation of terms.

2. For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereafter assigned to them; that is to say,

The term "local authority" shall mean the bodies of persons named in the table in Schedule (A.) to this Act annexed:

The term "road" shall mean any carriageway being a public highway, and any bridge forming part of the same:

The term "road authority" shall mean any local authority, board, town council, body corporate, commissioners, trustees, vestry, or other body or persons in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road:

The term "district," in relation to a local authority, shall mean the area within the jurisdiction of such local authority:

The term "The Lands Clauses Acts" means, so far as the Provisional Order in which that term is used relates to England . . . the Lands Clauses Consolidation Act, 1845; . . . together with . . . the Lands Clauses Consolidation Acts Amendment Act, 1860 (*a*).

8 & 9 Vict. c. 18.
23 & 24 Vict. c. 106

(*a*) Words relating to Scotland and Ireland only are here omitted. See the statutes referred to, *ante*, pp. 2088, 2260.

DESCRIPTION OF CASES WITHIN THIS ACT.

Act to apply to certain cases.

3. This Act shall apply where powers are required for all or any of the purposes following:

(1) To construct or to maintain and continue gasworks and works connected therewith (*a*), or to manufacture and supply gas in any district within which there is not an existing company, corporation, body of commissioners, or persons empowered by Act of Parliament (*b*) to construct such works or to manufacture and supply gas:

(2) To construct or to maintain and continue waterworks and works connected therewith, or to supply water in any district within which there is not an existing company, corporation, body of commissioners, or persons empowered by Act of Parliament to construct such works and to supply water:

(3) To raise additional capital necessary for any of the purposes aforesaid:

(4) To enable two or more companies or persons duly authorised to supply gas or water in any district or in adjoining districts to enter into agreements jointly to furnish such supply, or to amalgamate their undertakings:

(5) To authorise two or more companies or persons supplying gas or water in any district or in adjoining districts to manufacture and supply gas or to supply water, and to enter into agreements jointly to furnish such supply and to amalgamate their undertakings:

and such purposes, or any one or more of them, as the case may be, shall, for the purposes of this Act, be deemed to be included in the term "gas undertaking" or "water undertaking," according as the same relate to the supply of gas or water; provided that any gas or water company empowered as aforesaid may apply for and avail themselves of the facilities of this Act within their own districts respectively.

(*a*) As to the right of a gas company to manufacture residuals, see *Deuchar* v. *Gas Light & Coke Co.*, [1925] A. C. 691; 89 J. P. 177, and as to the purchase of residuals, see the Gas Undertakings Act, 1929, s. 4, *post*, p. 3026.

(*b*) This expression is construed as meaning special Act of Parliament.

PROVISIONAL ORDERS AUTHORISING GAS AND WATER UNDERTAKINGS (*a*).

By whom Provisional Orders authorising undertakings may be obtained.

4. Provisional Orders authorising any gas undertaking or water undertaking under the authority of this Act may be obtained in any district by any company, companies, or person; and in the construction of this Act the terms "the undertakers" (*b*) shall be deemed to include any such company, companies, or person.

Where the undertakers require powers for the purpose of constructing gasworks or waterworks, or works connected therewith within any district, the consent of the local authority (*c*) of such district shall be necessary before any Provisional Order can be obtained; and where in such district there is a road authority distinct from the local authority, the consent of such road authority shall also be necessary in any case where power is sought to break up any road of such road authority, before any Provisional Order can be obtained, unless the Board of Trade (*d*) in any case in which the consent of the local authority or road authority is refused are of opinion, after inquiry (*e*), that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in such case they shall make a special report, stating the grounds upon which they have dispensed with such consent.

(*a*) The Gas Regulation Act, 1920, 10 & 11 Geo. 5, c. 28, s. 10, *post*, p. 2814, provides that anything which under the Gas and Waterworks Facilities Act, 1870, or any Act amending the same may be effected by a provisional order confirmed by Parliament, may, so far as these enactments relate to gas, be effected by a special order made on the application of any local authority, company or person by the Board of Trade, under and in accordance with that section and for the purposes of the powers conferred by that section, the Act of 1870 shall have effect as if s. 15 thereof (*post*) were omitted therefrom. The Act of 1920 further provides for the inclusion in a special order of many matters, for which reference should be made to the Act itself, which is set out *in extenso*, *post*, p. 2807.

(*b*) See also note (*a*) to s. 1, *ante*, p. 2272. This word applies to a district council and in relation to gas only. See the P. H. A., 1875, ss. 161, 316, *ante*, pp. 382, 655, and notes thereto, from which it will be seen that as regards gas undertakings special orders under the Act of 1920 have now superseded provisional orders under the Act of 1870. As to revocation, extension, or amendment of the Order, see 36 & 37 Vict. c. 89, s. 12, *post*, p. 2339, and the Act of 1920.

(*c*) See Sched. A, *post*, p. 2278. It will be observed that the local authority in a rural parish is the successor of the vestry, *viz.* the Parish Council. Consequently the county council, who have now under the Local Government Act, 1929, become the highway authority in rural districts, will be "the road authority" distinct from the local authority. The county council will also occupy the same position as regards "unclaimed" county roads in urban districts.

(*d*) The L. G. B. were substituted for the Board of Trade in respect of any gasworks established by an urban authority. See the P. H. A., 1875, s. 161, *ante*, p. 382. Power to transfer the powers of the L. G. B. under this Act to county councils exists under s. 10 of the L. G. A., 1888, and the Local Government (Transfer of Powers) Act, 1903, but has never been exercised. The powers and duties of the L. G. B. were transferred to the Minister of Health by 9 & 10 Geo. 5, c. 21, s. 3, but by Order in Council of November 9th, 1920, the powers and duties of the Minister of Health as regards gas were transferred to the Board of Trade. Powers as to finance, however, vest in the Minister of Health.

(*e*) See 36 & 37 Vict. c. 89, s. 13, *post*, p. 2340.

Notices and deposit of documents by promoters as in schedule.

5. The undertakers intending to make an application for a Provisional Order in pursuance of this Act shall proceed as follows:

(1) On or before the first of November next before their application they shall give notice in writing of their intention to make the same to every company, corporation, or person (if any) supplying gas (if the proposed application relates to gasworks) or water (if the proposed application relates to waterworks) within the district to which the proposed application refers:

(2) In the months of October and November next before their application, or in one of those months, they shall publish notice of their intention to make such application by advertisement, according to the regula-

tions contained in Part One of the Schedule (B.) to this Act; and where it is proposed to abstract water from any stream for any waterwork, they shall give notice in writing of their intention to make such application to the owners or reputed owners, lessees, or reputed lessees, and occupiers of all mills and manufactories or other works using the waters of such stream for a distance of twenty miles below the point at which such water is intended to be abstracted, such distance to be measured along the course of such stream, unless such waters shall within a less distance than twenty miles fall into or unite with any navigable stream, and then only to the owners or reputed owners, lessees or reputed lessees and occupiers of such mills and manufactories as aforesaid which shall be situate between the point at which such water is proposed to be abstracted and the point at which such water shall fall into or unite with such navigable stream; and such notice shall state the name (if any) by which the stream is known at the point at which such water shall be immediately abstracted, and also the parish in which such point is situate, and the time and place of deposit of the plans and sections required by this Act to be deposited:

(3) On or before the thirteenth day of the same month of November they shall deposit the documents described in Part Two of the same Schedule, according to the regulations therein contained:

(4) On or before the twenty-third day of December in the same year they shall deposit the documents prescribed in Part Three of the same Schedule, according to the regulations therein contained.

All maps, plans, and documents required by this Act to be deposited for the purposes of any Provisional Order may be deposited with the persons and in the manner directed by the Parliamentary Documents Deposit Act, 1837; and all the provisions of that Act shall apply accordingly.

7 Will. 4 & 1 Vict. c. 83.

Board of Trade to consider application and objection.

6. The Board of Trade shall consider the application, and also any objection thereto that may be lodged with them on or before such day as they from time to time appoint, and shall determine whether or not the undertakers may proceed with the application (*a*).

(*a*) See s. 14 of the Amending Act of 1873, and notes thereto, *post*, p. 2340, as to the rules which must now be observed.

Board of Trade to make Provisional Order.

7. Where it appears to the Board of Trade expedient and proper that the application should be granted, with or without addition on modification, or subject or not to any restriction or condition, and it has been proved to their satisfaction that all the requisitions of section five of this Act have been in all respects complied with, the Board of Trade may settle and make a Provisional Order (*a*) accordingly.

Every such Provisional Order (*a*) if it relates to gasworks shall expressly restrict the undertakers from manufacturing gas or any residual products arising in the manufacture of gas on any land except such as is specified in that behalf in the Order; and shall also expressly restrict them from storing gas on any land except such as is specified in that behalf in the Order within three hundred yards from any dwelling-house existing at the time when the undertakers propose to store gas on such land, without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

Form and contents of Provisional Order.

Every such Provisional Order (*a*) shall contain such other provisions as, according to the nature of the application and the facts and circumstances of each case, the Board of Trade thinks fit to submit to Parliament for confirmation in manner provided by this Act (*b*); but so that any such Provisional Order shall not contain any provision for empowering the under-

Section 7.

takers or any other person to acquire lands otherwise than by agreement, or to acquire any lands, even by agreement, except to an extent therein limited.

Costs of Order.

The costs of and connected with the preparation and making of each Provisional Order shall be paid by the undertakers, and the Board of Trade may require the undertakers to give security for such costs before they proceed with the Provisional Order.

(*a*) See note (*a*) to s. 4, *ante*, p. 2274.
(*b*) See s. 9, *infra*.

Publication of Provisional Order.

8. When a Provisional Order (*a*) has been made as aforesaid and delivered to the undertakers, the undertakers shall forthwith deposit and publish the same by advertisement according to the regulations contained in Part Four of the Schedule (B.) to this Act.

(*a*) See note (*a*) to s. 4, *ante*, p. 2274.

Confirmation of Provisional Order by Act of Parliament.

9. On proof to the satisfaction of the Board of Trade of the completion of such publication as aforesaid, the Board of Trade shall, as soon as they conveniently can after the expiration of seven days from the completion of such publication in relation to any Provisional Order (*a*) which shall have been published as aforesaid, not later than the twenty-fifth of April (*b*) in any year procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the Schedule to the Bill: but until confirmation by Act of Parliament a Provisional Order under this Act shall not have any operation.

If while any such Bill is pending in either House of Parliament a petition is presented against any Provisional Order (*a*) comprised therein, the Bill, so far as it relates to the Order petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a Bill for a special Act.

The Act of Parliament confirming any Provisional Order underthis Act shall be deemed a public general Act.

(*a*) See note (*a*) to s. 4, *ante*, p. 2274.
(*b*) It was formerly considered that this date applied to the publication of the Order, and not to the introduction of a Bill into Parliament. See, however, note (*a*) to s. 4, *ante*, p. 2274.

Incorporation of general Acts in Provisional Order.

10. The provisions of the Lands Clauses Acts shall be incorporated with every Provisional Order (*a*) under this Act, save where the same are expressly varied or excepted by any such Provisional Order (*a*), and except as to the following provisions, namely,—

(1) With respect to the purchase and taking of lands otherwise than by agreement:

(2) With respect to the entry upon lands by the promoters of the undertaking.

Where a Provisional Order (*a*) authorises a gas undertaking the provisions of the Gasworks Clauses Act, 1847 (*b*), shall be incorporated with such Provisional Order (*a*), save where the same are thereby expressly varied or excepted.

10 & 11 Vict. c. 15.

Where a Provisional Order authorises a water undertaking the provisions of the Waterworks Clauses Act, 1847, and of the Waterworks Clauses Act, 1863 (*c*), shall be incorporated with such Provisional Order, save where the same are thereby expressly varied or excepted.

10 & 11 Vict. c. 17.
26 & 27 Vict. c. 93.

For the purposes of such incorporation a Provisional Order under this Act shall be deemed the special Act (*d*).

(a) See note (a) to s. 4, *ante*, p. 2274.
(b) 10 & 11 Vict. c. 15, *ante*, p. 2164. And see the Gas Regulation Act, 1920, *post*, p. 2807, referred to in note (a) to s. 4, *ante*, p. 2274.
(c) 10 & 11 Vict. c. 17, *ante*, p. 2178, and 26 & 27 Vict. c. 93, *ante*, p. 2264.
(d) See also the P. H. A., 1875, s. 316, *ante*, p. 655.

Note to Section 10.

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11. If any undertakers empowered by any Provisional Order under this Act to make works do not, within three years from the date of such Provisional Order, or within any shorter period prescribed therein, complete the works; or,

Cesser of powers at expiration of prescribed time.

If within one year of the date of the Provisional Order, or within such shorter time as is prescribed in the Provisional Order, the works are not substantially commenced; or,

If the works are commenced, but whilst the powers to carry them on exist are suspended without a reason sufficient in the opinion of the Board of Trade to warrant such suspension;

the powers given by the Provisional Order to the undertakers for executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the same as is then completed, unless the time be prolonged by the special direction of the Board of Trade.

A statement in writing by the Board of Trade to the effect that such works have not been completed, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non-commencement, or suspension.

12. The undertakers empowered by any Provisional Order under this Act may demand and take, in respect of gas or water supplied by them under the authority of such Provisional Order, rents and rates respectively not exceeding the sums specified in such Provisional Order, subject and according to the regulations therein specified.

Gas rents and water rates.

13. Nothing in any Provisional Order, or Act confirming the same, shall exempt the undertaking, or the company, corporation, or person to whom it belongs, from the provisions of any general Act of Parliament relating to gasworks or waterworks, passed after the passing of this Act (*a*), or from any revision or alteration under the authority of Parliament of the maximum rents and rates allowed to be taken under the Provisional Order.

Company not exempt from provisions of general Act.

(a) See 36 & 37 Vict. c. 89, *post*, p. 2339.

14. For the purpose of carrying into effect the provisions of this Act, it shall be lawful for her Majesty at any time after the passing of this Act, by Order in Council, to substitute for the Board of Trade any other department of her Majesty's Government, and from and after such time as may be specified for the purpose in any such order, or if no time be specified therein from and after the date of such order, all matters to be done in pursuance of this Act by or in connection with the Board of Trade shall be done by or in connection with such substituted department.

Queen in Council may substitute any department for Board of Trade for the purposes of this Act.

15. This Act shall not apply to any place within the metropolis, as the same is defined in the Metropolis Management Act, 1855 (*a*).

Act not to apply to metropolis. 18 & 19 Vict. c. 120.

(a) See, however, the Gas Regulation Act, 1920 (10 & 11 Geo. 5, c. 28), s. 10, *post*, p. 2807, which is referred to in note (a) to s. 4, *ante*, p. 2274.

Schedules.

SCHEDULE A (*a*).

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.
England and Wales.	
Boroughs (1)	The mayor, aldermen, and burgesses acting by the council.
Any place other than a borough, and under the jurisdiction of commissioners, trustees, or other persons intrusted by any local Act with powers of improving, cleansing, or paving any town.	The commissioners, trustees, or other persons intrusted by the local Act with powers of improving, cleansing, or paving the town.
Any place not included in the above descriptions, and within the jurisdiction of local board constituted in pursuance of the Public Health Act, 1848, and the Local Government Act, 1858, or one of such Acts (*b*).	The local board.
Any place or parish not within the above descriptions, and in which a rate is levied for the maintenance of the poor.	The vestry, select vestry, or other body of persons, acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry.
. . . . .	. . . . .

(1) "Borough" shall mean any place for the time being subject to the Municipal Corporations Act, 1835 (*c*).

(*a*) Parts of this Schedule relating only to Scotland or Ireland are here omitted.
(*b*) See the P. H. A., 1875, s. 313, *ante*, p. 655.
(*c*) Now the Municipal Corporations Act, 1882. See s. 242 (3) of that Act.

SCHEDULE B.

PROVISIONAL ORDERS (*a*).

PART I.

[S. 5 (2), *ante*.

Advertisement in October or November of intended Application.

(1) Every advertisement is to contain the following particulars:

1. The objects of the intended application.
2. A general description of the nature of the proposed new works, if any.
3. The names of the townlands, parishes, townships, and extra-parochial places in which the proposed new works, if any, will be made.
4. The times and places at which the deposit under Part II. of this Schedule will be made.
5. An office, either in London or at the place to which the intended application relates, at which printed copies of the draft Provisional Order, when deposited, and of the Provisional Order, when made, will be obtainable as hereinafter provided.

(2) The whole notice is to be included in one advertisement, which is to be headed with a short title descriptive of the undertaking.

(3) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed undertaking, where the proposed works (if any) will be made; or if there be no such newspaper, then in some one and the same newspaper published in the county in which every such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(4) The advertisement is also, in every case, to be inserted once at least in the London . . . Gazette, accordingly as the district is situate in England . . .

(*a*) See now Gas Regulation Act, 1920, s. 10, *post*, p. 2814, as regards gas, and note (*b*) to s. 14 of the Act of 1873, *post*, p. 2341.

Schedule.

PART II.

Deposit on or before 30th November. [S. 5 (3), *ante*.]

(1) The undertakers are to deposit—

1. A copy of the advertisement published by them.
2. If the application relates to gas, a map showing the land proposed to be used for the manufacture of gas, or of residual products arising in the manufacture of gas.
3. A proper plan and section of the proposed new works, if any, such plan and section to be prepared according to such regulations as may from time to time be made by the Board of Trade in that behalf (*a*).

(2) The documents aforesaid are to be deposited for public inspection—

In England . . . in the office of the clerk of the peace for every county, riding, or division . . . which will be affected by the proposed undertaking, or in which any proposed new work will be made.

(3) The documents aforesaid are also to be deposited at the office of the Board of Trade.

(*a*) See note (*a*) to s. 6, *ante*, p. 2275.

PART III.

Deposit on or before 23rd December. [S. 5 (4), *ante*]

(1) The undertakers are to deposit at the office of the Board of Trade—

1. A memorial signed by the undertakers, headed with a short title descriptive of the undertaking (corresponding with that at the head of the advertisement), addressed to the Board of Trade, and praying for a Provisional Order.
2. A printed draft of the Provisional Order as proposed by the undertakers, with any schedule referred to therein.
3. An estimate of the expense of the proposed new works, if any, signed by the persons making the same.

(2) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement; such copies to be there furnished to all persons applying for them at the price of not more than one shilling each.

(3) The memorial of the undertakers (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require :

[*Short Title of Undertaking.*]

To the Board of Trade.

The memorial of the undertakers of [*short title of undertaking*] :

Showeth as follows :

1. Your memorialists have published, in accordance with the requirements of the Gas and Water Works Facilities Act, 1870, the following advertisement :

[*Here advertisement to be set out verbatim.*]

2. Your memorialists have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and [*here state deposit of the several matters required by Act*].

Your memorialists, therefore, pray that a Provisional Order may be made in the terms of the draft proposed by your memorialists, or in such other terms as may seem meet.

A. B.,
C. D.,
Undertakers.

PART IV.

Deposit and Advertisement of Provisional Order when made. [S. 8, *ante*.]

(1) The undertakers are to deposit printed copies of the Provisional Order when settled and made, for public inspection in the offices of clerks of the peace . . . where the documents required to be deposited by them under Part II. of this Schedule were deposited.

Schedule. (2) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of each.

(3) They are also to publish the Provisional Order as an advertisement once in the local newspaper in which the original advertisement of the intended application was published.

THE TRAMWAYS ACT, 1870.

(33 & 34 VICT. c. 78)(a).

An Act to facilitate the Construction and to Regulate the Working of Tramways.

[9th August, 1870.]

PRELIMINARY.

Short title. **1.** This Act may be cited for all purposes as "The Tramways Act, 1870."

(a) This Act gives to local authorities important powers with regard to tramways and tramway companies, and is, therefore, included in this Appendix. The preamble was repealed by the S. L. R. A., 1893 (No. 2). The subject belongs rather to the law of highways than to that of public health, and the notes are, therefore, chiefly confined to references to decided cases. It may be convenient to mention here that by the Ministry of Transport Act, 1919 (9 & 10 Geo. 5, c. 50), s. 2, *post*, there were transferred to the Ministry of Transport all the powers and duties of any Government department in relation to tramways as from a date or dates to be fixed by His Majesty in Council. By an Order in Council dated the 22nd Sept., 1919 (S. R. & O., 1919, No. 1440), the powers and duties of the Board of Trade in relation to tramways were transferred to the Minister of Transport as from the 23rd Sept., 1919. It is necessary, therefore, to read references in this Act to the Board of Trade as references to the Minister of Transport. Under s. 5 of that Act, *post*, p. 2761, the Minister was given power to require through runnings on adjoining tramways.

Limitation of Act. **2.** This Act shall not extend to Ireland.

Interpretation of terms. **3.** For the purposes of this Act the terms hereinafter mentioned shall have the meanings hereinafter assigned to them; that is to say,

The terms "local authority" and "local rate" shall mean respectively the bodies of persons and rate named in the table in Part I. of the Schedule A. to this Act annexed:

The term "road" shall mean any carriageway being a public highway, and the carriageway of any bridge forming part of or leading to the same:

The term "road authority" shall mean, in the districts specified in the table in Part II. of the Schedule A. to this Act annexed, the bodies of persons named in the same table, and elsewhere any local authority, board, town council, body corporate, commissioners, trustees, vestry, or other body or persons in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road (a):

The term "district" in relation to a local authority or road authority, shall mean the area within the jurisdiction of such local authority or road authority:

The term "prescribed" shall mean prescribed by any rules made in pursuance of this Act:

8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. The term "the Land Clauses Acts" means, so far as the Provisional Order in which that term is used relates to England, the Lands Clauses Consolidation Act, 1845; . . . together with . . . the Lands Clauses Consolidation Acts Amendment Act, 1860 (b):

The term "two justices" shall, in addition to its ordinary signification, mean one stipendiary or police magistrate acting in any police court for the district.

(a) See *Wolverhampton Tramways Co., Ltd.* v. *G. W. Rail. Co.*, cited in the note to s. 32, *post*, p. 2294.

Note to Section 3.

An agreement between a county council and a district council, whereby the latter agreed to maintain a main road under s. 11 of the L. G. A., 1888, was held not to affect the rights of the former as the road authority within the above definition (*Stockport and Hyde Highway Board* v. *Cheshire C. C.* (1891), 61 L. J. Q. B. 22; 55 J. P. 808). A delegation under s. 35 of the L. G. A., 1929, *ante*, p. 1897, will not, therefore, affect the position of a county council as the road authority in respect of all county roads (except those claimed under s. 32, *ibid.*) in urban districts and in respect of all roads in rural districts (s. 30, *ibid.*).

(*b*) Words in this clause relating to Scotland only are here omitted. See the statutes referred to, *ante*, pp. 2088, 2260.

PART I.

PROVISIONAL ORDERS AUTHORISING THE CONSTRUCTION OF TRAMWAYS.

By whom Provisional Orders authorising the construction of tramways may be obtained.

4. Provisional Orders (*a*) authorising the construction of tramways (*b*) in any district may be obtained by—

(1) The local authority of such district; or by—

(2) Any person, persons, corporation, or company, with the consent of the local authority of such district; or of the road authority of such district where such district is or forms part of a highway district formed under the provisions of the Highway Acts (*c*):

And any such local authority, person, persons, corporation, or company shall be deemed to be promoters of a tramway, and are in this Act referred to as the "promoters."

Application for a Provisional Order shall not be made by any local authority until such application shall be approved in the manner prescribed in Part III. of the Schedule A. to this Act annexed.

Where in any district there is a road authority distinct from the local authority (*d*), the consent of such road authority shall also be necessary in any case where power is sought to break up any road subject to the jurisdiction of such road authority, before any Provisional Order can be obtained.

(*a*) See the rules issued by the Board of Trade with respect to Provisional Orders under this Act. See s. 64, *post*, p. 2310, and notes thereto. The construction of a tramway without statutory authority may amount to a nuisance at common law (*R.* v. *Train* (1862), 2 B. & S. 640; 31 L. J. M. C. 169). The local authority may lawfully agree with a tramway company not to apply for powers to construct nor to give their consent to the construction by others of tramways on roads within their district without first calling on the particular tramway company with which the agreement is made to apply for powers themselves (*Att.-Gen.* v. *Hastings Corporation* (1902), 67 J. P. 165; 19 T. L. R. 9).

(*b*) As to income tax on tramways, see *London C. C.* v. *Edwards* (1909), 73 J. P. 213; 100 L. T. 444; *Poole Corporation* v. *Bournemouth Corporation* (1911), 75 J. P. 13; 103 L. T. 828.

(*c*) *I.e.*, the Highway Acts, 1835, 1862, and 1864. See s. 1 of the last-mentioned Act.

(*d*) *E.g.*, a county council, in rural districts or in relation to unclaimed county roads in urban districts.

The Board of Trade may in certain cases dispense with the consent of local or road authority.

5. Where it is proposed to lay down a tramway in two or more districts, and any local or road authority having jurisdiction in any of such districts does not consent thereto, the Board of Trade (*a*) may, nevertheless, make a Provisional Order authorising the construction of such tramway if they are satisfied, after inquiry (*b*), that two-thirds of the length of such tramway is proposed to be laid in a district or in districts the local and road authority or the local and road authorities of which district or districts do consent thereto; and in such case they shall make a special report stating the grounds upon which they have made such order.

(*a*) Now the Ministry of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*b*) As to local inquiries, see s. 63, *post*, p. 2310. But the non-consenting local authority may be heard against the Bill for confirming the Provisional Order (*Glasgow Corporation Tramways Bill* (1878), 2 Cl. & R. 95).

Section 6.

Notices and deposit of documents by promoters as in schedule.

6. The promoters intending to make an application for a Provisional Order shall proceed as follows:

(1) In the months of October and November next before their application, or in one of those months, they shall publish notice of their intention to make such application by advertisement (*a*); and they shall, on or before the fifteenth day of the following month of December, serve notice of such intention, in accordance with the Standing Orders (if any) of both Houses of Parliament for the time being in force with respect to Bills for the construction of tramways:

(2) On or before the thirtieth day of the same month of November they shall deposit the documents described in Part II. of the same Schedule, according to the regulations therein contained:

(3) On or before the twenty-third day of December in the same year they shall deposit the documents described in Part III. of the same Schedule, according to the regulations therein contained:

7 Will. 4 & 1 Vict. c. 83.

All maps, plans, and documents required by this Act to be deposited for the purposes of any Provisional Order may be deposited with the persons and in the manner directed by the Parliamentary Documents Deposit Act, 1837; and all the provisions of that Act shall apply accordingly.

(*a*) See the form prescribed in Part I. of Schedule B., *post*, p. 2312, a reference to which is obviously omitted here by an oversight.

Consideration of application and objections.

7. The Board of Trade (*a*) shall consider the application, and may, if they think fit, direct an inquiry (*b*) in the district to which the same relates, or may otherwise inquire as to the propriety of proceeding upon such application, and they shall consider any objection thereto that may be lodged with them on or before such day as they from time to time appoint (*c*), and shall determine whether or not the promoters may proceed with the application.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.
(*b*) As to local inquiries, see s. 63, *post*, p. 2310.
(*c*) See the regulations made under s. 64, *post*, p. 2310.

Power for Board of Trade to make Provisional Order.

8. Where it appears to the Board of Trade (*a*) expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Board of Trade (*a*) may settle and make a Provisional Order accordingly.

Form and contents of Provisional Order.

Every such Provisional Order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions as (subject to the requirements of this Act) the Board of Trade (*a*) according to the nature of the application and the facts and circumstances of each case, think fit to submit to Parliament for confirmation in manner provided by this Act; but so that any such Provisional Order shall not contain any provision for empowering the promoters or any other person to acquire lands otherwise than by agreement, or to acquire any lands, even by agreement, except to an extent therein limited, or to construct a tramway elsewhere than along or across a road (*b*), or upon land taken by agreement (*c*).

(*a*) See note (*a*) to s. 7, *supra*.
(*b*) Defined by s. 3, *ante*, p. 2280.
(*c*) If compulsory powers of taking land are required, they must be obtained by private Bill. See also s. 15, *post*, p. 2284. A company had statutory power to lay a second line of tramway on obtaining certain consents, but without obtaining such consents they laid the rails:—*Held*, that they were liable for a trespass, and that as damages they were liable in any event for the cost of restoring the road (*Bideford U. D. C.* v. *Bideford Rail. Co.* (1904), 68 J. P. 123).

Regulations as to construction

9. Every tramway in a town (*a*) which is hereafter authorised by Provisional Order shall be constructed and maintained as nearly as may be in of tramways in towns.

the middle of the road; and no tramway shall be authorised by any Provisional Order to be so laid that for any distance of thirty feet or upwards a less space than nine feet and six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway if one-third of the owners or one-third of the occupiers of the houses, shops, or warehouses abutting upon the part of the road where such less space shall intervene as aforesaid shall in the prescribed manner and at the prescribed time express their dissent from the tramway being so laid (*b*).

(*a*) See note (*a*) to s. 93 of the Lands Clauses Consolidation Act, 1845, *ante*, p. 2122.

(*b*) The Order will be good if it dispenses with the 9 ft. 6 in. limit in the absence of express dissent of the occupiers (*Edinburgh Street Tramways* v. *Black* (1873), L. R. 2 Sc. & Div. 336; 37 J. P. 692). See also *Wilkinson* v. *Newcastle-on-Tyne Corporation* (1902), 18 T. L. R. 332.

Nature of traffic on tramways and tolls to be specified in Provisional Order.

10. Every such Provisional Order shall specify the nature of the traffic for which such tramway is to be used, and the tolls and charges which may be demanded and taken by the promoters in respect of the same, and shall contain such regulations relating to such traffic and such tolls and charges as the Board of Trade (*a*) shall deem necessary and proper (*b*).

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*b*) The working of omnibuses in connection with the tramways must be specially provided for if the local authority contemplate such an addition to the tramways (*London C. C.* v. *Att.-Gen.*, [1902] A. C. 165; 66 J. P. 340). As to the construction of a statute empowering a local authority to run omnibuses in connection with their tramway undertaking, see *Att.-Gen.* v. *Leeds Corporation* (1929), 27 L. G. R. 351. The question is not whether a business can be conveniently or advantageously conducted with the tramway business, but whether it is by necessary implication incidental or necessary to it, see *per* Farwell, J., in *Att.-Gen.* v. *Manchester Corporation*, [1906] 1 Ch. 643, 656; 70 J. P. 201, where the corporation were restrained from carrying on a parcels delivery service in connection with their tramway undertaking. As to the conveyance of mails by tramways, see the Conveyance of Mails Act, 1893. In *Clogher Tramway Co., Ltd.* v. *R.* (1891), 30 L. R. Ir. 316, it was held that a steam tramway constructed by a company authorised thereto by Provisional Order, under the Tramways (Ireland) Act, 1860, confirmed by special Act, was not a railway within the meaning of the Post Office Parcels Act, 1882, and that the rights and liabilities of the company and the Postmaster-General respectively as regarded the conveyance of parcels thereon, were regulated solely by the special Act confirming the Provisional Order.

Costs of Order.

11. The costs of and connected with the preparation and making of each Provisional Order shall be paid by the promoters, and the Board of Trade may require the promoters to give security for such costs before they proceed with the Provisional Order (*a*).

(*a*) These costs are to be taxed on the Chancery, and not on the parliamentary scale (*In re Morley* (1875), L. R. 20 Eq. 17). And see *In re Peterson*, [1909] 2 Ch. 398.

As to the costs of a parliamentary agent employed by a promoter who is not mentioned in the Act and does not become a member of the company, see *Re Skegness Tramways Co.* (1889), 41 Ch. D. 215.

Promoters to deposit £4 per cent. on estimate in prescribed bank.

12. After a Provisional Order is ready, and before the same is delivered by the Board of Trade (*a*), the promoters, unless they are a local authority, shall within the prescribed time and in the prescribed manner, and subject to the prescribed conditions as to interest, repayment, or forfeiture, pay, as a deposit, into the prescribed bank, the sum of money prescribed, which shall not be less than four pounds per centum on the amount of the estimate by the promoters of the expense of the construction of the tramway, or deposit, in such bank any security of the prescribed nature the then value of which is not less than such sum of money (*b*).

(*a*) See note (*a*) to s. 10, *supra*.

(*b*) This section has no application to a local authority. See the Parliamentary Deposits and Bonds Act, 1892; *Re Bradford Tramways Co.* (1876), 4 Ch. D. 18; *Re Lowestoft, Yarmouth and Southwold Tramways Co.* (1877), 6 Ch. D. 484; *Re Tynemouth*

Note to Section 12.

Borough Tramways Co. (1875), 33 L. T. 8; *Ex parte Chambers*, [1893] 1 Ch. 47; *Re Colchester Tramways Co.*, [1893] 1 Ch. 309; *Re Dudley and Kingswinford Tramways Co.* (1893), 63 L. J. Ch. 108; *Ex parte Bradford and District Tramways Co.*, [1893] 3 Ch. 463; *Turpin* v. *Somerton, etc. Tramway Co.*, [1900] W. N. 94; *Att.-Gen.* v. *Bournemouth Corporation*, [1902] 2 Ch. 714. As to the claim of solicitors and parliamentary agents for their costs, see *In re Manchester Tramways Co.*, [1893] 2 Ch. 638.

Publication of Provisional Order as in Schedule.

13. When a Provisional Order has been made as aforesaid and delivered to the promoters, the promoters shall forthwith publish the same by deposit and advertisement, according to the regulations contained in Part IV. of the Schedule B. to this Act.

Confirmation of Provisional Order by Act of Parliament.

14. On proof to the satisfaction of the Board of Trade (*a*) of the completion of such publication as aforesaid, the Board of Trade (*a*) shall, as soon as they conveniently can after the expiration of seven days from the completion of such publication, procure a Bill to be introduced into either House of Parliament in relation to any Provisional Order which shall have been published as aforesaid not later than the twenty-fifth of April (*b*) in any year, for an Act to confirm the Provisional Order, which shall be set out at length in the Schedule to the Bill; and until confirmation, with or without amendment, by Act of Parliament, a Provisional Order under this Act shall not have any operation.

If while any such Bill is pending in either House of Parliament a petition is presented against any Provisional Order comprised therein, the Bill, so far as it relates to the Order petitioned against, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of a Bill for a special Act.

The Act of Parliament confirming a Provisional Order under this Act shall be deemed a public general Act.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*b*) See note (*b*) to s. 9 of the Gas and Water Works Facilities Act, 1870, *ante*, p. 2276.

Incorporation of general Acts in Provisional Order.

15. The provisions of the Lands Clauses Acts shall be incorporated with every Provisional Order under this Act, save where the same are expressly varied or excepted by any such Provisional Order, and except as to the following provisions, namely,—

(1) With respect to the purchase and taking (*a*) of lands otherwise than by agreement:

(2) With respect to the entry upon lands by the promoters of the undertaking.

For the purposes of such incorporation a Provisional Order under this Act shall be deemed the special Act.

(*a*) If compulsory powers are required they must be obtained by private Bill.

The erection, by a tramway company which was empowered by their special Act to erect on in over or under any street or road poles and posts, of a pillar on land belonging to the plaintiff forming part of the highway subject to being used by him for exposal of furniture for sale was held not to be a taking of land within the meaning of the Lands Clauses Acts, but only an exercise of their special statutory powers (*Escott* v. *Newport Corporation*, [1904] 2 K. B. 369; 68 J. P. 135). As to whether a local authority is entitled to use land vested in them as a public park for the purpose of road-widening to facilitate the construction of a tramway under a Provisional Order, see *Att.-Gen.* v. *Folkestone Corporation*, Times, April 29th, 1903.

Power of Board of Trade to revoke, amend, extend, or vary Provisional Order.

16. The Board of Trade (*a*) on the application of any promoters empowered by a Provisional Order may from time to time revoke, amend, extend, or vary such Provisional Order by a further Provisional Order.

Every application for such further Provisional Order shall be made in like manner and subject to the like conditions as the application for the former Provisional Order.

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Every such further Provisional Order shall be made and confirmed in like manner in every respect as the former Provisional Order, and until such confirmation such further Provisional Order shall not have any operation.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

Power to authorise joint work.

17. Subject and according to the provisions of this Act, the Board of Trade (*a*) may, on a joint application, or on two or more separate applications, settle and make a Provisional Order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and separate parts of such tramway as last aforesaid; and the form of the Provisional Order may be adapted to the circumstances of the case.

(*a*) See note (*a*) to s. 16, *supra*.

Cesser of powers at expiration of prescribed time.

18. If the promoters empowered by any Provisional Order under this Act to make a tramway, do not, within two years from the date of the same, or within any shorter period prescribed therein, complete the tramway and open it for public traffic; or,

If within one year from the date of the Provisional Order, or within such shorter time as is prescribed in the same, the works are not substantially commenced; or,

If the works having been commenced are suspended without a reason sufficient in the opinion of the Board of Trade (*a*) to warrant such suspension;

the powers given by the Provisional Order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised, except as to so much of the same as is then completed, unless the time be prolonged by the special direction of the Board of Trade (*a*); and as to so much of the same as is then completed the Board of Trade (*a*) may allow the said powers to continue and to be exercised if they shall think fit, but failing such permission the same shall cease to be exercised, and where such permission is withheld then so much of the said tramway as is then completed shall be deemed to be a tramway to which all the provisions of this Act relating to the discontinuance of tramways after proof of such discontinuance shall apply, and may be dealt with accordingly.

A notice purporting to be published by the Board of Trade (*a*) in the London or Edinburgh Gazette, accordingly as the district to which it relates is situate in England or Scotland, to the effect that a tramway has not been completed and open for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purpose of this section of such non-completion, non-commencement, or suspension (*b*).

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*b*) See note (*b*) to s. 12, *ante*, p. 2283. The notice referred to in this section is not the exclusive or only evidence of the non-commencement of the works that the court can receive. The works mean the physical works, and therefore where nothing has been done but the entering into contracts for the supply of dynamos, plant, and cars, the works have not been substantially commenced within the meaning of this section (*Att.-Gen.* v. *Bournemouth Corporation*, [1902] 2 Ch. 714). The only remedy of a private person for compelling the carrying out of the statutory powers is by complaint to the Board of Trade. The giving of the powers is no longer regarded as a bargain between the promoters and the public (*York and North Midland Rail. Co.* v. *R.* (1853), 1 El. & Bl. 858; 22 L. J. Q. B. 225; *R.* v. *G. W. Rail. Co.* (1894), 62 L. J. Q. B. 572). But there may be special provision in the Act, see *Devonport Corporation* v. *Plymouth, Devonport and District Tramway Co.* (1884), 49 J. P. 405; 52 L. T. 161.

Local authority may lease or take tolls.

19. When a tramway has been completed under the authority of a Provisional Order by any local authority, or where any local authority has under the provisions of this Act (*a*) acquired possession of any tramway, such authority may, with the consent of the Board of Trade (*b*), and subject to the provisions of this Act, by lease, to be approved of by the Board of Trade (*b*), demise to any person, persons, corporation, or company the right of user by such person, persons, corporation, or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorised (*c*); or such authority may leave such tramway open to be used by the public, and may in respect of such user demand and take the tolls and charges authorised; but nothing in this Act contained shall authorise any local authority to place or run carriages upon such tramway, and to demand and take tolls and charges in respect of the use of such carriages (*d*).

Notice of the intention to make such lease shall be published by the local authority by advertisement, and a copy of such lease shall be deposited according to the regulations contained in Part I. of the Schedule C. to this Act annexed; and unless such notice is given, and such copy deposited, such lease shall not be approved of by the Board of Trade (*b*).

Every such lease shall be made for a term or for terms not exceeding in the whole twenty-one years.

On the determination of any lease made under this Act, the local authority may from time to time, with the consent of the Board of Trade (*b*), by lease, demise such rights for such further term or terms, not exceeding in any case twenty-one years, as the said Board may approve.

Every such lease shall imply a condition of re-entry if at any time after the making of the same the lessees discontinue the working of the tramway leased, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such lessees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control).

The person, persons, corporation, or company to whom any such lease may be made are in this Act referred to as "lessees" (*e*).

(*a*) See s. 43, *post*, p. 2300.

(*b*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*c*) See note (*b*) to s. 4 on p. 2281, *ante*. See also *Salford Corporation* v. *Eccles Corporation*, [1912] A. C. 465; 76 J. P. 249, where a licence granted without the consent of the Board of Trade was held to be *ultra vires*.

(*d*) This last restriction is frequently removed in Provisional Orders.

(*e*) Apart from the express provisions of this section undertakers cannot grant a lease of their statutory powers (see *per* Lord BLACKBURN, in *Att-Gen.* v. *G. E. Rail. Co.* (1880), 5 App. Cas. 473, at p. 484; *Winch* v. *Birkenhead, etc. Rail Co.* (1852), 5 De G. & S. 562). As to the stamp on the lease, see *British Electric Traction Co.* v. *Commissioners of Inland Revenue*, [1902] 1 K. B. 441; 66 J. P. 83. For forms of leases see the Encyclopædia of Forms and Precedents, Vol. XVII., pp. 706, 731, 744. See also as to construction of clause in a lease for relieving the lessors from owners' assessments, *Glasgow Corporation* v. *Glasgow Tramway and Omnibus Co.*, [1898] A. C. 631. Lessees cannot sub-assign (*Omnibus Conveyance Co.* v. *Liverpool United Tramways and Omnibus Co.* (1882), 26 Sol. J. 580).

How expenses to be defrayed.

20. (*a*) Where the local authority in any district are the promoters of any tramway, they shall pay all expenses incurred by them in applying for and obtaining a Provisional Order, and carrying into effect the purposes of such Provisional Order, out of the local rate, and any such expenses shall be deemed to be purposes for which such local rate may be made, and to which the same may be applied.

Where the local rate is limited by law to a certain amount and is by reason of such limitation insufficient for the payment of such expenses, the Board of Trade (*b*) may, by the Provisional Order, extend the limit of such local rate to such amount as they shall think fit, and prescribe for the payment of such expenses.

Such local authority may, for the purposes of such Provisional Order, borrow and take up at interest, on the credit of such local rate, any sums of money necessary for defraying any such expenses; and for the purpose of securing the repayment of any sums so borrowed, together with such interest as aforesaid, such local authority may mortgage to the persons by or on behalf of whom such sums are advanced such local rate; but the exercise of the above mentioned power shall be subject to the following regulations:

(1) The money so borrowed shall not exceed such sum as may be sanctioned by the Board of Trade (*b*):

(2) The money may be borrowed for such time, not exceeding thirty years, as such local authority, with the sanction of the Board of Trade (*b*), shall determine; and, subject as aforesaid to the repayment within thirty years, such local authority may either pay off the moneys so borrowed by equal annual instalments, or they may in every year set apart as a sinking fund, and accumulate in the way of compound interest by investing the same in the purchase of exchequer bills or other Government securities, such sum as will be sufficient to pay off the moneys so borrowed, or a part thereof, at such times as the local authority may determine.

The provisions of the Commissioners Clauses Act, 1847, with respect to the mortgages to be executed by the commissioners (*c*), shall apply to any mortgage executed under the foregoing provisions of this section, and for the purposes of such application the said provisions shall be incorporated with this Act. **10 & 11 Vict. c. 16.**

For the purposes of such incorporation the terms "the special Act," and "the commissioners," shall be construed to mean respectively a Provisional Order under this Act, and the local authority.

Such local authority shall keep separate accounts of all moneys paid by them in applying for, obtaining, and carrying into effect any such Provisional Order, and in the repayment of moneys borrowed, and of all moneys received by them by way of rent or tolls in respect of the tramway authorised thereby.

When, after payment of all charges incurred under the authority of this Act, and necessary for giving effect to such Provisional Order, there shall be remaining in the hands of such local authority any of the moneys received by them by way of rent or tolls in respect of the tramways authorised by such Provisional Order, such moneys shall be applied by them to the purposes for which the local rate may be by them applied.

(*a*) Reference may be made to 10 & 11 Geo. 5, c. 9 (now expired), which provided for the variation of the provisions regulating the raising of capital by companies carrying on certain statutory undertakings such as tramways.

(*b*) See note (*b*) to s. 19, *ante*, p. 2286.

(*c*) 10 & 11 Vict. c. 16, ss. 75—88 inclusive.

21. [*Metropolitan Board of Works* (*a*) *may, for carrying Provisional Order into effect, create stock under the Metropolitan Board of Works* (*Loans*) *Act,* 1869.]

(*a*) Now the London C. C. (51 & 52 Vict. c. 41, s. 40 (8)).

PART II.

CONSTRUCTION OF TRAMWAYS (*a*).

22. Part II. and Part III. of this Act shall apply to every tramway which is hereafter authorised by any Provisional Order or Act of Parliament, and shall be incorporated with such Provisional Order or Act, and all the said **As to incorporation of Parts II. and III. of this Act**

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with Provisional Order and special Acts.

provisions of this Act, save so far as they shall be expressly varied or excepted by any such Provisional Order or Act, shall apply to the undertaking authorised thereby, so far as the same shall be applicable to such undertaking, and shall, with the provisions of every other Act or part of any Act which shall be incorporated therewith, form part of the said Provisional Order or Act, and be construed therewith as forming one Provisional Order or Act, as the case may be.

(*a*) A tramway company authorised to construct and maintain tramways with all proper rails, plates, works, and conveniences connected therewith were, notwithstanding the powers contained in this Act, held liable for a nuisance created by smells arising from their stables (*Rapier* v. *London Tramways Co.*, [1893] 2 Ch. 588). And where a tramway company after a heavy fall of snow cleared their track by means of a snow plough, and heaped up the snow on the sides of the streets, and then scattered salt upon the track, it was held that although they had obtained the consent of the local authority, and that authority took no steps to clear away the briny slush which was thereby caused, and rendered the street dangerous to other traffic, the tramway company were liable for the nuisance so created (*Ogston* v. *Aberdeen District Tramways Co.*, [1897] A. C. 111; 61 J. P. 436). But where a corporation purporting to act in the exercise of their powers under their special Tramways Act, which incorporated this Act, and authorised the construction of an electric tramway, erected a pole and a fuse-box on the footpath close to the entrance of the plaintiffs' premises, it was held that their statutory powers authorised them to use the pavement for the purpose of doing that which was necessary for making their tramway an electrical tramway, and that the nuisance which they were authorised to commit could not be interfered with unless the plaintiffs could prove that the powers conferred on the corporation had been abused (*Goldberg* v. *Liverpool Corporation* (1900), 82 L. T. 362; 16 T. L. R. 320). And see *Wandsworth Borough Council* v. *London United Tramways* (1901), *Ltd.* (1905), 69 J. P. 340 ; 21 T. L. R. 529, as to breaking up streets for the purpose of connecting the tramway with the power station by means of an underground electric cable.

By an agreement between the corporation and a tramway company in the city, it was agreed that the company should, under instructions from the city, keep their track free from ice and snow:—*Held*, that the company were not bound to remove from the streets altogether the snow and ice cleared off the tramway track, and that the words "under instructions from the city," only applied to the extent of the work to be done, not to the particular method to be adopted for doing it. The city also granted to the company all licences, rights, and privileges necessary for the proper and efficient use by electric power to operate cars in the manner successfully in use elsewhere :—*Held*, that the city was not at liberty to prohibit the company from using electric sweepers which had been found successful in other cities (*Montreal City* v. *Montreal Street Railway*, [1903] A. C. 482).

"Special Act."

23. In Part II. and Part III. of this Act, the term "special Act" shall be construed to mean any Act of Parliament which shall be hereafter passed or any Provisional Order authorising the construction of a tramway, and with which the said Parts of this Act shall be incorporated as aforesaid.

"Promoters."

24. The term "the promoters" shall mean any person, persons, corporation, company, or local authority authorised by special Act to construct a tramway.

Mode of formation of tramways.

25. Every tramway which is hereafter authorised by special Act shall be constructed on such gauge as may be prescribed by such special Act, and if no gauge is thereby prescribed, on such gauge as will admit of the use upon such tramways of carriages constructed for use upon railways of a gauge of four feet eight inches and half an inch; and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the surface of the road; and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic, in the prescribed manner (*a*).

(*a*) If the tramway is opened without the required certificate, the Attorney-General may obtain an injunction against its working (*Att.-Gen.* v. *Southall, Ealing, and Shepherd's Bush Tramways Co.*, Times, July 10th, 1874). When the special Act directs compliance with deposited plans and sections, they are regarded as embodied in the statute (*Edinburgh Street Tramways Co.* v. *Black* (1866), L. R. 2 Sc. & Div. 336; 37 J. P. 692). Necessary consents required by statue must also be obtained (*Devonport Corporation* v. *Plymouth, Devonport, and District Tramway Co.* (1884), 52 L. T. 161).

Note to Section 25.

Power to break up streets, etc.

26. The promoters from time to time, for the purpose of making, forming, laying down, maintaining, and renewing any tramway duly authorised, or any part or parts thereof respectively, may open and break up any road (*a*), subject to the following regulations:

1. They shall give to the road authority notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work:
2. They shall not open, or break up, or alter the level of any road, except under the superintendence and to the reasonable satisfaction of the road authority (*b*), unless that authority refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work:
3. They shall pay all reasonable expenses to which the road authority is put on account of such superintendence (*b*):
4. They shall not, without the consent of the road authority, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length, and in the case of any road exceeding a quarter of a mile in length the promoters shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than one hundred yards.

Where the carriageway over any bridge forms part of or is a road within the jurisdiction of a road authority, but such bridge is vested in some person or persons, corporation, or company, distinct from such road authority, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with the structural works of such bridge, shall be constructed under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of such person, persons, corporation, or company, unless after notice to be given by the promoters seven days at least before the commencement of such work such superintendence is refused or withheld.

Where the carriageway in or upon which any tramway is proposed to be formed or laid down is crossed by any railway or tramway on the level, any work which the promoters may be empowered to construct, and which affects or in anywise interferes with such railway or tramway, or the traffic thereon, shall be constructed and maintained under the superintendence (at the cost of the promoters) and to the reasonable satisfaction of the person, corporation, or company owning such railway or tramway, unless after notice to be given by the promoters seven days at least before the commencement of such work such superintendence is refused or withheld.

(*a*) Defined by s. 3, *ante*, p. 2280. As to whether this includes footways, see *Hyde Corporation* v. *Oldham Tramways Co.* (1900), 64 J. P. 596; 16 T. L. R. 492.

(*b*) See the notes to s. 28, *post*, p. 2290.

Completion of works and reinstatement of road.

27. When the promoters have opened or broken up any portion of any road, they shall be under the following further obligations, namely,

1. They shall, with all convenient speed, and in all cases within four weeks at the most (unless the road authority otherwise consents in writing) complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance, or renewal of the tramway) fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road

to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby:

2. They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night:
3. They shall bear or pay all reasonable expenses of the repair of the road for six months after the same is restored, as far as those expenses are increased by the opening or breaking up.

If the promoters aforesaid fail to comply in any respect with the provisions of the present section, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them) be liable to a penalty not exceeding twenty pounds, and to a further penalty not exceeding five pounds for each day during which any such failure continues after the first day on which such penalty is incurred.

Repair of part of road where tramway is laid.

28. The promoters shall, at their own expense, at all times maintain (*a*) and keep in good condition and repair (*b*), with such materials and in such manner as the road authority shall direct, and to their satisfaction (*c*), so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the same promoters in any road at a distance of not more than four feet from each other) the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway (*d*). If the promoters abandon their undertaking, or any part of the same, and take up any tramway or any part of any tramway belonging to them, they shall with all convenient speed, and in all cases within six weeks at the most (unless the road authority otherwise consents in writing), fill in the ground and make good the surface, and, to the satisfaction of the road authority, restore the portion of the road upon which such tramway was laid to as good a condition as that in which it was before such tramway was laid thereon, and clear away all surplus paving or metalling material or rubbish occasioned by such work; and they shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night: Provided always, that if the promoters fail to comply with the provisions of this section, the road authority, if they think fit, may themselves at any time, after seven days' notice to the promoters, open and break up the road, and do the works necessary for the repair and maintenance or restoration of the road, to the extent in this section above mentioned, and the expense incurred by the road authority in so doing shall be repaid to them by the promoters (*e*).

(*a*) The removal of snow from the portion of a road lying between the rails of a tramway is not "maintenance" within the meaning of the section unless the fall of snow is of such a depth as to render the road impassable (*Acton U. D. C.* v. *London United Tramways*, [1909] 1 K. B. 68; 73 J. P. 6). See also note (*a*) to s. 22, *ante*, p. 2288.

(*b*) For a case where a nuisance was caused by the use of creosoted wood blocks, see *West* v. *Bristol Tramways Co.*, [1908] 2 K. B. 15; 72 J. P. 243.

(*c*) *I.e.*, their reasonable satisfaction. The question as to whether the authority ought reasonably to be satisfied must go to arbitration under s. 33, *post*, p. 2295 (*R.* v. *Garrett and Hammersmith Borough Council, Ex parte London United Tramways, Ltd.* (1909), 73 J. P. 188; 100 L. T. 533). See also the cases cited in note (*b*) to s. 32, p. 2295, *post*.

(*d*) By the Norwich Electric Tramways Act, 1897, the defendant company were to maintain and keep in good condition "the junction of the paving laid and maintained by the company with the surface laid and maintained by the corporation":—*Held*, that the word "junction" could not only mean the mere point or place where the two surfaces met, but that the defendant company had to maintain an even contour of the road at the junction of the two surfaces (*Norwich Corporation* v. *Norwich Electric Tramways Co.* (1904), 91 L. T. 558). By the same Act the corporation were empowered to do the work necessary for the repair and maintenance of the road, and the company were required in

Note to Section 28.

such a case to repay to the corporation the expense reasonably incurred with the addition of 5 per cent. on such expense. The surface laid and maintained by the corporation became worn down below the level of the paving laid and maintained by the company, and the corporation executed certain work to obviate inconvenience to the public owing to the state of the road. It was held that such expenses were incurred in maintaining and keeping in good condition the junction of the pavement laid and maintained by the company with the surface laid and maintained by the corporation and therefore recoverable by the corporation (*In re Norwich Corporation and Norwich Electric Tramways Co., Ltd.* (1908), 72 J. P. 178; 99 L. T. 133). As to the meaning of the word "junctions" in relation to the construction of the tramway itself, see *Wilkinson* v. *Newcastle-on-Tyne Corporation* (1902), 18 T. L. R. 332. As to the liability of a tramway company in respect of the repair of a bridge widened by them, see *Teddington U. D. C.* v. *L. & S. W. Rail. Co.* (1910), 74 J. P. 121; 102 L. T. 328. A similar provision in a Colonial case was discussed in *Toronto Suburban Ry.* v. *Toronto Corporation*, [1915] A. C. 590.

(*e*) The raising of sleepers and rails to the level of the road, or the raising of the stone packing to the level of the rails, is maintaining and keeping the road in good condition under this section, and does not require the superintendence of the road authority under s. 26 (*St. Luke's Vestry* v. *North Metropolitan Tramways Co.* (1875), 1 Q. B. D. 760; 40 J. P. 806). In an unreported Irish case in the Court of Appeal (*R.* (*Ex parte Dublin Corporation*) v. *Dublin United Tramways Co.* (Feb. 26, 1889)), where the corporation had called upon the company to alter the level of their track to correspond with an alteration in the level of the road made by the corporation, so as to comply with s. 65 of the company's private Act (38 & 39 Vict. c. ccix.), which provided that "if . . . the road authority shall alter the level of any road along or across which any part of the tramway is laid, the company may and shall from time to time alter or as the case may be lay their rails so that the uppermost surface thereof shall be on a level with the surface of the road as altered," it was held that s. 8 of the local Act corresponding to s. 28 of the text when read in conjunction with s. 65 of the local Act did not impose a liability upon the company to alter anything but the level of the rails at their own expense. Where a company had statutory power to run tramcars by steam and had statutory running powers over the line of another company, it was held that this did not authorise them to run over that line when it was defective, and they were held liable in damages to a person who was injured through a car running off the line by reason of its being defective (*Sadler* v. *South Staffordshire, etc. Tramways Co.* (1889), 23 Q. B. D. 17; 53 J. P. 694). The obligation of a tramway company under this section involves the duty by temporary expedients or permanent work of providing against temporary or recurrent sources of danger to traffic, and failure to discharge this obligation will make the company liable in damages to any person injured by such neglect. Thus the company were held liable for an accident which occurred by reason of their having neglected to sand the road in slippery weather (*Dublin United Tramways Co.* v. *Fitzgerald*, [1903] A. C. 99; 67 J. P. 229).

As to injury to passengers owing to the negligence of a contractor, see *City of Birmingham Tramways Co., Ltd.* v. *Law*, [1910] 2 K. B. 965; 74 J. P. 355.

Road authority and promoters may contract for paving roads on which tramways are laid.

29. The road authority on the one hand and the promoters on the other hand may from time to time enter into and carry into effect, and from time to time alter, renew, or vary, contracts, agreements, or arrangements with respect to the paving and keeping in repair of the whole or any portion of the roadway of any road on which the promoters shall lay any tramway, and the proportion to be paid by either of them of the expense of such paving and keeping in repair (*a*).

(*a*) Where a tramway company entered into a contract with a road authority under this section for the repair of that portion of the road upon which the tramway was laid, it was held that the liability for damage occasioned by the non-repair of that part of the road which would, but for such contract, be cast by s. 28 upon the tramway company, was transferred to the road authority (*Howitt* v. *Nottingham and District Tramways Co.* (1883), 12 Q. B. D. 16). This decision seems to have been questioned in *Steward* v. *North Metropolitan Tramways Co.* (1885), 16 Q. B. D. 556; 50 J. P. 324; but it has since been followed in *Alldred* v. *West Metropolitan Tramways Co.*, [1891] 2 Q. B. 398; 55 J. P. 824; and that case has been followed in *Barnett* v. *Poplar Borough Council*, [1901] 2 K. B. 319.

Provision as to gas and water companies.

30. For the purpose of making, forming, laying down, maintaining, repairing, or renewing any of their tramways, the promoters may from time to time, where and as far as it is necessary, or may appear expedient for the purpose of preventing frequent interruption of the traffic by repairs or works in connection with the same, alter the position of any mains or pipes for the

Section 30. supply of gas or water, or any tubes, wires (*a*), or apparatus for telegraphic or other purposes, subject to the provisions of this Act, and also subject to the following restrictions; (that is to say,)

1. Before laying down a tramway in a road in which any mains or pipes, tubes, wires, or apparatus may be laid, the promoters shall, whether they contemplate altering the position of any such mains or pipes, wires or apparatus, or not, give seven days' notice to the company, persons, or person to whom such mains or pipes, tubes, wires, or apparatus may belong or by whom they are controlled, of their intention to lay down or alter the tramway, and shall at the same time deliver a plan and section of the proposed work. If it should appear to any such company or person that the construction of the tramway as proposed would endanger any such main or pipe, tube, wire, or apparatus, or interfere with or impede the supply of water or gas or the telegraphic or other communication, such company or person (as the case may be) may give notice (*b*) to the promoters to lower or otherwise alter the position of the said mains or pipes, tubes, wires, or apparatus in such manner as may be considered necessary, and any difference as to the necessity of any such lowering or alteration shall be settled in manner provided by this Act for the settlement of differences between the promoters and other companies or persons, and all alterations to be made under this section shall be made with as little detriment and inconvenience to the company or person to whom such mains or pipes, tubes, wires, or apparatus may belong, or by whom the same are controlled, or to the inhabitants of the district, as the circumstances will admit, and under the superintendence of such company or person or of their surveyor or engineer if they or he think fit to attend, after receiving not less than forty-eight hours notice for that purpose, which notice the promoters are hereby required to give;
2. The promoters shall not remove or displace any of the mains or pipes, valves, syphons, plugs, tubes, wires, or apparatus, or other works belonging to or controlled by any such company or person, or do anything to impede the passage of water or gas or the telegraphic or other communication into or through such mains or pipes, without the consent of such company or person, or in any other manner than such company or person shall approve, until good and sufficient mains, pipes, valves, syphons, plugs, and other works necessary or proper for continuing the supply of water or gas or telegraphic or other communication, as sufficiently as the same was supplied by the mains or pipes, tubes, wires, or apparatus proposed to be removed or displaced, shall at the expense of the promoters have been first made and laid down in lieu thereof, and ready for use, and to the satisfaction of the surveyor or engineer of such water or gas or other company, or of such person, or, in case of disagreement between such surveyor or engineer and the promoters, as an engineer appointed by the Board of Trade shall direct:
3. The promoters shall not lay down any such pipes contrary to the regulations of any Act of Parliament relating to such water or gas or other company, or relating to telegraphs:
4. The promoters shall make good all damage done by them to property belonging to or controlled by any such company or person, and shall make full compensation to all parties for any loss or damage which they may sustain by reason of any interference with such property, or with the private service pipes of any person supplied by any such company or person with water or gas;

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5. If by any such operations as aforesaid the promoters interrupt the supply of water or gas in or through any main or main pipe they shall be liable to a penalty not exceeding twenty pounds for every day upon which the supply shall be so interrupted.

(*a*) The promoters may alter the position of the wires of a railway company, and for that purpose may enter upon the land belonging to the railway company (*In re Rhondda U. D. C. and the Taff Vale Rail. Co.* (1908), 72 J. P. 45; 97 L. T. 892). As to the provision of guard wires under the L. C. C. Tramways Regulations, see S. R. & O., 1914, No. 1098.

For a case under a local Act where postal telegraph lines were affected by the escape of electricity from the company's wires, see *Postmaster-General* v. *Blackpool and Fleetwood Tramroad Co.*, [1921] 1 K. B. 114. See also *Postmaster-General* v. *Liverpool Corporation*, [1923] A. C. 587 ; 87 J. P. 157.

(*b*) This notice may be given at any time until the tramway is constructed (*Hastings Tramways Co.* v. *Hastings and St. Leonards Gas Co.*, [1906] 2 Ch. 578; 70 J. P. 540).

For protection of sewers, etc.

31. Where in any district any tramway or any work connected therewith interferes with any sewer, drain, watercourse, subway, defence, or work in such district, or in any way affects the sewerage or drainage of such district, the promoters shall not commence any tramway or work until they shall have given to the proper authority fourteen days previous notice in writing of their intention to commence the same, by leaving such notice at the principal office of such authority with all necessary particulars relating thereto, nor until such authority shall have signified their approval of the same, unless such authority do not signify their approval, disapproval, or other directions within fourteen days after service of the said notice and particulars as aforesaid, and the promoters shall comply with and conform to all reasonable directions and regulations of the said authority in the execution of the said works, and shall provide by new, altered, or substituted works, in such manner as such authority shall reasonably require, for the proper protection of and for preventing injury or impediment to the sewers and works hereinbefore referred to, or by reason of the tramways, and shall save harmless the said authority against all and every the expense to be occasioned thereby; and all such works shall be done under the direction, superintendence, and control of the engineer or other officer or officers of the said authority, at the reasonable costs, charges, and expenses in all respects of the promoters; and when any new, altered, or substituted work as aforesaid, or any works or defence connected therewith, shall be completed by or at the costs, charges, or expenses of the promoters under the provisions of this Act, the same shall thereafter be as fully and completely under the direction, jurisdiction, and control of the said authority and be maintained by them as any sewers or works (*a*).

(*a*) As to the sufficiency of notices under this section, see *Brentford U. D. C.* v. *London United Tramways Co.*, Times, March 30th, 1901.

Rights of authorities and companies, etc. to open roads.

32. Nothing in this Act shall take away or abridge any power to open or break up any road along or across which any tramway is laid, or any other power vested in any local authority or road authority (*a*) for any of the purposes for which such authority is respectively constituted, or in any company, body, or person for the purpose of laying down, repairing, altering, or removing any pipe for the supply of gas or water, or any tubes, wires, or apparatus for telegraphic or other purposes (*b*), but in the exercise of such power every such local authority, road authority, company, body, or person shall be subject to the following restrictions; (that is to say,)

1. They shall cause as little detriment or inconvenience to the promoters and lessees as circumstances admit:
2. Before they commence any work whereby the traffic on the tramway will be interrupted they shall (except in cases of urgency, in which

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cases no notice shall be necessary) give to the promoters and lessees, if there be any, notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work (*c*):

3. They shall not be liable to pay to the promoters or lessees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid:
4. Whenever for the purpose of enabling them to execute such work the local authority or the road authority shall so require, the promoters or lessees shall either stop traffic on the tramway to which the notice shall refer, where it would otherwise interfere with such work, or shore up and secure the same at their own risk and cost during the execution of the work there: Provided that such work shall always be completed by the local authority or the road authority, as the case may be, with all reasonable expedition:
5. Any company, body, or person shall not execute such work so far as it immediately affects the tramway except under the superintendence of the promoters, unless they refuse or neglect to give such superintendence at the time specified in the notice for the commencement of the work or discontinue the same during the progress of the work; and they shall execute such work at their own expense, and to the reasonable satisfaction of the promoters: Provided that any additional expense imposed upon them by reason of the existence of the tramway in any road or place where any such mains, pipes, tubes, wires, or apparatus shall have been laid before the construction of such tramway shall be borne by the promoters (*c*).

(*a*) A railway company who are liable to maintain and repair a bridge over their line, with the approaches and the road thereon, are in respect of such road a road authority within the meaning of this section. Where a railway company for the reconstruction of such a bridge had, after giving the notices specified by this section, removed the rails of a tramway running over the bridge, and temporarily stopped the traffic, it was held that they were not liable to the tramway company for injury to the tramway, loss of traffic, or cost of reinstating the rails, provided they had caused as little detriment or inconvenience as the circumstances admitted. It was held also that if they caused more than the least detriment and inconvenience which the circumstances admitted, they would be liable to the extent to which they had exceeded such least possible detriment and inconvenience (*Wolverhampton Tramways Co., Ltd.* v. *G. W. Rail. Co.* (1886), 56 L. J. Q. B. 191; 56 L. T. 892).

(*b*) A telephone company acting under a licence from the Postmaster-General pursuant to the Telegraph Acts, 1863, 1878, and 1892, need not obtain the previous consent of a tramway company before proceeding to break up a street or public road on which tramways are laid, for the purpose of laying telephone wires, even though the tramway company is liable under s. 28 for the repair of that street or road (*Bristol Tramways and Carriage Co.* v. *National Telephone Co.*, [1899] 2 Ch. 382; 63 J. P. 583).

(*c*) A gas company executed work in roads along which a tramway ran, part of which work consisted in pipes so laid for the first time since the construction of the tramway, and connecting the same with the mains which had been laid down before the construction of the tramway. In one instance during the progress of the work, where there was a double tramline, the cars of one line were diverted to the other, such diversion being at the request of the gas company. In other instances cars were merely slowed down or stopped for a short time while the workmen got out of the trenches. By reason of the existence of the tramway additional expense was imposed upon the gas company in connecting the new pipes with their mains. It was held that the gas company were entitled to recover such additional expense from the tramway company under sub-s. 5, *supra*, inasmuch as there had been an interruption of the traffic on the tramway within the meaning of sub-s. 2, and the connection of a new service pipe with the main involved an alteration of the main; *but* that the proviso in sub-s. 5 does not apply in the case of work which is not such as to interrupt the traffic on the tramway (*In re Bristol Gas Co. and Bristol Tramways and Carriage Co., Ltd.*, [1910] 1 K. B. 114; 74 J. P. 35).

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Difference between promoters and road authority, etc.

33. If any difference arises between the promoters or lessees on the one hand and any local authority or road authority, or any gas or water company, or any company, body, or person to whom any sewer, drain, tube, wires, or apparatus for telegraphic or other purposes may belong, or any other company, on the other hand, with respect to any interference or control, exercised, or claimed to be exercised, by them or him, or on their or his behalf, or by the promoters or lessees by virtue of this Act, in relation to any tramway, or work, or in relation to any work or proceeding of the local authority, road authority, body, company, or person, or with respect to the propriety of or the mode of execution of any work relating to any tramway, or with respect to the amount of any compensation to be made by or to the promoters or lessees, or on the question whether any work is such as ought reasonably to satisfy the local authority, road authority, body, company, or person concerned, or with respect to any other subject or thing regulated by or comprised in this Act, the matter in difference shall (unless otherwise specially provided by this Act) be settled by an engineer or other fit person nominated as referee by the Board of Trade (*a*) on the application of either party, and the expenses of the reference shall be borne and paid as the referee directs (*b*).

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*b*) By a local Tramway Act incorporating the above Act, the space between the rails and for a distance of eighteen inches beyond each external rail was to be paved by the company, to the satisfaction of the local authority, with wood or other paving to be approved of by the local authority. On an application by the local authority for a *mandamus* to the company to take up the paving so laid down, it was held that a difference had arisen within the meaning of the above section which ought to be determined by a referee appointed by the Board of Trade, and that the *mandamus* ought not to be granted (*R.* v. *Croydon and Norwood Tramways Co.* (1887), 18 Q. B. D. 39; 51 J. P. 420). And see *R.* v. *Garrett and Hammersmith Borough Council, Ex parte London United Tramways, Ltd., ante*, p. 2290; *R.* (*Corporation of Dublin*) v. *Fitzgibbon*, [1910] 2 I. R. 236. A municipal corporation, as being the road and the local authority, proposed to alter a road within their district on which a tramway had been constructed under this Act, by taking up the existing granite pavement and laying down a wood pavement over the whole of the roadway, including the space between the rails of the tramway and eighteen inches on each side thereof. The company objected to the alteration so far as it concerned the last-mentioned portion of the roadway and claimed to refer the matter under the above section:—*Held*, that the difference was not one within the section, inasmuch as it was not with respect to any interference or control claimed to be exercised by the road authority by virtue of the Act, or to any subject or thing regulated by or comprised in the Act; but with respect to the exercise of a power which belonged to the road authority independently of the Act and was preserved by s. 60 (*Bristol Trams and Carriage Co.* v. *Bristol Corporation* (1890), 25 Q. B. D. 427; 55 J. P. 53). An arbitrator appointed to determine a difference arising under this section has jurisdiction to order gas mains already laid down to be lowered so that any new service pipes might be carried horizontally underneath the concrete bed of the tramway; and he can further order such gas mains to be moved laterally to such a distance as to enable access to be obtained to them without interference with the concrete bed (*Re Ilford Gas Co. and Ilford U. D. C.* (1903), 67 J. P. 239; 88 L. T. 236). The provision for arbitration contained in this section ousts the jurisdiction of the High Court with regard to differences coming within the section, and the objection may be taken in the Court of Appeal, though not taken in the High Court. It was provided by the special Act of a tramway company, with which by s. 22 of the Tramways Act, 1870, Parts II. and III. of that Act were incorporated, that if the company failed to maintain and keep in good condition, to the satisfaction of the corporation, the junction of the paving laid and maintained by the company with the surface laid and maintained by the corporation, the corporation might if they thought fit themselves at any time after seven days' notice to the company do the work necessary for the repair and maintenance of the road, and that the expense reasonably incurred by the corporation in so doing should be repaid to them by the company with 5 per cent. added thereto. The corporation did work by way of repair to roads on which tramways belonging to the company were laid, alleging that such work came within the above provision, which the company denied. In an action by the corporation against the company to recover the expenses, and for a declaration of their rights:—*Held*, that the difference must be settled by arbitration under this section (*Norwich Corporation* v. *Norwich Electric Tramways*, [1906] 2 K. B. 119; 70 J. P. 401). A local Act incorporated ss. 28 and 33 of this Act and imposed a penalty (*inter alia*) for

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not keeping the rails in repair and so as not to be a danger or annoyance to the ordinary traffic. It was held that the magistrate had jurisdiction to deal with summonses for not keeping the rails in repair as in this instance no question had arisen in regard to the satisfaction of the road authority (*R.* v. *Garrett and Hammersmith Borough Council, Ex parte London United Tramways, Ltd.*, *ante*, p. 2290). A private Act authorised a company to construct a tramway and other works. It provided (*inter alia*) that "unless otherwise agreed in writing" between the parties, the company should complete the tramway within two years and "carry out to the reasonable satisfaction of the council the widenings" authorised by the Act. No such written agreement was in fact entered into. It was held that until an agreement altering the scheme of works was made, there was an absolute statutory obligation on the company to do the works, and that a landowner whose property had been rendered less valuable by the abandonment of the undertaking was entitled to compensation out of the parliamentary deposit (*In re West Yorkshire Tramways Act*, 1906, [1913] 1 Ch. 170). As to reference of differences under a local Act incorporating this section, see *Regent's Canal Dock Co.* v. *London C. C.* (1907), 71 J. P. 201; *Joseph Crosfield & Sons, Ltd.* v. *Manchester Ship Canal Co.*, [1905] A. C. 421; 69 J. P. 441.

PART III.

GENERAL PROVISIONS.

Carriages.

Power for promoters to use tramways with flange-wheeled carriages, etc.

34. The promoters of tramways authorised by special Act and their lessees may use on their tramways carriages with flange wheels or wheels suitable only to run on the rail prescribed by such Act; and, subject to the provisions of such special Act and of this Act, the promoters and their lessees shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on the prescribed rail (*a*).

All carriages used on any tramway shall be moved by the power prescribed by the special Act, and where no such power is prescribed, by animal power only (*b*).

No carriage used on any tramway which is hereafter authorised by special Act shall extend beyond the outer edge of the wheels of such carriage more than eleven inches on each side.

(*a*) The promoters are consequently occupiers of the land which is *de facto* occupied by the tramway, and, therefore, they are rateable (*Pimlico, Peckham, and Greenwich Street Tramways Co.* v. *Greenwich Union* (1874), L. R. 9 Q. B. 9; 38 J. P. 117; *Craig* v. *Edinburgh Street Tramways Co.* (1874), 1 Ct. Sess. Cas. (4th ser.), 947; *Melbourne Tramway and Omnibus Co.* v. *Fitzroy Corporation*, [1901] A. C. 153; *Blackpool and Fleetwood Tramroad Co.* v. *Thornton U. D. C.*, [1909] A. C. 264; 73 J. P. 299; *London United Tramways* (1901), *Ltd.* v. *Brentford Union* (1907), 71 J. P. 249: 5 L. G. R. 682). With regard to the use of cars for advertising purposes, see a case on the construction of an agreement (*Griffiths and Millington* v. *Southampton Corporation* (1906), 70 J. P. 179; 22 T. L. R. 301). In rating the undertaking receipts from advertisements must be taken into account (*North Metropolitan Tramways Co.* v. *St. Mary, Islington* (1874), Ryde's Met. Rat. App. 112). As to a contract for advertising on the trams of a company which subsequently becomes merged in a larger undertaking, see *Abrahams* v. *Campbell*, [1911] S. C. 353.

(*b*) A locomotive used upon a tramway under a special Act is not subject to the provisions of the Highway Act, 1878, *ante*, p. 733 (*Bell* v. *Stockton and Darlington Steam Tramways Co.* (1887), 51 J. P. 804; 3 T. L. R. 511). A tramcar drawn by horses was held to be a "coach" for the purposes of tolls under 7 Geo. 3, c. lxxiii. (*Plymouth, Stonehouse, and Devonport Tramways Co.* v. *General Tolls Co.* (1896), 75 L. T. 467); and a tramcar is a "stage carriage" for the purposes of the Railway Passenger Duty Act, 1842, s. 13, as to overcrowding (*Brian* v. *Aylward* (1902), 18 T. L. R. 371), and of an Act as to painting up the number of passengers to be carried (*Black* v. *Neilson* (1897), 25 Rettie, 98). A tramcar may not ply for hire without a licence from the local authority. See *Blackpool and Fleetwood Tramroad Co.* v. *Bailey*, *ante*, p. 2242.

Licences to use Tramways (*a*).

Licences to use the tramway may in certain events be

35. If at any time after any tramway or part of any tramway shall have been for three years opened for public traffic in any district it shall be represented in writing to the Board of Trade (*b*) by the local authority of

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such district or by twenty inhabitant ratepayers of such district, or by the road authority of any road in which such tramway or part of a tramway, is laid, that the public are deprived of the full benefit of the tramway, the Board of Trade (*b*) may (if they consider that, primâ facie, the case is one for inquiry) direct an inquiry by a referee under this Act into the truth of the representation, and if the referee report that the truth of the representation has been proved to his satisfaction, the Board (*c*) may from time to time grant licences to any company or person to use such tramway in addition to the promoters or their lessees, for such traffic as is authorised by the special Act, with carriages to be approved by the Board, subject to the following provisions, conditions, and restrictions; that is to say,

granted to third parties by the Board of Trade.

1. The licence shall be for any period not less than one year nor more than three years from the date of the licence, but shall be renewable by the Board, if they upon inquiry think fit:
2. The licence shall be to use the whole of such tramway for the time being opened for public traffic, or such part or parts of such tramway as the Board, having reference to the cause for granting the licence, shall think right:
3. The licence shall direct the number of carriages which the licensee or licensees shall run upon such tramway, and the mode in which and times at which such carriages shall be run:
4. The licences shall specify the tolls to be paid to the promoters or to their lessees by the licensee or licensees for the use of the tramways:
5. The licensee or licensees, and their officers and servants, shall permit one person duly authorised for that purpose by the promoters, or by their lessees, to ride free of charge in or upon each carriage of the licensee or licensees run upon the tramways for the whole or any part of the journey:
6. The Board of Trade (*b*) may at any time after the granting of any licence revoke, alter, or modify the same for good cause shown to them.

(*a*) The following sections deal with licences by the Board of Trade (now Ministry of Transport), enabling persons other than the undertakers to use the tramways. For a case of a *lease* by a corporation to a tramway company pursuant to a local Act, see *R.* v. *Devonport JJ., Ex parte Devonport Tramways Co.* (1909), 73 J. P. 393; 101 L. T. 424.

(*b*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*c*) For a licence granted by a corporation, pursuant to a local Act which required the consent of the Board of Trade being held to be *ultra vires* where such consent was not obtained, see *Salford Corporation* v. *Eccles Corporation*, [1912] A. C. 465; 76 J. P. 249.

36. If on demand any licensee fail to pay the tolls due in respect of any passengers carried in any carriage it shall be lawful for the promoters or their lessees, to whom the same are payable, to detain and sell such carriage, or if the same shall have been removed from the tramway or premises of such promoters or lessees, to detain and sell any other carriages on such tramway or premises belonging to such licensee, and out of the moneys arising from such sale to retain the tolls payable as aforesaid, and all charges and expenses of such detention and sale, rendering the overplus (if any) of such moneys and such of the carriages as shall remain unsold to the person entitled thereto.

In default of payment of tolls licensee's carriages may be detained and sold.

37. Every licensee shall on demand give to an officer or servant authorised in that behalf by the promoters or their lessees entitled to be paid tolls by such licensee, an exact account in writing signed by such licensee of the number of passengers conveyed by any and every carriage used by him on the tramways.

Licensees to give account of passengers carried by them.

38. If any such licensee fails to give such account to such officer or servant demanding the same as aforesaid, or if any such licensee with intent to avoid

Licensees not giving account of passengers

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carried liable to penalty.

the payment of any tolls gives a false account, he shall for every such offence forfeit to the promoters, or to their lessees entitled to be paid tolls by such licensee, a sum not exceeding five pounds, and such penalty shall be in addition to any tolls payable in respect of the passengers carried by any such carriage.

Disputes as to amount of toll to be settled by justice.

39. If any dispute arise concerning the amount of the tolls due to the promoters or to their lessees from any licensee, or concerning the charges occasioned by any detention or sale of any carriage under the provisions herein contained, the same shall be settled in England by two justices . . . and it shall be lawful for the promoters or their lessees in the meanwhile to detain the carriage, or (if the case so require) the proceeds of the sale thereof (*a*).

(*a*) Words relating to Scotland only are omitted from this section.

Owners of carriages liable for damage done by their servants.

40. Every licensee shall be answerable for any trespass or damage done by his carriages or horses, or by any of the servants or persons employed by him, to or upon the tramway, or to or upon the property of any other person, and without prejudice to the right of action against the licensee or any other person, every such servant or other person may lawfully be convicted of such trespass or damage in England before two justices . . . either by the confession of the party offending or by the oath of some credible witness; and upon such conviction every such licensee shall pay to the promoters, lessees, or persons injured, as the case may be, the damage, to be ascertained by such justices, so that the same do not exceed fifty pounds (*a*).

(*a*) Words relating to Scotland only are omitted from this section.

Discontinuance of Tramways.

Tramways to be removed in certain cases.

41 (*a*). If at any time after the opening of any tramway in any district for traffic the promoters discontinue the working of such tramway, or of any part thereof, for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Board of Trade (*b*), the said Board, if they think fit, may by Order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall, from the date of such Order, be at an end, and thereupon the said powers of the promoters shall cease and determine, unless the same are purchased by the local authority in manner by this Act provided. Where any such Order has been made, the road authority of such district may at any time after the expiration of two months from the date of such Order under the authority of a certificate to that effect by the Board of Trade (*b*), remove the tramway or part of the tramway so discontinued, and the promoters shall pay to the road authority the cost of such removal and of the making good of the road by the road authority, such cost to be certified by the clerk for the time being, or by some other authorised officer of the road authority, whose certificate shall be final and conclusive; and if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, the road authority may, without any previous notice to the promoters (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of the materials of the tramway or part of tramway removed, either by public auction or private sale, and for such sum or sums, and to such person or persons, as the road authority may think fit, and may out of the proceeds of such sale pay and reimburse themselves the amount of the cost certified as aforesaid and of the cost of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the road authority to the promoters.

(a) This section relates to the discontinuance of a tramway service. For cases of abandonment of the undertaking (before the work is commenced or completed), decided under the Parliamentary Deposits and Bonds Act, 1892, see *In re Peckham, Dulwich and Crystal Palace Tramways Bill*, [1910] 2 Ch. 1; 74 J. P. 266; *In re Peckham and East Dulwich Tramways Co.*, [1911] W. N. 15; *In re Southport and Lytham Tramroad Act*, 1900; *Ex parte Hesketh*, [1911] 1 Ch. 120; *In re West Yorkshire Tramways Act*, 1906, [1913] 1 Ch. 170.

(b) Now the Minister of Transport. See note (a) to s. 1, *ante*, p. 2280.

Insolvency of Promoters (a).

Proceedings in case of insolvency of promoters.

42. If at any time after the opening of any tramway in any district for traffic, it appears to the local authority or the road authority of such district that the promoters of such tramway are insolvent, so that they are unable to maintain such tramway, or work the same with advantage to the public, and such road authority makes a representation to that effect to the Board of Trade, the Board of Trade (b) may direct an inquiry by a referee into the truth of the representation, and if the referee shall find that the promoters are so insolvent as aforesaid, the Board of Trade (b) may, by Order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the Order, be at an end, and the powers of the promoters shall cease and determine at the expiration of the said period, unless the same are purchased by the local authority in manner by this Act provided; and thereupon such road authority may remove the tramway in like manner and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for recovery of such costs, in every respect as in cases of removal under the next preceding section.

(a) It was held that an unregistered tramway company, incorporated by a special Act, was not within the exception of "railway companies incorporated by Act of Parliament" in s. 199 of the Companies Act, 1862, and could, therefore, be wound up under that section (see now s. 337 of the Companies Act, 1929) (*Re Brentford and Isleworth Tramways Co.* (1884), 26 Ch. D. 527). And see *Portsmouth, etc. Tramways Co., In re*, [1892] 2 Ch. 362. A company being in liquidation, the Board of Trade, under this section, directed an inquiry to ascertain the solvency of the promoters:—*Held:* upon application by the official liquidator for an injunction to restrain the inquiry, that it was not a proceeding against the company, and could not be restrained under s. 87 of the Companies Act, 1862 (see now s. 177 of the Companies Act, 1929) (*Re Pontypridd and Rhondda Valley Tramways Co.* (1889), 58 L. J. Ch. 536; 37 W. R. 570).

Where a petition is presented for winding up a company, the court has power to restrain proceedings before magistrates for penalties against the company (*Re Briton Medical, etc. Association* (1886), 32 Ch. D. 503).

It was held that, although the company had not been ordered to be wound up, the court would appoint a receiver and manager in an action brought by a holder of overdue debentures of the company to realise his security (*Bartlett* v. *West Metropolitan Tramways Co.* (No. 1), [1893] 3 Ch. 437). And it was further held on a subsequent application by the receiver, that the court had power under this section and s. 44 to make an order for sale of the company's property as a going concern (*Bartlett* v. *West Metropolitan Tramways Co.* (No. 2), [1894] 2 Ch. 286). But this latter decision was overruled in *Marshall* v. *South Staffordshire Tramways Co.*, [1895] 2 Ch. 36, where it was held that the holders of debentures issued by a tramway company governed by this Act (whether incorporated under the Companies Act, 1862, or under a special Act, by which debentures the undertaking of the company and all its property, present and future, including uncalled capital, are charged) are in the event of default by the company entitled only to the appointment of a receiver of the undertaking of the company and the net earnings thereof; and are not entitled to an order for the sale of the undertaking or to the appointment of a manager.

(b) Now the Minister of Transport. See note (a) to s. 1, *ante*, p. 2280.

Purchase of Tramways (*a*).

Future purchase of undertaking by local authority.

43. Where the promoters of a tramway in any district are not the local authority, the local authority, if, by resolution passed at a special meeting of the members constituting such local authority, they so decide, may within six months after the expiration of a period of twenty-one years from the time when such promoters were empowered to construct such tramway, and within six months after the expiration of every subsequent period of seven years or within three months after any Order made by the Board of Trade under either of the two next preceding sections, with the approval of the Board of Trade, by notice in writing (*b*) require such promoters to sell, and thereupon such promoters shall sell (*c*) to them their undertaking (*d*), or so much of the same as is within such district, upon terms of paying the then value (exclusive of any allowance for past or future profits of the undertaking, or any compensation for compulsory sale, or other consideration whatsoever) (*e*) of the tramway, and all lands, buildings, works, materials, and plant of the promoters suitable to and used by them for the purposes of their undertaking within such district (*f*), such value to be in case of difference determined by an engineer or other fit person nominated as referee (*g*) by the Board of Trade on the application of either party, and the expenses of the reference to be borne and paid as the referee directs. And when any such sale has been made, all the rights, powers, and authorities of such promoters in respect to the undertaking sold, or where any Order has been made by the Board of Trade under either of the next preceding sections, all the rights, powers, and authorities of such promoters previous to the making of such Order in respect of the undertaking sold, shall be transferred to, vested in, and may be exercised by the authority to whom the same has been sold, in like manner as if such tramway was constructed by such authority under the powers conferred upon them by a Provisional Order under this Act, and in reference to the same they shall be deemed to be the promoters (*h*).

No such resolution shall be valid unless a month's previous notice of the meeting, and of the purpose thereof, has been given in manner in which notices of meetings of such local authority are usually given, nor unless two-thirds of the members constituting such local authority are present and vote at the meeting, and a majority of those present and voting concur in the resolution . . . (*i*).

The local authority in any district may pay the purchase-money and all expenses incurred by them in the purchase of any undertaking under the authority of this section out of the like rate, and shall have the like powers to borrow on the security of the same as if such expenses were incurred in applying for, obtaining, and carrying into effect any Provisional Order obtained by them under this Act.

Where the local rate is limited by law to a certain amount, and is by reason of such limitation insufficient for the payment of such purchase-money and expenses, the Board of Trade (*j*) may by Provisional Order extend the limit of such local rate to such amount as they shall think fit and prescribe for the payment of such purchase-money and expenses.

Every such Provisional Order shall be confirmed in like manner as a Provisional Order under the authority of Part I. of this Act, and until such confirmation such Provisional Order shall not have any operation.

Subject and according to the preceding provisions of this section two or more local authorities may jointly purchase any undertaking or so much of the same as is within their districts.

(*a*) It has been the practice of Parliament and of the Board of Trade to vary the provisions of s. 43 as to compulsory purchase by extending the time at which purchase can take place and by providing for more reasonable terms of payment. The variations are

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numerous and depend entirely on the conditions which the company is willing to concede and the local authority to accept.

It is also usual in special Acts incorporating tramway companies to insert clauses to protect lenders of money to the company in the event of a compulsory sale to the local authority under s. 43 and to give them notice of the rights of the local authority.

(*b*) For form of notice, see the Encyclopædia of Forms and Precedents, Vol. XVII., p. 778.

(*c*) See note (*c*) to s. 44, p. 2302, *post.*

(*d*) This word is limited by reference to the tramway previously mentioned, viz., the particular tramway which the promoters are empowered to construct by any special Act or Provisional Order. Therefore, where a tramway company has constructed a number of lines under special Acts passed in different years, the local authority may (subject to the leave of the Board of Trade being obtained) purchase so much of any one line as is within its district at the expiration of twenty-one years from the time when the promoters were empowered to construct the line, together with the undertaking as far as it relates to that particular line, without purchasing the other lines constructed under different special Acts (*North Metropolitan Tramways Co.* v. *London C. C.* (1896), 60 J. P. 23; 12 T. L. R. 101; in C. A. affirming 72 L. T. 586; 43 W. R. 552).

The local authority is not entitled to take possession until the amount of the purchase money has been ascertained and paid (*Manchester Tramways Co.* v. *Manchester Corporation* (1902), 67 J. P. 17; 87 L. T. 678).

(*e*) The value of the tramway upon a compulsory sale to the local authority must be measured by what it would cost to construct it at the date of such sale, subject to a proper deduction in respect of depreciation (*Edinburgh Street Tramways Co.* v. *Lord Provost of the City of Edinburgh* and *London Street Tramways Co.* v. *London C. C.*, [1894] A. C. 456, 489; *London Street Tramways Co.* v. *London C. C.*, [1898] A. C. 375; 62 J. P. 675). See also *Re Southampton Tramways Co. and Southampton Corporation* (1899), 63 J. P. 788; 16 T. L. R. 38; in C. A. affirming 80 L. T. 236. The principles laid down by the House of Lords in the *Edinburgh Case* were applied by the Court of Appeal in *Oldham, Ashton, and Hyde Electric Tramways, Ltd.* v. *Ashton Corporation*, [1921] 3 K.B. 511; 85 J. P. 181. There the arbitrator had awarded the value of the undertaking at the time of the notice requiring the owner of the tramway to sell, including therein as part of the original cost of establishment the engineer's fees, subject to depreciation, the cost of raising the original capital of the undertaking, interest on capital during construction, and the cost of a temporary diversion of the tramway from a railway bridge in accordance with a provision inserted at the instance of the railway company in the order authorising the construction of the tramway. It was held by ROWLATT, J., and affirmed in Court of Appeal that the engineer's fees should be allowed subject to depreciation, that the cost of raising capital must be disallowed, that the interest on capital was subject to depreciation, and that the cost of the temporary diversion of the tramway must be disallowed. Notwithstanding the practice of Parliament in granting statutory powers to lay tramways in narrow streets, to impose upon the undertakers the obligation to contribute towards the cost of widening such streets, it was held that in assessing the value of the tramway and its appurtenances belonging to a company incorporated before such practice of Parliament came into existence, the amount which the tramway company would, if constructing its tramway at the date of the notice to purchase, have been required to contribute towards the costs of widening streets ought not to be taken into account (*Re London, Deptford and Greenwich Tramways Co. and London C. C.*, [1905] 1 K. B. 316; 69 J. P. 93). And as to a local Act excluding the application of s. 43 of this Act, see *Wallasey Tramways Co.* v. *Wallasey U. D. C.*, Times, November 17th, 1899; affirmed in C. A., 23 M. C. C. 56; and affirmed again in H. L., 17 T. L. R. 152. For a case as to determination of value under a Colonial Act, see *Melbourne Tramway and Omnibus Co.* v. *Tramway Board*, [1919] A. C. 667; 88 L. J. P. C. 102.

(*f*) The local authority purchasing a tramway within their district must pay for all lands, buildings, etc. which are suitable to and used for the purposes of the undertaking within the district, even though such lands, buildings, etc. be situate outside the district (*Manchester Carriage and Tramways Co.* v. *Swinton and Pendlebury U. D. C.*, [1906] A. C. 277; 70 J. P. 81); so also they must pay for a depôt within the district if suitable to and used for the purpose of the undertaking within the district, although in previous proceedings it has been held suitable to and used for the purpose of the undertaking outside the district (*Manchester Carriage and Tramways Co.* v. *Ashton-under-Lyne Corporation* (1904), 68 J. P. 576). See also *Manchester Carriage and Tramways Co.* v. *Manchester Corporation* (1902), 67 J. P. 14; 18 T. L. R. 779; varied by consent in C. A., 19 T. L. R. 439. The fact that the authorised tramway penetrates into a car factory does not render the council liable to purchase either the factory or the land within the factory upon which the tramway is laid, if in fact the factory is not suitable to and used by the company for the purposes of the undertaking; but *quære* whether they are bound to purchase the permanent way of the tramway within the factory

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(*North Metropolitan Tramways Co., Ltd.* v. *Leyton U. D. C.* (1908), 72 J. P. 241; 98 L. T. 792).

(*g*) An Act provided for "the purchase of the gasworks and plant at a price to be determined by arbitration." It was held that the price should be the commercial value of the undertaking as a going concern, and not merely the structural value of the plant (*Hamilton Gas Co., Ltd.* v. *Hamilton Corporation*, [1910] A. C. 300; 74 J. P. 185). And see *Perth Gas Co., Ltd.* v. *Perth Corporation*, [1911] A. C. 506.

(*h*) On a purchase under this section the local authority also becomes liable to income tax as regards the tramway undertaking as successors of the tramway company for the purpose of r. 4 under Cases I. and II. of Sched. D. in s. 100 of the Income Tax Act, 1842 (*Re Stockham (Surveyor of Taxes) and Wallasey U. D. C.* (1907), 71 J. P. 244; 5 L. G. R. 200). The local authority are not, however, bound to keep the trams when purchased in their own hands and work them themselves. It is, therefore, no objection to their right to purchase that they may have agreed with a third party to find the purchase-money and work the trams when acquired, although the local authority may need further statutory powers to carry out such a bargain (*Bombay Tramways Co.* v. *Bombay Corporation* (1904), Times, June 6th).

(*i*) The remainder of this paragraph applies in Scotland only, and is therefore omitted.

(*j*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

Power of sale.

44. Where any tramway in any district has been opened for traffic for a period of six months the promoters may, with the consent of the Board of Trade (*a*) sell (*b*) their undertaking to any person, persons, corporation, or company, or to the local authority of such district; and when any such sale has been made all the rights, powers, authorities, obligations, and liabilities of such promoters in respect to the undertaking sold shall be transferred to, vested in, and may be exercised by, and shall attach to the person, persons, corporation, company, or local authority to whom the same has been sold, in like manner as if such tramway was constructed by such person, persons, corporation, company, or local authority under the powers conferred upon them by special Act, and in reference to the same they shall be deemed to be the promoters (*c*).

Provided always, that a local authority shall not purchase any undertaking under the provisions of this section unless they shall decide to make such purchase by resolution passed at a special meeting of the members constituting such local authority, which resolution shall be made in the same manner and shall be subject to the same conditions as to validity as resolutions made in regard to the purchases by the next preceding section authorised.

Where any purchase is made by any local authority under the provisions of this section, such local authority may pay the purchase-money and all expenses incurred by them in making such purchase out of the like funds, and for such purposes shall have all and the like powers and be subject to all the like conditions as if such purchase were made under the authority of the next preceding section.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

(*b*) See *Wolverhampton Corporation* v. *British Electric Traction Co.* (1900), Times, Friday, November 30th; 22 M. C. C. 545, which was an action for specific performance of a statutory contract to purchase a tramway. The court dismissed a counterclaim for a declaration as to running powers.

A tramway company cannot assign its statutory powers and rights except as authorised by this Act (*Baillie* v. *Binns* (1903), Times, January 31st).

(*c*) A Provisional Order was obtained by certain promoters for the construction of tramways in a borough. The confirming Act provided that the corporation might purchase the undertaking after the lapse of fourteen years. Shortly afterwards the promoters entered into an agreement to sell the undertaking to an electric traction company and by a later agreement it was sold to the plaintiff company. The confirming Act required the consent of the Board of Trade to such agreements, but in fact no such consents were given. The construction of the tramway was commenced but never completed. After the lapse of fourteen years, as specified in the confirming Act, the corporation gave notice to the promoters and the plaintiff company or "other the promoters" requiring them to sell the undertaking, knowing, however, that the sale to the plaintiff company had not been approved by the Board of Trade. The value of the

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undertaking having been assessed by an arbitrator, the plaintiff company "and all others the promoters" brought an action to recover the sum fixed by him. It was held that the original promoters were the owners of the undertaking, and that as the corporation had exercised their option to purchase with notice that the transfer to the plaintiff company had not been approved by the Board of Trade, they could not now be heard to say that the promoters were not the legal owners; and further, the corporation were not affected by any equity there might be to compel the promoters to sell to the company (*Hartlepool Electric Tramways Co., Ltd.* v. *Hartlepool Corporation* (1911), 75 J. P. 507, 537; 9 L. G. R. 1098).

Tolls.

Tolls, etc.

45. The promoters or lessees of a tramway authorised by special Act may demand and take, in respect of such tramway, tolls and charges not exceeding the sums specified in such special Act, subject and according to the regulations therein specified. A list of all the tolls and charges authorised to be taken shall be exhibited in a conspicuous place inside and outside each of the carriages used upon the tramways (*a*).

(*a*) It is necessary here to refer to the Statutory Undertakings (Temporary Increase of Charges) Act, 1918, 8 & 9 Geo. 5, c. 34, which so far as it relates to tramways is to have effect until 31st December, 1931 (19 Geo. 5, c. 3), as amended by the Tramways (Temporary Increase of Charges) Act, 1920, 10 & 11 Geo. 5, c. 14. These Acts are set out in full, *post*, pp. 2749, 2804. A municipal corporation owned a tramway constructed under statutory powers. In accordance with a statutory requirement they exhibited in a conspicuous place in their cars a list of fares and appended a special notice stating, as the fact was, that the fares charged were less than the maximum authorised charges, and that in consideration thereof a passenger was only carried on the terms that the maximum amount recoverable from the corporation for injury suffered by a passenger and for which the corporation were legally liable was £25. It was held (by COZENS-HARDY, M.R., upon the construction of the statutes regulating the tramway; by FARWELL, L.J., upon the ground that the corporation were common carriers of passengers at common law in the sense that they were bound to carry according to their profession, and by KENNEDY, L.J., upon both these grounds) that, so long as the tramway was open for public traffic, the corporation were bound to carry any passenger not being an objectionable person who offered himself and was willing to pay the published fare, provided they had accommodation for him, and were not entitled to impose a condition limiting their liability for negligence without giving the passenger the option of travelling at a higher fare without any such condition. *Semble, per* COZENS-HARDY, M.R., and FARWELL, L.J. If the corporation published alternative lists of fares, one containing the maximum rates and another reduced rates, and gave an option to the passenger to pay either rate but with such a condition attached to the reduced rate, a passenger electing to pay the latter would be bound by the condition (*Clarke* v. *West Ham Corporation*, [1909] 2 K. B. 858; 73 J. P. 461). See also *Baker* v. *Ellison*, [1914] 2 K. B. 762. See as to the construction of a provision in a Tramway Act that "daily labourers" should be entitled to travel in the morning and evening at a reduced fare (*McDonald* v. *Brown* (1918), 87 L. J. K. B. 1119; 34 T. L. R. 358). And *Hutchins* v. *L. C. C.* (1915), 85 L. J. K. B. 1177; 80 J. P. 193.

Byelaws (*a*).

Byelaws by local authority.

46. Subject to the provisions of the special Act authorising any tramway and this Act,

The local authority of any district in which the same is laid down may, from time to time, make regulations as to the following matters:

The rate of speed to be observed in travelling upon the tramway:

The distances at which carriages using the tramway shall be allowed to follow one after the other (*b*).

The stopping of carriages using the tramway (*c*):

The traffic on the road in which the tramway is laid (*d*).

Promoters may make certain regulations.

The promoters of any tramway and their lessees may from time to time make regulations,—

For preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them:

For regulating the travelling in or upon any carriage belonging to them (*e*).

And for better enforcing the observance of all or any of such regulations, it

Section 46. shall be lawful for such local authority and promoters respectively to make byelaws for all or any of the aforesaid purposes, and from time to time repeal or alter such byelaws, and make new byelaws, provided that such byelaws be not repugnant to the laws of that part of the United Kingdom where the same are to have effect (*f*).

Notice of the making of any byelaw under the provisions of this Act shall be published by the local authority or the promoters making the same, by advertisement, according to the regulations contained in Part II. of the Sched. C. to this Act annexed; and unless such notice is published in manner aforesaid such byelaw shall be disallowed by the Board of Trade.

No such byelaw shall have any force or effect which shall be disallowed by the Board of Trade (*g*) within two calendar months after a true copy of such byelaw shall have been laid before the Board; and a true copy of every such proposed byelaw shall, not less than two calendar months before such byelaw shall come into operation, be sent to the Board of Trade (*g*), and shall be delivered to the promoters of such tramway if the same was made by the local authority, and to such local authority if made by the promoters.

(*a*) The court will refuse an application for a *mandamus* to make byelaws where the applicant has no greater interest than an ordinary member of the public. So held by CHANNELL and JELF, JJ., in *National Carriage, etc. Union* v. *Manchester Corporation* (1902), Times, July 9th. But where petitioners appear in opposition to a bill before Parliament, and with the object of protecting their own interests procure the insertion in the Bill of a clause imposing a particular duty upon the promoters or other persons, they will have a sufficient interest in the performance of that duty to support an application by them for a *mandamus* to enforce it, notwithstanding that they are not named in the clause and that the duty is one imposed for the benefit of the public at large. So held by Lord ALVERSTONE, C.J., and PICKFORD, J. (AVORY, J., *dubitante*), in *R.* v. *Manchester Corporation*, [1911] 1 K. B. 560; 75 J. P. 73.

(*b*) See *R.* v. *Manchester Corporation, supra.*

(*c*) A byelaw required that a steam tramway should be stopped in cases of impending danger:—*Held*, that there was evidence of impending danger to go to the jury in a case where a steam tram was coming down a steep incline towards a pony chaise, the pony being restive, and the driver holding up her whip as a signal to stop the car (*Downing* v. *Birmingham and Midland Trams* (1888), 5 T. L. R. 40). A local Tramway Act empowered the Board of Trade to make byelaws, providing that engines should be brought to a stand at cross streets, and a penalty was imposed on any person offending:—*Held*, that the company might be convicted of an offence against the byelaw (*St. Helens Tramway Co.* v. *Wood* (No. 2) (1891), 56 J. P. 71).

(*d*) The Board of Trade under a power given to them by a special Act, made a byelaw that "no steam shall be emitted from the engines so as to constitute any reasonable ground of complaint to passengers or to the public." H., a driver, was resting his engine, which was not in good repair, and he could not help emitting steam. One person complained:—*Held*, that H. was rightly convicted (*Hartley* v. *Wilkinson* (1885), 49 J. P. 726). Under a similar byelaw forbidding the emission of "smoke or steam," a conviction for emitting "smoke *and* steam" was upheld (*Davis* v. *Loach* (1886), 50 J. P. 212). Where a byelaw provided that no smoke or steam should be emitted from the engines so as to constitute any reasonable ground of complaint to the passengers or the public, and the penalty was the same whichever class of persons had ground of complaint, and a conviction stated that the defendant permitted smoke to escape contrary to the byelaw, without stating in terms any reasonable grounds of complaint to the passengers or the public, or either of them, it was held that the statement was insufficient, and the conviction must be quashed (*Cotterill* v. *Lempriere* (1890), 24 Q. B. D. 634; 54 J. P. 583). A tramway company were authorised to use steam engines on their line, and the Board of Trade were authorised to make regulations, and also to make byelaws for regulating the use of bells, whistles, and other warning apparatus fixed to the engine. The Board of Trade made a regulation that every engine should carry a bright lamp during certain hours. One day, a servant allowed the lamp to remain unlighted for some part of the journey:—*Held*, that the regulation was valid as a regulation and need not be included in the byelaws, and that the company were liable for the neglect of the servant in not keeping the lamp alight (*St. Helens Tramway Co.* v. *Wood* (No. 1) (1891), 60 L. J. M. C. 141; 56 J. P. 70). This case was followed in *Heiton & Co.* v. *M'Sweeney*, [1905] 2 I. R. 47, in which it was held that a byelaw requiring the owner of every vehicle to cause a light to be attached thereto when in use between certain hours in public streets is not unreasonable or void as making a master liable for the *quasi*-criminal act of a servant. Byelaws made under the Metropolitan Public Carriages Act, 1869,

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requiring vehicles on highways to carry lights between sunset and sunrise are applicable to tramcars (*Adamson* v. *Miller* (1900), 16 T. L. R. 185; 44 Sol. J. 278). And see note (*a*) to s. 85 of the L. G. A., 1888, p. 817, *ante*.

(*e*) A byelaw requiring payment of a fare when demanded, though before completion of journey, is valid (*Egginton* v. *Pearl* (1876), 40 J. P. 56; 33 L. T. 428), and though it does not make an intent to defraud or to avoid payment an ingredient of the offence (*Tuffley* v. *Tate* (1907), 71 J. P. 21; 5 L. G. R. 448). As to amount of fares, see *Edinburgh Street Tramways Co.* v. *Torbain* (1877), 3 App. Cas. 58. A passenger who had paid for and obtained a ticket which entitled him to travel to a certain destination, having alighted at a stopping place short of that destination, and walked some distance and then got on another car travelling to his original destination, but who refused to pay the legal fare, claiming to go on under his original ticket, was held liable to be convicted under a byelaw requiring payment of the legal fare when demanded (*Bastable* v. *Metcalfe*, [1906] 2 K. B. 288: 70 J. P. 343). A byelaw that a passenger shall deliver up his ticket when required, or pay the fare for the distance travelled over, is a reasonable byelaw. A passenger travelling under such circumstances, who shows his ticket, but refuses to give it up on the ground that his journey has not terminated, is liable to the penalty prescribed by the byelaw (*Heap* v. *Day* (1886), 51 J. P. 213; 34 W. R. 627). So also is a passenger who has lost his ticket and refuses to pay the fare again (*Hanks* v. *Bridgman*, [1896] 1 Q. B. 253; 60 J. P. 312), or a passenger who refuses to show his ticket (*Lowe* v. *Volp*, [1896] 1 Q. B. 256; 60 J. P. 232; *Hunt* v. *Green* (1907), 71 J. P. 18; 96 L. T. 23). But a passenger who paid his fare but declined to accept a ticket because it bore an indorsement purporting to limit the liability of the local authority in cases of accident or injury to passengers, and allowed it to fall on the floor of the car, and when the ticket inspector asked him for it pointed it out, but refused to touch or pick it up or to pay his fare a second time was held not liable under a similar byelaw (*Wilson* v. *Fearnley* (1905), 69 J. P. 165; 92 L. T. 647). And see *M'Intyre* v. *M'Pherson*, [1913] S. C. (S.) 21. The secretary of a tram company was summoned for allowing an excessive number of passengers in a car. At the hearing, it was objected that the secretary was not the proper defendant, whereupon the justices substituted the name of the company, and convicted them:—*Held*, that the conviction was bad (*Oxford Tramway Co.* v. *Sankey* (1890), 54 J. P. 52; 6 T. L. R. 151). Where a byelaw forbade the company to allow more persons to be carried in a carriage than a specified number, it was held that a passenger who was incommoded by an excessive number of passengers was entitled to prosecute the conductor (*Badcock* v. *Sankey* (1890), 54 J. P. 564; 6 T. L. R. 170). As to the right of a corporation as tramway authority to rely by way of defence to an action for negligence, on the byelaws made by them for the regulation of their tramways, see *Hughes* v. *Leeds Corporation* (1902), Times, August 4th; 24 M. C. C. 387; see also *Pickering* v. *Belfast Corporation*, [1911] 2 I. R. 224. A local Act provided that no conductor should carry in or on the carriage a greater number of passengers than that specified in the licence. A licence was granted in respect of a carriage to carry 32, 16 inside and 16 outside:—*Held*, that a conductor was guilty of an offence by carrying 19 seated and 8 standing inside, and 5 on the footboard, making altogether 32 (*Stokell* v. *Baldwin* (1892), 8 T. L. R. 346). In the case of a tramway car having upper and lower compartments, and having the upper compartment covered in, the expression "inside" in s. 13 of the Railway Passenger Duty Act, 1842, and in s. 27 of the L. C. C. (Tramways, etc.) Act, 1913, which sections regulate the number of passengers to be carried "inside" a London tramway car, normally and on special occasions, refers only to the lower compartment (*Phesse* v. *Fisher*, [1915] 1 K. B. 572; 31 T. L. R. 65). As to the liability of the promoters for an accident occurring through overcrowding allowed by their servant contrary to their express orders, see *Byrne* v. *Londonderry Tramway Co.*, [1902] 2 I. R. 457. A byelaw of a corporation provided that passengers "should depart from or get off a car by the hindermost or conductor's platform and not otherwise." It was held that the expression "hindermost or conductor's platform" must in each case be construed in relation to the particular passenger and the journey on which he was engaged, and meant the platform which was or would be the hindermost during the journey which the passenger in question had taken or was about to take (*Monkman* v. *Stickney*, [1913] 2 K. B. 377; 77 J. P. 368). And see *Baker* v. *Ellison*, *ante*, p. 2303.

(*f*) A byelaw that no person shall swear or use obscene or offensive language whilst in or upon any carriage was held not *ultra vires*, although s. 28 of the Town Police Clauses Act, 1847, was in force in the same city and also a local Act imposing a penalty on every person who should use any profane, indecent or obscene language to the annoyance of the inhabitants or passengers (*Gentel* v. *Rapps*, [1902] 1 K. B. 160; 66 J. P. 117).

The local authority of a borough may make a byelaw under this section for regulating the number of passengers to be carried in and upon tramcars, and the extent of accommodation to be afforded to them. The assent of the lessees of the line under s. 46 is not necessary to the validity of such byelaw (*Smith* v. *Butler* (1886), 16 Q. B. D. 349; 50 J. P. 260).

(*g*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

Penalties may be imposed in byelaws.

47. Any such byelaw may impose reasonable penalties for offences against the same, not exceeding forty shillings for each offence, with or without further penalties for continuing offences, not exceeding for any continuing offence ten shillings for every day during which the offence continues (*a*); but all byelaws shall be so framed as to allow in every case part only of the maximum penalty being ordered to be paid.

(*a*) Penalties cannot be imposed in advance (*R.* v. *Struvé* (1895), 59 J. P. 484).

Power to local authority to license drivers, conductors, etc.

48. The local authority shall have the like power of making and enforcing rules and regulations, and of granting licences with respect to all carriages using the tramways, and to all drivers, conductors, and other persons having charge or of using the same, and to the standings for the same, as they are for the time being entitled to make, enforce, and grant with respect to hackney carriages (*a*), and the drivers and other persons having the charge thereof, and to the standings for the same in the streets and district of or under the control of the local authority: Provided always, that in any district in which any of the powers aforesaid in relation to hackney carriages and the matters aforesaid in connection therewith are vested in any authority other than the local authority of such district, such authority shall have and may exercise the powers by this section conferred upon the local authority.

(*a*) See s. 171 of the P. H. A., 1875, *ante*, p. 411; ss. 37 *et seq.* and 68 of the Town Police Clauses Act, 1847, *ante*, p. 2241, and 52 & 53 Vict. c. 14, *post*, p. 2524. As to the confirmation of these regulations, see 47 & 48 Vict. c. 12, *ante*, p. 762, which abrogates the effect of the case of *Wallasey Tramway Co.* v. *Wallasey L. B.* (1883), 47 J. P. 821.

The effect of the provisions in the text appear to be that a tramway car must be licensed as a hackney carriage (*Blackpool and Fleetwood Tramroad* v. *Bailey*, [1920] 1 K. B. 380).

For a case which arose on the construction of a byelaw prohibiting wilful obstruction of an officer, see *Baker* v. *Ellison*, [1914] 2 K. B. 762.

Offences.

Penalty for obstruction of promoters in laying out tramway.

49. If any person wilfully obstructs any person acting under the authority of any promoters in the lawful exercise of their powers in setting out or making, forming, laying down, repairing, or renewing a tramway, or defaces or destroys any mark made for the purposes of setting out the line of tramway, or damages or destroys any property of any promoters, lessees, or licensees, he shall for every such offence be liable to a penalty not exceeding five pounds.

Penalties for wilful injury or obstruction to tramways, etc.

50. If any person, without lawful excuse (the proof whereof shall lie on him), wilfully does any of the following things; (namely,)

Interferes with, removes, or alters any part of a tramway or of the works connected therewith;

Places or throws any stones, dirt, wood, refuse, or other material on any part of a tramway;

Does or causes to be done anything in such manner as to obstruct any carriage using a tramway, or to endanger the lives of persons therein or thereon (*a*);

Or knowingly aids or assists in the doing of any such thing;

he shall for every such offence be liable (in addition to any proceedings by way of indictment or otherwise to which he may be subject) to a penalty not exceeding five pounds.

(*a*) This provision does not affect the right of the public to the use of the street so long as there is no wilful obstruction. The mere presence of a cart upon a tramway line, whereby a tramcar has to proceed for some distance at a walking pace, is not necessarily a wilful obstruction (*Hall* v. *Linton* (1879), 7 Ct. of Sess. Cas. (4th ser.).

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(J. C.) 2). As to the duty of the conductor and the responsibility of the company in case of a drunken man trying to force his way on to a tramcar in motion and thereby endangering his own life, see *Delaney* v. *Dublin Tramways Co.* (1892), 30 L. R. Ir. 725. See also as to what amounts to wilful obstruction of a tramcar, *Hartley* v. *Chadwick* (1904), 68 J. P, 512.

Penalty on passengers practising frauds on the promoters.

51. If any person travelling or having travelled in any carriage on any tramway avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance, and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence, be liable to a penalty not exceeding forty shillings (*a*).

(*a*) Proceedings under this section are of a criminal character, and, therefore, the company are liable to an action for malicious prosecution at the suit of a person against whom a summons under this section has been dismissed (*Rayson* v. *South London Tramways Co.*, [1893] 2 Q. B. 304; 58 J. P. 20). In order to obtain a conviction under this section it is necessary to show that the person acted with a fraudulent intention (*Nimmo* v. *Lanarkshire Tramways Co.*, [1912] S. C. (J.) 23).

Transient offenders.

52. It shall be lawful for any officer or servant of the promoters or lessees of any tramway, and all persons called by him to his assistance, to seize and detain any person discovered either in or after committing or attempting to commit any such offence as in the next preceding section is mentioned, and whose name and residence is unknown to such officer or servant until such person can be conveniently taken before a justice, or until he be otherwise discharged by due course of law (*a*).

(*a*) See *Howitt* v. *Nottingham Tramways Co.*, *ante*, p. 2291. The plaintiff was a passenger in one of the defendants' tramcars, and tendered to the conductor in payment of a fare a half-sovereign, which the conductor supposed to be counterfeit, and he therefore gave the plaintiff in charge to the police:—*Held*, that as this section gave the conductor authority to detain a person attempting to defraud, the company were liable for his acts in an action for false imprisonment (*Furlong* v. *South London Tramways Co.* (1888), 1 C. & E. 316; 48 J. P. 329). See also *Percy* v. *Glasgow Corporation*, [1922] 2 A. C. 299; 86 J. P. 201. But where the conductor had printed instructions not to give passengers into custody under this section without the authority of an inspector or timekeeper except in cases of assault, but a conductor without such authority gave a passenger in charge for passing bad money it was held that the company were not liable (*Charleston* v. *London Tramways Co.* (1888), 36 W. R. 367; 4 T. L. R. 157; affirmed in C. A., 4 T. L. R. 629; 32 Sol. J. 557). As to the liability of the company for an assault by a conductor on a passenger delaying to pay his fare, see *Smith* v. *North Metropolitan Tramways Co.* (1891), 7 T. L. R. 459; 55 J. P. 630; and for an assault by a conductor acting under a misapprehension, *Radley* v. *L. C. C.* (1913), 109 L. T. 162; 29 T. L. R. 680. The remedy of the tramway authority is not limited to that given by the text. The authority may treat the offender as a trespasser and eject him. But if the conductor ejects a passenger wrongfully the authority are liable for his act (*Whittaker* v. *L. C. C.*, [1915] 2 K. B. 677, approved in *Hutchins* v. *L. C. C.* (1915), 85 L. J. K. B. 1177.)

Penalty for bringing dangerous goods on the tramway.

53. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous nature: and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding twenty pounds for every such offence; and it shall be lawful for such promoters or lessees to refuse to take any parcel that they may suspect to contain goods of a dangerous nature, or require the same to be opened to ascertain the fact (*a*).

(*a*) It seems that a person cannot be convicted of sending dangerous goods under this section unless guilty knowledge is proved (*Hearne* v. *Garton* (1859), 2 El. & El. 266; 28 L. J. M. C. 216). The undertakers are not liable in damages for injuries occasioned to passengers by dangerous goods brought into the car by another passenger, unless the plaintiff can prove that they were guilty of negligence in allowing such goods to be brought there (*East Indian Rail. Co.* v. *Kalidas Mukerjee*, [1901] A. C. 396).

Penalty for persons using tramways with carriages with flange wheels, etc.

54. If any person (except under a lease from or by agreement with the promoters, or under licence from the Board of Trade, as by this Act provided) uses a tramway or any part thereof with carriages having flange wheels or other wheels suitable only to run on the rail of such tramway, such person shall for every such offence be liable to a penalty not exceeding twenty pounds (*a*).

(*a*) A contrivance whereby a small disc might be let down into the groove of the rail, and thus operate as a flange, was held to be within this section (*Cottam* v. *Guest* (1885), 6 Q. B. D. 70; 45 J. P. 95). See also *Liverpool Tramways* v. *Liverpool Omnibus Co.* (1870), W. N. 126; *Manchester Corporation* v. *Andrews* (1889), 5 T. L. R. 470.

Miscellaneous.

Promoters or lessees to be responsible for all damages.

55. The promoters or lessees, as the case may be, shall be answerable for all accidents, damages, and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless all road and other authorities, companies, or bodies, collectively and individually, and their officers and servants, from all damages and costs in respect of such accidents, damages, and injuries (*a*).

(*a*) This section only applies to a wrongful act or default and does not make the promoters or lessees answerable for mere accident caused without negligence by their use of tramcars (*Brocklehurst* v. *Manchester, Bury, Rochdale and Oldham Steam Tramways Co.* (1887), 17 Q. B. D. 118; 51 J. P. 55; *Breslin* v. *Dublin United Tramway Co.* (1911), 45 Ir. L. T. 220). But it is otherwise if negligence be proved. See *Sadler* v. *South Staffordshire, etc. Tramways Co.*, *ante*, p. 1345; *Pickering* v. *Belfast Corporation*, [1911] 2 I. R. 224. As to injury caused by the snapping of an overhead electric wire, see *Neale* v. *East Ham Corporation* (1905), Times, February 22nd. For a case where a nuisance was caused by the use of creosoted wood blocks, see *West* v. *Bristol Tramways Co.*, [1908] 2 K. B. 15; 72 J. P. 243. As to what is sufficient evidence of negligence, see *Leaver* v. *Pontypridd U. D. C.* (1912), 76 J. P. 31; 56 Sol. J. 32. For a case in which a "trolley arm" fell and caused injury to a passenger, see *Newberry* v. *Bristol Tramway and Carriage Co., Ltd.* (1913), 29 T. L. R. 177; and a stay projecting from beneath the car and causing a plaintiff to fall, *Gibb* v. *Edinburgh and District Tramway Co., Ltd.*, [1912] S. C. 580. A cab had stopped to take up a passenger in a steep and narrow street; one of its wheels rested upon a tramway rail. The driver of a tramway car proceeding down the incline saw the obstruction fifty yards away and whistled. He was going slowly, but he did not stop his car, because he expected up to the last moment that the cab would be drawn out of his way, and then, from the steepness and greasiness of the street, was unable to do so. The car caught the cab, and damaged both it and its horse. In an action for damages against the company, it was held that the driver was in fault in not stopping his car when he first saw the cab, and that the cabman was not guilty of any contributory negligence (*McDermaid* v. *Edinburgh Street Tramways Co.* (1884), 12 Ct. of Sess. Cas. (4th ser.) 15; and see *Rattee* v. *Norwich Electric Tramway Co.* (1902), 18 T. L. R. 562). The promoters are not liable for injuries arising from the acts of their servants outside the scope of their employment and in direct defiance of their orders. See *Byrne* v. *Londonderry Tramway Co.*, [1902] 2 I. R. 457. A tramway company acting under Provisional Order and using the best known system of electrical traction were held not to be liable for electrical disturbance in the wires of a telephone company under licence from the Postmaster-General (*National Telephone Co.* v. *Baker*, [1893] 2 Ch. 186; 57 J. P. 373). As to the responsibility of an electric tram company for a leakage of electricity causing disturbance in adjacent telegraphic apparatus belonging to a private company, see *Eastern and South African Telegraph Co.* v. *Capetown Tramways*, [1902] A. C. 381. And see *Postmaster-General* v. *Blackpool and Fleetwood Tramroad Co., and Postmaster-General* v. *Liverpool Corporation*, *ante*, p. 2293. A tramway company have no right to clear their lines after a snowstorm by scattering salt so as to render the road dangerous for other traffic (*Ogston* v. *Aberdeen Tramways Co.*, [1897] A. C. 111; 61 J. P. 436). But they may use the water system of cleaning the rails from dirt so long as they do not cause a nuisance thereby (*Middlesbrough Corporation* v. *Imperial Tramways Co.* (1901), Times, May 11th). A tramway was held to be a railroad, and therefore an engineering work within the meaning of the now repealed Workmen's Compensation Act, 1897 (*Fletcher* v. *London United Tramways Co.*, [1902] 2 K. B. 269 ; 66 J. P. 596). Where a local authority acquire and work a tramway under statutory powers, negligence on the part of their servants in driving the tramcars is a neglect or default in the execution of a public duty or authority within the meaning of s. 1 (a) of the Public Authorities Protection Act, 1893, and consequently an action against the local authority in respect of such negligence must be commenced within six months after the occurrence of the negligence (*Parker* v. *London C. C.*, [1904] 2 K. B. 501: 68 J. P. 239). And see *Clarke* v. *West Ham Corporation*, the facts of which are set out at p. 2303, *ante*; *Martin* v. *Dublin United Tramways Co., Ltd.*, [1909] 2 I. R. 13; *Cass* v. *Edinburgh and District Tramways Co.*, *post*, p. 2311. On the subject of the extent of the liability imposed by this section reference may be made to *McSherry* v. *Glasgow Corporation*, [1917] S. C. 156 (contributory negligence by riding on step); *Taylor* v. *Dumbarton Tramways Co.*, [1918] S. C. 96 (contributory negligence of children allowed to play round car); *Craig* v. *Glasgow Corporation*, 35 T. L. R. 214 (evidence of negligence); *Tynam* v. *Dublin United Tramways Co.*, [1919] 2 I. R. 445 (joint negligence): *Ross* v. *Glasgow Corporation*, [1919] S. C. 174 (remoteness of damage); *Watt* v. *Glasgow Corporation*, [1919] S. C. 300 (negligence of conductors); *Buchanan* v. *Glasgow Corporation*, [1921] S. C. 658 (passenger riding on platform); *Milliken* v. *Glasgow Corporation*, [1918] S. C. 857 (negligence of driver of overtaken vehicle).

Recovery of tolls, penalties, etc.
11 & 12 Vict. c. 43, etc.

56. All tolls, penalties, and charges under this Act, or under any byelaw made in pursuance of this Act, may be recovered and enforced as follows: in England before two justices of the peace in manner directed by the Summary Jurisdiction (England) Acts . . . (*a*).

(*a*) The remainder of this section relates only to Scotland. As to restraining proceedings against a company in liquidation, see *Re Briton Medical, etc. Association*, *ante*, p. 2299.

The principle of *Gardner* v. *L. C. & D. Rail. Co.* (1867), L. R. 2 Ch. 201, does not prevent the levying by distress of penalties imposed on a tramway company for non-repair of their rails (*Pegge* v. *Neath District Tramways Co.*, [1895] 2 Ch. 508). An appeal from this decision was compromised, [1896] 1 Ch. 684.

Right of user only

57. Notwithstanding anything in this Act contained the promoters of any tramway shall not acquire or be deemed to acquire any right other than that of user of any road along or across which they lay any tramway . . . (*a*).

(*a*) The remainder of this section (as to turnpike roads) and the whole of the following section (as to arrangements between turnpike trustees and the promoters) were repealed as obsolete by S. L. R. A., 1893 (No. 2).

* * * * * *

Reservation of rights of owners, etc. of mines.

59. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any tramway shall be laid to work such mines and minerals; nor shall any such owner, lessee or occupier be liable to make good or pay compensation for any damage which may be occasioned to such tramway by the working in the usual and ordinary course of their mines or minerals.

Reserving powers of street authorities to widen, etc. roads.

60. Nothing in this Act shall take away or affect any power which any road authority, or the owners, commissioners, undertakers, or lessees of any railway, tramway, or inland navigation, may have by law to widen, alter, divert, or improve any road, railway, tramway, or inland navigation (*a*).

(*a*) See *Bristol Trams and Carriage Co.* v. *Bristol Corporation*, *ante*, p. 2295.

Power for local or police authorities to regulate traffic in roads.

61. Nothing in this Act shall limit the powers of the local authority or police in any district to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters or of lessees as to the traffic of other persons.

Reservation of rights of public to use roads.

62. Nothing in this Act or in any byelaw made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable only to run on the rail of the tramway (*a*).

(*a*) This section reserves to the public the right of using every part of the road including the rail so long as they do not use wheels with flanges, or wheels suitable only to the rails (*Manchester Corporation* v. *Andrews* (1889), 5 T. L. R. 470).

Regulating inquiries before referee appointed by the Board of Trade.

63. Every inquiry which by this Act the Board of Trade (*a*) are empowered to make or direct shall be made in accordance with the following provisions:

1. The inquiry shall be held in public before an officer to be appointed in that behalf by the Board hereinafter called the referee, and whose appointment shall be by writing, which shall specify all the matters referred to him:
2. Ten days notice at the least shall be given by the referee to the parties upon whose representation the Board of Trade (*a*) shall have directed the inquiry, of the time and place at which the inquiry is to be commenced:
3. The inquiry shall be commenced at the time and place so appointed, and the referee may adjourn the inquiry from time to time as may be necessary to such time and place as he may think fit:
4. The referee by summons shall, on the application of any party interested in the inquiry, require the attendance before himself, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him, and every person summoned shall attend the referee, and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons or refuses to answer any question put to him by such referee for the purposes of the said inquiry shall be liable to a penalty not exceeding five pounds: Provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him, and no person shall be required in any case in obedience to any such summons to travel more than ten miles from his place of abode:
5. The referee may and shall administer an oath, or an affirmation where an affirmation in lieu of an oath would be admitted in a court of justice, to any person tendered or summoned as a witness on the inquiry:
6. Any person who upon oath or affirmation wilfully gives false evidence before the referee shall be deemed guilty of perjury:
7. The referee shall make his report to the Board of Trade (*a*) in writing, and shall deliver copies of the report upon request to all or any of the parties to the inquiry.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, p. 2280, *ante*.

Rules for carrying Act into effect.

64. The Board of Trade (*a*) may from time to time make, and, when made, may rescind, annul, or add to, rules with respect to the following matters (*b*):

1. The proceedings to be had before the Board under this Act:
2. The payment of money or lodgment of securities by way of deposits, the repayment and forfeiture of the same, the investment of the same, the amount and payment of interest or dividends from time to time accruing due on such deposits:
3. The plans and sections of any works to be deposited by promoters under this Act:
4. As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Section 64.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, p. 2280, *ante*.

(*b*) Rules have been made under this section, those now in force being dated January, 1892 (see App. II., *post*, p. 3900). As to the construction of such rules, see *In re Bradford Tramways Co.; In re Lowestoft, Yarmouth and Southwold Tramways Co.; In re Tynemouth Borough Tramways Co.; In re Colchester Tramways Co.*, *ante*, pp. 2283, 2284; *Cass* v. *Edinburgh and District Tramways Co., Ltd.*, [1909] S. C. 1068.

SCHEDULES.

SCHEDULE A (*a*).

[Sect. 3.]

PART I.

Districts of Local Authorities.	Description of Local Authority of District set opposite its Name.	The Local Rate. (*b*)
	ENGLAND AND WALES.	
The city of London and the liberties thereof.	The mayor, aldermen, and commons of the city of London.	The consolidated sewers rate.
The metropolis (1) . . .	The Metropolitan Board of Works (*c*).	The metropolitan consolidated rate.
Boroughs (2) . . .	The mayor, aldermen, and burgesses acting by the council.	The borough fund or other property applicable to the purposes of a borough rate, or the borough rate.
Any place not included in the above descriptions, and under the jurisdiction of commissioners, trustees, or other persons intrusted by any local Act, with powers of improving, cleansing, or paving any town.	The commissioners, trustees, or other persons intrusted by the local Act with powers of improving, cleansing, or paving the town.	Any rate leviable by such commissioners, trustees, or other persons, or other funds applicable by them to the purposes of improving, cleansing, or paving the town.
Any place not included in the above descriptions, and within the jurisdiction of local board constituted in pursuance of the Public Health Act, 1848, and the Local Government Act, 1858, or one of such Acts (*d*).	The local board . .	General district rate.
Any place or parish not within the above descriptions, and in which a rate is levied for the maintenance of the poor.	The vestry, select vestry, or other body of persons acting by virtue of any Act of Parliament, prescription, custom, or otherwise, as or instead of a vestry or select vestry.	The poor rate.
. . .	. . .	. . .

Notes.

(1) "The metropolis" shall include all parishes and places in which the Metropolitan Board of Works have power to levy a main drainage rate, except the city of London and the liberties thereof.

(2) "Borough" shall mean any place for the time being subject to the Municipal Corporations Act, 1835 (*e*). 5 & 6 Will.4, c. 76.

Note to Schedule A.

(*a*) So much of this Schedule as relates to Scotland only is omitted.

(*b*) See now the R. and V. Act, 1925, *ante*, p. 1633.

(*c*) The powers and duties of the Metropolitan Board of Works are now transferred to the London C. C. by the L. G. A., 1888, s. 40.

(*d*) Now the P. H. A., 1875. See s. 313 of that Act, *ante*, p. 655.

(*e*) Now the Municipal Corporations Act, 1882. See s. 242 of that Act.

PART II.

Districts of Road Authorities.	Description of Road Authority of Districts set opposite its Name.
Parishes within the metropolis (1) mentioned in Schedule (A.) to the Metropolis Management Act, 1855.	The vestries appointed for the purposes of the Metropolis Management Act, 1855.
Districts within the metropolis (1) formed by the union of the parishes mentioned in Schedule (B.) to the Metropolis Management Act, 1855.	The board of works for the district appointed for the purpose of the Metropolis Management Act, 1855.

Note (1).—The term "metropolis" has in this Part the same meaning as in Part I. of this Schedule.

[Sect. 4.]

PART III.

Approval of Application by Local Authority for a Provisional Order.

The approval of any intended application for a Provisional Order by a local authority shall be in the manner following; that is to say,

A resolution approving of the intention to make such application shall be passed at a special meeting of the members constituting such local authority.

Such special meeting shall not be held unless a month's previous notice of the same, and of the purpose thereof, has been given in manner in which notices of meetings of such local authority are usually given.

Such resolution shall not be passed unless two thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution . . . Where any such resolution relating to the metropolis as the same is defined in Part I. of this Schedule . . . has been passed in manner aforesaid, the intended application to which such resolution relates shall be deemed to be approved (*a*).

(*a*) Words relating to Scotland only are here omitted.

SCHEDULE B.

PROVISIONAL ORDERS.

[Sect. 6.]

PART I.

Advertisement in October or November of intended Application.

(1) Every advertisement is to contain the following particulars:

1. The objects of the intended application.
2. A general description of the nature of the proposed works, if any.
3. The names of the townlands, parishes, townships, and extra-parochial places in which the proposed works, if any, will be made.
4. The times and places at which the deposit under Part II. of this Schedule will be made.
5. An office, either in London or at the place to which the intended application relates, at which printed copies of the draft Provisional Order, when deposited, and of the Provisional Order, when made, will be obtainable as hereinafter provided.

(2) The whole notice is to be included in one advertisement, which is to be headed with a short title descriptive of the undertaking.

Schedule B.

(3) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed undertaking, where the proposed works (if any) will be made; or if there be no such newspaper, then in some one and the same newspaper published in the county in which every such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(4) The advertisement is also, in every case, to be inserted once at least in the London . . . Gazette, accordingly as the district is situate in England . . . (*a*).

(*a*) Words relating to Scotland only are here omitted.

PART II.

[Sect. 6.]

Deposit on or before 30th November.

(1) The promoters are to deposit—

1. A copy of the advertisement published by them:
2. A proper plan and section of the proposed works, if any, such plan and section to be prepared according to such regulations as may from time to time be made by the Board of Trade (*a*) in that behalf.

(2) The documents aforesaid are to be deposited for public inspection—

In England, in the office of the clerk of the peace for every county, riding, or division, and of the parish clerk of every parish and the office of the local authority of every district in or through which any such undertaking is proposed to be made . . . (*b*).

(3) The documents aforesaid are also to be deposited at the office of the Board of Trade (*a*).

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.
(*b*) Words relating to Scotland only are here omitted.

PART III.

[Sect. 6.]

Deposit on or before 23rd December.

(1) The promoters are to deposit at the office of the Board of Trade (*a*)—

1. A memorial signed by the promoters, headed with a short title descriptive of the undertaking (corresponding with that at the head of the advertisement), addressed to the Board of Trade (*a*), and praying for a Provisional Order.
2. A printed draft of the Provisional Order as proposed by the promoters, with any Schedule referred to therein.
3. An estimate of the expense of the proposed works, if any, signed by the persons making the same.

(2) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement; such copies to be there furnished to all persons applying for them at the price of not more than one shilling each.

(3) The memorial of the promoters (to be written on foolscap paper, bookwise, with quarter margin) is to be in the following form, with such variations as circumstances require:

[*Short Title of Undertaking.*]

To the Board of Trade (*a*),

The memorial of the promoters of [*short title of undertaking*]:

Showeth as follows:

1. Your memorialists have published, in accordance with the requirements of the Tramways Act, 1870, the following advertisement:

[*Here advertisement to be set out verbatim.*]

2. Your memorialists have also deposited, in accordance with the requirements of the said Act, copies of the said advertisement and [*here state deposit of the several matters required by Act*].

Your memorialists, therefore, pray that a Provisional Order may be made in the terms of the draft proposed by your memorialists, or in such other terms as may seem meet.

A. B.,
C. D.,
Promoters.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.

Schedule B.

[Sect. 13.]

PART IV.

Deposit and Advertisement of Provisional Order when made.

(1) The promoters are to deposit printed copies of the Provisional Order, when settled and made, for public inspection in the offices of clerks of the peace (*a*) . . . where the documents required to be deposited by them under Part II. of this Schedule were deposited.

(2) They are also to deposit a sufficient number of such printed copies at the office named in that behalf in the advertisement, such copies to be there furnished to all persons applying for them at the price of not more than each.

(3) They are also to publish the Provisional Order as an advertisement once in the local newspaper in which the original advertisement of the intended application was published, or in case the same shall no longer be published, in some other newspaper published in the district.

(*a*) Words relating to Scotland only are here omitted.

SCHEDULE C.

[Sect. 19.]

PART I.

Notice and Deposit of Lease by Local Authority.

One month before any lease is submitted to the Board of Trade (*a*), notice of the intention to make such lease shall be given by advertisement.

(1) Every advertisement is to contain—

1. The term of the lease.
2. The rent reserved.
3. A general description of the covenants and conditions contained therein.
4. The place where the same is deposited for public inspection.

(2) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by the proposed lease; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(3) The advertisement is also, in every case, to be inserted once at least in the London . . . Gazette, accordingly as the district to which it relates is situate in England . . . (*b*).

Deposit.

A copy of such lease shall be deposited for public inspection during office hours at the office of the local authority or at some other convenient place within the district to which such lease relates.

(*a*) Now the Minister of Transport. See note (*a*) to s. 1, *ante*, p. 2280.
(*b*) Words relating to Scotland only are here omitted.

[Sect. 46.]

PART II.

Notice of Byelaws.

Within one month after the making of any byelaw notice of the making of the same, and a copy of such byelaw, shall be published by advertisement in manner following:

(1) The advertisement is to be inserted once at least in each of two successive weeks in some one and the same newspaper published in the district affected by such byelaws; or if there be no such newspaper, then in some one and the same newspaper published in the county in which such district, or some part thereof, is situate; or if there be none, then in some one and the same newspaper published in some adjoining or neighbouring county.

(2) The advertisement is also, in every case, to be inserted once at least in the London . . . Gazette, accordingly as the district to which it relates is situate in England . . . (*a*).

(*a*) Words relating to Scotland only are here omitted.

THE FAIRS ACT, 1871.

(34 & 35 VICT. c. 12)(*a*).

An Act to further amend the law relating to Fairs in England and Wales. [25th May, 1871.]

1. This Act may be cited as "The Fairs Act, 1871." Short title.

2. In this Act the term "owner" means any person or persons, or body of commissioners, or body corporate, entitled to hold any fair, whether in respect of the ownership of any lands or tenements, or under any charter, letters patent, or Act of Parliament, or otherwise howsoever. Interpretation.

3. In case it shall appear to the Secretary of State for the Home Department, upon representation duly made to him by the magistrates of any petty sessional district (*a*), within which any fair is held, or by the owner of any fair in England or Wales, that it would be for the convenience and advantage of the public that any such fair should be abolished, it shall be lawful for the said Secretary of State for the Home Department, with the previous consent in writing of the owner for the time being of such fair, or of the tolls or dues payable in respect thereof, to order that such fair shall be abolished accordingly: Provided always, that notice of such representation, and of the time when it shall please the Secretary of State for the Home Department to take the same into consideration, shall be published once in the London Gazette, and in three successive weeks in some one and the same newspaper published in the county, city, or borough in which such fair is held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, before such representation is so considered. Order for abolition of air.

4. When and so soon as any such order as aforesaid shall have been made by the Secretary of State for the Home Department, notice of the same shall be published in the London Gazette, and in some one newspaper of the county, city, or borough in which such fair is usually held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, and thereupon such fair shall be abolished. Publication of order.

(*a*) See the L. G. A., 1894, ss. 27 (1) (e) and 32, *ante*, pp. 992, 994. See also 36 & 37 Vict. c. 37, *post*, p. 2238. The preamble and clause of enactment to this Act are repealed by the S. L. R. A., 1893 (No. 2).

(*a*) This representation will now come from the district council.

THE GASWORKS CLAUSES ACT, 1871.

(34 & 35 VICT. c. 41)(*a*).

An Act to amend the Gasworks Clauses Act, 1847. [13th July, 1871.]

1. The Gasworks Clauses Act, 1847, and this Act, shall be construed together as one Act, and the provisions of this Act shall be held to repeal and supersede such of the provisions of that Act as are inconsistent with this Act. Construction. 10 & 11 Vict. c. 15.

2. This Act may be cited as "The Gasworks Clauses Act, 1871." Short title.

(*a*) See 10 & 11 Vict. c. 15, *ante*, p. 2164, and note (*a*) to s. 1, *ante*, p. 2165. The preamble to this Act is repealed by the S. L. R. A., 1893 (No. 2).

Section 3.

Application of Act.

33 & 34 Vict. c. 70.

3. The provisions of this Act shall apply to every gas undertaking authorised by any special Act hereafter passed, or by any Provisional Order (*a*) made under the authority of the Gas and Water Facilities Act, 1870, save where the said provisions are expressly varied or excepted by any such special Act or Provisional Order; and every such special Act and Provisional Order is in this Act included in the term "the special Act" (*b*).

(*a*) Under the Gas Regulation Act, 1920, *post*, p. 2807, special orders may be made in lieu of provisional orders.

(*b*) The effect of ss. 1, 3 is that this Act is incorporated with special Acts passed before 1871 which incorporate the Act of 1847 (*Commercial Gas Co.* v. *Scott* (1876), L. R. 10 Q. B. 400; 40 J. P. 214; *Dudley Gaslight Co.* v. *Warmington* (1881), 50 L. J. M. C. 69; 45 J. P. 649; *South Metropolitan Gas Co.* v. *Noakes* (1889), 61 L. T. 556; 5 T. L. R. 448). See also *Leamington Priors Gas Co.* v. *Davis*, cited in the note to s. 35, *post*, p. 2323.

Interpretation. 10 & 11 Vict. c. 15. 33 & 34 Vict. c. 70.

4. Terms used in this Act have the same meanings respectively as the same terms have when used in the Gasworks Clauses Act, 1847, and in the Gas and Water Works Facilities Act, 1870.

The term "prescribed" in this Act shall mean prescribed by the special Act:

The term "premises" in this Act shall include house and building:

And the expression "superior courts" or "court of competent jurisdiction" in this Act or in any Act wholly or partially incorporated herewith, shall be read and have effect as if the debt or demand in respect of which the expression is used were an ordinary simple contract debt and not a debt or demand created by statute.

GENERAL PROVISIONS.

Prohibition against erecting gasworks elsewhere than on lands specified in special Acts.

5. The undertakers shall not manufacture gas, or any residual products, (*a*) except upon lands described in the special Act, and they shall not store gas, except upon those lands, without the previous consent in writing of the owner, lessee, and occupier of every dwelling-house situate within three hundred yards of the limits of the site where such gas is intended to be stored.

(*a*) As to the right of a gas company to manufacture residuals, see *Deuchar* v. *Gas Light and Coke Co.*, [1925] A. C. 691; 89 J. P. 177.

Sale of superfluous lands.

8 & 9 Vict. c. 18.

6. The undertakers may sell and dispose of any lands which are vested in them, or which they are authorised to purchase, or which they may hereafter acquire, and which shall not be required for the purposes of the undertaking, and the provisions of the Lands Clauses Consoldidation Act, 1845, ss. 128 to 132 (both sections inclusive), shall apply to any such sale (*a*); and the undertakers may also from time to time sell and dispose of any works, buildings, or erections on any lands belonging to them which shall not be required for the purposes of the undertaking.

(*a*) See the sections, *ante*, pp. 2133–2135.

Receipts of guardians, etc. to be sufficient discharge.

7. If any money be payable to a shareholder in a gas undertaking, being a minor, idiot, or lunatic, the receipt of his or her respective guardian or committee shall be a sufficient discharge to the undertakers for the same.

For appointment of receiver.

8. The mortgagees of the undertakers may enforce payment of arrears of interest or principal, or principal and interest, due on their mortgages, in England . . . by the appointment of a receiver . . .; and in order to authorise the appointment of a receiver . . . in respect of principal, or principal and interest, the amount owing to the mortgagees by whom the application for a receiver is made shall not be less than in the whole one thousand pounds, or such sum as shall be specified in the special Act (*a*). **Section 8.**

(*a*) Words relating to Scotland and Ireland only are omitted from this section.

9. Nothing in this or the special Act shall exonerate the undertakers from any indictment, action, or other proceeding for nuisance in the event of any nuisance being caused by them (*a*). Undertakers not exempted from indictment.

(*a*) See 10 & 11 Vict. c. 15, s. 29, and note thereto, *ante*, p. 2173. See also *Giblin* v. *District Committee of Lanarkshire C. C.*, [1927] S. L. T. 563 (nuisance from defective mains).

10. Persons empowered by the Lands Clauses Consolidation Act, 1845, to sell and convey or release lands, may, if they think fit, subject to the provisions of that Act, and of the Lands Clauses Consolidation Acts Amendment Act, 1860, grant to the undertakers any easement, right, or privilege, not being an easement of water, required for the purposes of the special Act, in, over, or affecting any such lands; and the provisions of the last-mentioned Acts with respect to lands and rent-charges, as far as the same are applicable in this behalf, shall extend and apply to such grants, or to such easement, rights, or privileges as aforesaid (*a*). Power to take easements, etc. by agreement. 23 & 24 Vict. c. 106.

(*a*) See 8 & 9 Vict. c. 18, s. 7, *ante*, p. 2091, and notes thereto.

SUPPLY OF GAS TO OWNERS AND OCCUPIERS OF PREMISES.

11. The undertakers shall (*a*), upon being required so to do by the owner or occupier of any premises situate within twenty-five yards from any main of the undertakers, or such other distance as may be prescribed (*b*), give and continue to give a supply of gas for such premises, under such pressure in the main as may be prescribed, and they shall furnish and lay any pipe that may be necessary for such purpose, subject to the conditions following; (that is to say), Undertakers to furnish sufficient supply of gas to owners and occupiers within the limits of the special Act.

The cost of so much of any pipe for the supply of gas to any owner or occupier as may be laid upon the property of such owner or in the possession of such occupier, and of so much of any such pipe as may be laid for a greater distance than thirty feet from any pipe of the undertakers, although not on such property, shall be defrayed by such owner or occupier.

Every owner or occupier of premises requiring a supply of gas shall—

Serve a notice upon the undertakers at their office, specifying the premises in respect of which such supply is required, and the day (not being an earlier day than a reasonable time (*c*) after the date of the service of such notice) upon which such supply is required to commence;

Enter into a written contract with the undertakers (if required by them so to do) to continue to receive and pay for a supply of gas for a period of at least two years, of such an amount that the rent payable for the same shall not be less than twenty pounds per centum per annum on the outlay incurred by the undertakers in providing any pipe to be provided by them for the purpose of such supply; and

Give to the undertakers (if required by them so to do) security (*d*) for the payment to them of all monies which may become due to them by such owner or occupier in respect of any pipe to be furnished by the undertakers and in respect of gas to be supplied by them.

Provided always, that the undertakers may, after they have given a supply of gas for any premises, by notice in writing, require the owner or occupier of such premises, within seven days after the date of the service of such notice, to give to them security for the payment of all moneys which

Section 11. may from time to time become due to them in respect of such supply, in case such owner or occupier has not already given such security, or in case any security given has become invalid, or is insufficient, and in case any such owner or occupier fails to comply with the terms of such notice, the undertakers may, if they please, discontinue to supply gas for such premises so long as such failure continues (*e*).

(*a*) The Board of Trade have power under s. 29 of 45 & 46 Vict. c. 56, *post*, p. 2453, to relieve gas undertakers from their obligation to supply gas in cases where there is a sufficient supply of electric light and the supply of gas has consequently ceased to be remunerative.

(*b*) Upon the true construction of s. 6 of the Metropolis Gas Act, 1860, a gas company is prohibited from furnishing to a customer a supply of gas for the purpose of consumption by him within a district assigned to another company, notwithstanding that the part of the customer's property through which the supply passes is within the district assigned to the company desirous of furnishing the supply (*Gas Light and Coke Co.* v. *South Metropolitan Gas Co.* (1889), 62 L. J. Ch. 123; 54 J P. 373). And see *Att.-Gen.* v. *West Gloucestershire Water Co.*, *ante*, p. 2165. As to furnishing supplies to premises outside the limits of supply, see the Gas Undertakings Act, 1929, s. 5, *post*, p. 3026.

(*c*) See as to what is a reasonable time, *South Metropolitan Gas Co.* v. *Noakes* (1889), 61 L. T. 556; 5 T. L. R. 448.

(*d*) See s. 16, *post*, p. 2319.

(*e*) If the owner of premises be adjudicated a bankrupt, the official receiver is not entitled to call on the company to continue the supply of gas, and where he has paid arrears of gas rates under protest in order to avoid the cutting off of the supply, the trustee in bankruptcy cannot recover back the arrears so paid from the gas company (*Ex parte Mason, In re Smith*, [1893] 1 Q. B. 323; 57 J. P. 72). Receivers and managers on behalf of debenture holders, whether appointed under a deed or by the court, are not on entering into possession entitled to demand a supply of gas without paying the arrears of gas rent due from the company that issued the debentures (*Paterson* v. *Gas Light and Coke Co.*, [1896] 2 Ch. 476; 60 J. P. 532). And see *Husey* v. *Gas Light and Coke Co.* (1902), 18 T. L. R. 299.

Quality of gas.

12. (*a*) The quality of the gas supplied by the undertakers shall, with respect to its illuminating power, be such as to produce at the testing place provided in conformity with this Act a light equal in intensity to that produced by the prescribed number of sperm candles of six in the pound, and such gas shall as to its purity not exhibit any trace of sulphuretted hydrogen when tested in accordance with the rules prescribed in that behalf in Part II. of the Schedule A. to this Act annexed.

(*a*) See hereon the provisions of the Gas Regulation Act, 1920, *post*, p. 2807.

Undertakers may require consumers to use meters.

22 & 23 Vict. c. 66.

13. Every consumer of gas supplied by the undertakers shall, if required to do so by them, consume such gas by a meter duly stamped under the authority of the Sale of Gas Act, 1859, and being a legal meter within the meaning of the said Act, or by a meter supplied or approved by the undertakers: Provided always, that where the provisions of the said Act are in force no meter shall be used unless the same shall be a legal meter within the meaning of the said Act, and that elsewhere the undertakers shall not refuse to approve of any meter which when duly tested according to the rules contained in the said Act for regulating measures used in sales of gas is found to be correct within the meaning of the said Act.

Undertakers to supply meters.

14. The undertakers shall supply to any owner or occupier of premises within the limits of the special Act requiring the same a meter for registering gas supplied by them: Provided always, that such owner or occupier shall, if required, previous to receiving such meter, give to the undertakers security for payment to them of the price of such meter if he desires to purchase the same, or of the rent of such meter if he desires to hire the same (*a*).

(*a*) This section imposes upon undertakers an obligation to affix meters (*Clayton* v. *Pontypridd U. D. C.* (1918), 82 J. P. 246).

Section 15.

Meters not to be connected or disconnected without notice.

15. No consumer shall connect any meter with any pipe through which gas is supplied by the undertakers to such meter, or disconnect any meter from any such pipe, unless he shall have given to the undertakers not less than twenty-four hours notice in writing of his intention so to do, and if any person acts in contravention of this section he shall be liable for each offence to a penalty not exceeding forty shilling (*a*).

(*a*) As to the recovery of this penalty, see s. 44, *post*, p. 2325. The giving of notice under this section does not affect the liability of a person to be convicted of an offence against s. 18 of the Act of 1847 (10 & 11 Vict. c. 15), *ante*, p. 2170, for substituting a larger pipe to increase the supply of gas (*Morrison Wood & Co* v. *West Ham Gas Co.* (1885), 49 J. P. 662; 52 L. T. 817). Where a gas company cut off the supply of gas, and the owner of the meter proceeded to remove it, it was held that he was a consumer within this section, and damages were awarded for injuries caused by an explosion consequent on the disconnected pipe, which was still charged from the main, being broken in the removal of the meter (*Paterson* v. *Blackburn Corporation* (1893), 9 T. L. R. 55).

Nature and amount of security.

16. Where any owner or occupier is required by the special Act to give security to the undertakers, such security may be by way of deposit or otherwise, and of such amount as he and the undertakers agree on, or as, in default of agreement, may be determined, on the application of either party, by two justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the justices shall be final and binding on all parties.

Consumer to keep his meter in proper order.

17. Every consumer of gas supplied by the undertakers shall at all times, at his own expense, keep all meters belonging to him whereby any gas of the undertakers is registered in proper order for correctly registering such gas, and in default of his so doing the undertakers may cease to supply gas through such meter. The undertakers shall have access to and be at liberty to take off, remove, test, inspect, and replace any such meter at all reasonable times, such taking off, removal, testing, inspecting, and replacing to be done at the expense of the undertakers if the meter be found in proper order, but otherwise at the expense of the consumer (*a*).

(*a*) Where gas is supplied by a penny-in-the-slot meter, and the customer is not negligent in the custody of the meter, he is not liable to pay over again for gas supplied should the pennies be abstracted from the meter by robbery (*Edmundson* v. *Longton Corporation* (1902), 19 T. L. R. 15). See also the cases collected in Michael and Will on Gas and Water, 6th ed., at p. 233.

Power to undertakers to let meters.

18. The undertakers may let for hire any meter for ascertaining the quantity of gas consumed or supplied, and any fittings thereto, for such remuneration in money, and on such terms with respect to the repair of such meter and fittings, and for securing the safety and return to the undertakers of such meter, as may be agreed upon between the hirer and the undertakers, and such remuneration shall be recoverable in the same manner as the rents or sums due to the undertakers for gas (*a*), and such meters and fittings shall not be subject to distress, or to the landlord's remedy for rent of the premises where the same may be used, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the persons in whose possession the same may be.

(*a*) See s. 23, *post*, p. 2320; see also ss. 39, 41, *post*, pp. 2324, 2325.

Undertakers to keep meter let for hire in repair.

19. The undertakers shall at all times, at their own expense, keep all meters let for hire by them to any consumer in proper order for correctly registering gas, and in default of their so doing the consumer shall not be liable to pay rent for the same during such time as such default continues. The undertakers shall, for the purposes aforesaid, have access to and be at liberty to remove, test, inspect, and replace any such meter at all reasonable times.

Section 20.

Register of gas meters to be primâ facie evidence.

20. The register of the meter shall be primâ facie evidence of the quantity of gas consumed, and in respect of which any rent is charged and sought to be recovered by the undertakers: Provided always, that if the undertakers and the consumer differ as to the quantity consumed, such difference may be determined, upon the application of either party, by two justices, who may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the justices shall be final and binding on all parties (*a*).

(*a*) See *South Metropolitan Gas Co.* v. *Bermondsey Borough Council* (1901), 17 T. L. R. 520; *In re Adolphe Crosbie, Ltd., Johnson and Hughes* v. *Adolphe Crosbie, Ltd.* (1910), 74 J. P. 25.

Power to enter buildings for ascertaining quantities of gas consumed.

21. Any officer appointed by the undertakers may at all reasonable times enter any building or land lighted with gas supplied by the undertakers in order to inspect the meters, fittings, and works for the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall for every such offence forfeit to the undertakers a sum not exceeding five pounds.

Power to remove meter and fittings.

22. In all cases in which a consumer of gas supplied by the undertakers ceases to require a supply of such gas, and in all cases in which the undertakers are authorised to take away and cut off the supply of gas from any premises, it shall be lawful for the undertakers, their agents, or workmen, after twenty-four hours notice in writing, under the hand of the secretary or other properly authorised officer of the undertakers, to the occupier, or if unoccupied, then to the owner or lessee, or to the agent or the owner or lessee, of any premises in which any pipes, meters, fittings, or apparatus belonging to the undertakers are laid or fixed, and through or in which the supply of gas is from any such cause discontinued, to enter such premises between the hours of nine in the morning and four in the evening, for the purpose of removing and to remove such pipes, meters, fittings, or apparatus, repairing all damage caused by such entry or removal.

Recovery of charges for gas.

23. In case any person who shall have been supplied with gas by the undertakers shall neglect or refuse to pay the amount due in respect of such supply, any justice may issue his summons to such person, requiring him to appear at a time and place named therein, and then and there to show cause why the sum so demanded should not be paid; and if on the appearance of such person, or in default of appearance after proof of the service of the summons, either personally or at the last known place of abode or of business of such person, no sufficient cause can be shown to the contrary, any justice may issue his warrant of distress for the seizure and sale of the goods and chattels of such person, for the recovery of the amount which may be proved before such justice to be due from such person, together with such costs, including the cost of cutting off the gas, if the same shall have been cut off by the undertakers, as to such justice shall seem just and reasonable (*a*).

(*a*) It seems to be doubtful whether the sum due will now be recoverable as a civil debt under the S. J. A., 1879, ss. 6, 35, 47. See 52 J. P. 316. As to the effect of liquidation or bankruptcy on the right to distrain, see *Ex parte Hill, In re Roberts* (1877), 6 Ch. D. 63, and *Ex parte Harrison, In re Peake, post*, p. 2325.

SUPPLY OF GAS TO LOCAL AUTHORITIES.

Supply and price of gas to public lamps.

24. The undertakers shall supply gas to any public lamps within the distance of fifty yards from any of the mains of the undertakers in such quantities as the local authority of each district or the trustees of any turnpike road or any highway board within the limits of the special Act may from time to time require to be supplied, and the price to be charged by the undertakers and to be paid to them for all gas so supplied shall be settled by agreement between the local authorities and the undertakers, and in case of difference by arbitration, regard being had to the circumstances of the case and the prices charged to private consumers in the district (*a*).

(*a*) See, however, s. 29 of the Electric Lighting Act, 1882, *post*, p. 2453, under which the Board of Trade have power in certain cases to relieve gas undertakers from obligations to supply gas. In a case which turned upon the construction of a special Act a company were held entitled to the full price for gas supplied to public lamps though by reason of exceptional frosts they had been unable to afford the full supply (*In re Richmond Gas Co. and the Richmond Corporation*, [1893] 1 Q. B. 56; 56 J. P. 776). A Bill promoted by a gas company to raise the price of gas to private consumers does not affect the rights, privileges or duties of the local authority, being a large consumer for public lighting in the district, so as to enable the local authority to pay the costs of opposing the Bill out of public funds under their control, either under the Borough Funds Act, 1872, or independently of it (*Att.-Gen.* v. *Swansea Corporation*, [1898] 1 Ch. 602; 62 J. P. 408). The undertakers have no right to lay a connection pipe to a public lamp through private property (*Bellamy* v. *Liverpool United Gas Light Co.* (1904), 68 J. P. 540; 2 L. G. R. 1182). Where an agreement for the supply of gas for public lighting was indefinite in point of time and contained no provision for determination by either party, it was held on the construction of the agreement that it might be determined by notice (*Crediton Gas Co.* v. *Crediton U. D. C.*, [1928] Ch. 447; 92 J. P. 76).

As to consumption of gas supplied to the public lamps.

25. The gas supplied to the public lamps within the limits of the special Act shall be consumed by meter, at the option either of the local authority of the district or the undertakers, and in case of its being consumed by meter the meter shall be provided and fixed by the undertakers, and be paid for by the party requiring it.

If the gas is supplied to the public lamps in any district by average meter indication, the undertakers shall, for securing uniformity of consumption between metered and unmetered lamps, from time to time provide the public lamps in such district with proper self-acting pressure regulators and burners to the satisfaction of the local authority of such district; and the average amount of the indications of all the metres attached to the public lamps within such district under the control of the local authority shall, except as hereinafter mentioned, be deemed to be the amount consumed by each such lamp in such district.

Governors for street lamps.

26. In case gas is supplied to the public lamps in any district by the undertakers, they or the local authority of such district may, at their own expense, cause to be affixed to each lamp the instrument known as a street lamp governor, and the undertakers or such local authority (as the case requires) shall be entitled to have access thereto for the purpose of examining the same.

Settlement of differences by arbitration.

27. Any difference which may arise between the undertakers and any local authority in relation to the supply or consumption of gas to or by such local authority shall be from time to time settled by arbitration in manner provided by the Companies Clauses Consolidation Act, 1845, with respect to the settlement of disputes by arbitration.

8 & 9 Vict. c. 16.

TESTING OF GAS (*a*).

Testing place.

28. The undertakers shall cause to be provided, at the place prescribed and within the prescribed time, a testing place, with apparatus therein, for the purposes following, or such of them as may be prescribed by the special Act, that is to say,—

1. For testing the illuminating power of the gas supplied:
2. For testing the presence of sulphuretted hydrogen in the gas supplied.

Section 28.

The said apparatus shall be in accordance with the regulations (*b*) prescribed in Part I. of the Sched. A. to this Act annexed, or according to such rules as may from time to time be substituted in lieu thereof by any special Act, and shall be so situated and arranged as to be used for the purpose of testing the illuminating power and purity of the gas supplied by the undertakers, and the undertakers shall at all times thereafter keep and maintain such testing place and apparatus in good repair and working order.

(*a*) See, hereon, s. 5 (3) and s. 19 of the Gas Regulation Act, 1920, *post*, pp. 2811, 2817.

(*b*) As to subsequent improvements in such apparatus, see *Brentford Gas Co.* v. *Chiswick U. D. C.* (1908), 72 J. P. 378; 6 L. G. R. 725.

Appointment and powers of gas examiners.

29. The local authority of any district within the limits of the special Act, where the gas is not supplied by such local authority, may after the passing of the special Act from time to time appoint, or may appoint and keep appointed, a competent and impartial person to be a gas examiner to test the gas at the testing place provided in conformity with the provisions of this Act; and such gas examiner may there test the illuminating power and purity of the gas supplied by the undertakers, on any or every day between the hours of five o'clock and ten o'clock in the afternoon from the first day of October to the thirty-first day of March, both inclusive, and on any or every day between the hours of eight o'clock and eleven o'clock in the afternoon from the first day of April to the thirtieth day of September, both inclusive (*a*).

(*a*) The provisions of this section have been superseded by s. 4 (3) and s. 19 of the Gas Regulation Act, 1920, *post*, pp. 2810, 2817. It was held under the superseded section that testing might be carried on on Sundays (*London C. C.* v. *South Metropolitan Gas Co.*, [1904] 1 Ch. 76; 68 J. P. 5), and that an action would lie at the instance of the local authority to enforce the right of the gas examiners to test accordingly (*ibid.*). See now s. 5 of the Gas Regulation Act, 1920, *post*, p. 2811.

The L. G. B. informed a rural district council that it did not appear to them that the council had any power under the section to appoint a gas examiner to test the gas supplied in the parishes forming the rural district. They were of opinion that the parish councils in the district within the limits of the gas company were the local authority for the purposes of the Act.

Two justices may appoint gas examiners.

30. Where no such gas examiner is appointed, or where the testing of the gas is imperfectly attended to by the local authority, two justices, on the application of consumers of the gas of the undertakers, not being less than five, by order in writing may appoint some competent and impartial person to be gas examiner, and such person may at any time within the hours aforesaid, on producing the said order, enter on the premises of the undertakers, and there test the illuminating power and purity of the gas supplied by them (*a*).

(*a*) The provisions of this section have been superseded by s. 4 (4) and s. 19 of the Gas Regulation Act, 1920, *post*, pp. 2810, 2817.

Representation of undertakers.

31. The undertakers may, if they think fit, on each occasion of the testing of the gas by the gas examiner, be represented by some officer, but such officer shall not interfere in the testing.

Mode of testing.

32. (*a*) Any tests taken in pursuance of this Act shall be taken in accordance with the rules prescribed in Part II. of the Sched. A. to this Act annexed.

(*a*) See hereon s. 5 of the Gas Regulation Act, 1920, *post*, p. 2811.

Report of gas examiner.

33. The gas examiner shall, on the day immediately following that on which the testing of the illuminating power or purity of the gas has been conducted, make and deliver a report of the results of his testing to the local authority or justices by whom he was appointed, and to the undertakers, and such report shall be receivable in evidence.

Access to testing place.

34. The undertakers shall give to the gas examiner and to his assistants, and to every local authority within the limits of the special Act, and their agents, access to the testing place, and shall afford all facilities for the proper execution of this Act; and in case the undertakers make default in complying with any of the provisions of this section they shall for every such default be liable to a penalty not exceeding five pounds to the local authority or to the persons making the application (*a*).

(*a*) See hereon s. 5 (3) and s. 19 of the Gas Regulation Act, 1920, *post*, pp. 2811, 2817.

ACCOUNTS.

Accounts, etc.

35. The undertakers shall fill up and forward to the local authority of every district within the limits of the special Act, on or before the twenty-fifth day of March in each year, an annual statement of accounts, made up to the thirty-first day of December then next preceding, as near as may be in the form and containing the particulars specified in the Schedule B. to this Act annexed.

The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling for each such copy.

The Board of Trade, with the consent of the undertakers, may alter the aid forms for the purpose of adapting them to the circumstances of the undertaking, or of better carrying into effect the objects of this section.

In case the undertakers make default in complying with the provisions of this section they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues (*a*).

(*a*) This section is now superseded by s. 15 of the Gas Regulation Act, 1920, *post*, p. 2816. A local Act which incorporated the Gasworks Clauses Act, 1847, except so far as it might be varied by the special Act, prescribed by s. 32 a special form in accordance with which the annual accounts of the company were to be made up, in lieu of the provisions contained in s. 38 of the Act of 1847. By s. 49 of the Act of 1847 undertakers are not to be exempted from any general Act relating to gasworks which may be passed in any future session. The appellants made out their annual statement of accounts in the form prescribed by s. 32 of their special Act, and did not furnish to the respondent, on application, a copy of an annual statement in the form prescribed by the text:—*Held*, distinguishing *Dudley Gaslight Co.* v. *Warmington*, *ante*, p. 2316, that as the appellants' special Act prescribed the form in which the annual statement of accounts was to be made up, the provisions in the text relating to the form of accounts did not apply (*Leamington Priors Gas Co.* v. *Davis* (1887), 18 Q. B. D. 107; 51 J. P. 360).

PENALTIES.

Penalty for failure to supply gas.

36. Whenever the undertakers neglect or refuse to give a supply of gas to any owner or occupier of premises within the limits of the special Act entitled to the same, under such pressure as is prescribed, they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues (*a*).

Whenever the undertakers neglect or refuse to supply gas as by this Act required to all or any of the public lamps in accordance with the provisions of this Act, they shall be liable to a penalty not exceeding forty shillings for each default (*b*).

If it shall be proved to the satisfaction of any two justices, not being shareholders in the undertaking, after hearing the parties, that on any day the gas supplied by the undertakers is under less pressure, of less illuminating power, or of less purity than it ought to be according to the provisions of this or the special Act, the undertakers shall in every such case forfeit and pay to the local authority or other persons making application for testing the gas such sum not exceeding twenty pounds as the justices shall determine.

Penalties not cumulative.

Penalties imposed on the undertakers for one and the same offence by several Acts of Parliament shall not be cumulative, and for such purpose the special Act and the Acts incorporated therewith shall be deemed several Acts.

(*a*) A company who improperly cut off a supply of gas are liable under this section (*Commercial Gas Co.* v. *Scott* (1876), L. R. 10 Q. B. 400; 40 J. P. 214). The remedy under this section or by indictment are the only remedies for the supply of insufficient or impure gas. No action will lie against the undertakers (*Clegg, Parkinson & Co.* v. *Earby Gas Co.*, [1896] 1 Q. B. 592). Judgment in the High Court on a case stated by justices on an information under this section is a judgment in a criminal cause or matter, and no appeal lies to the Court of Appeal (*Southport Corporation* v. *Birkdale U. D. C.* (1897), 76 L. T. 318; 18 Cox, C. C. 537).

(*b*) As to the liability of the company when the supply to public lamps has been prevented by exceptional frosts, see *In re Richmond Gas Co. and Richmond Corporation*, *ante*, p. 2321. In view of s. 7 of the Gasworks Clauses Act, 1847, *ante*, p. 2167, the undertakers are not liable to penalties under this section for neglect or refusal to supply gas to a lamp in a private passage where the owner objects to their laying the pipe (*Bellamy* v. *Liverpool United Gas Co.* (1904), 68 J. P. 540; 2 L. G. R. 1182).

Cost of experiment to be paid according to event.

37. Where the gas examiner is appointed by the justices as aforesaid, the costs of and attending such experiment, including the remuneration to be paid to the person making the same, and the costs of the proceedings before the justices, shall be ascertained by such justices, and in the event of any penalty being imposed on the undertakers shall be paid, together with such penalty, by the undertakers, but in the event of no penalty being imposed the costs shall be in the discretion of the justices (*a*).

(*a*) See as to appointment of gas examiners, s. 4 (4) of the Gas Regulation Act, 1920, *post*, p. 2810.

Penalty for injuring meters.

38. Every person who wilfully, fraudulently, or by culpable negligence injures or suffers to be injured any pipes, meter, or fittings belonging to the undertakers, or alters the index to any meter, or prevents any meter from duly registering the quantity of gas supplied, or fraudulently abstracts, consumes, or uses gas of the undertakers, shall (without prejudice to any other right or remedy for the protection of the undertakers or the punishment of the offender) for every such offence forfeit and pay to the undertakers a sum not exceeding five pounds, and the undertakers may in addition thereto recover the amount of any damage by them sustained; and in any case in which any person has wilfully or fraudulently injured or suffered to beinjured any pipes, meter, or fittings belonging to the undertakers, or altered the index to any meter, or prevented any meter from duly registering the quantity of gas supplied, the undertakers may also, until the matter complained of has been remedied, but no longer, discontinue the supply of gas to the person so offending (notwithstanding any contract previously existing); and the existence of artificial means for causing such alteration or prevention, or for abstracting, consuming, or using gas of undertakers, when such meter is under the custody or control of the consumer, shall be primâ facie evidence that such alteration, prevention, abstraction, or consumption, as the case may be, has been fraudulently, knowingly, and wilfully caused by the consumer using such meter.

RECOVERY OF GAS RENTS.

Incoming tenants not liable to pay arrears of gas rents, etc.

39. In case any consumer of gas supplied by the undertakers leaves the premises where such gas has been supplied to him without paying the gas rent or meter rent due from him, the undertakers shall not be entitled to require from the next tenant of such premises the payment of the arrears left unpaid by the former tenant, unless such incoming tenant has undertaken with the former tenant to pay or exonerate him from the payment of such arrears (*a*). **Section 39.**

(*a*) See *Gaslight and Coke Co.* v. *Meade* (1876), 45 L. J. M. C. 71; 40 J. P. 662; *Cannon Brewery Co.* v. *Gaslight and Coke Co.*, [1904] A. C. 331; 68 J. P. 461; *Ex parte Mason, In re Smith*, and *Paterson* v. *Gas Light and Coke Co.*, *ante*, p. 2318.

40. If any person supplied with gas or with any gas meter or fittings by the undertakers neglect to pay to the undertakers the rent due for such gas or the rent (*a*) or money due to the undertakers for the hire or fixing of such meter, or any expenses lawfully incurred by the undertakers in cutting off the gas from the premises of such person, the undertakers may recover the sum so due in like manner as a penalty under this Act. Recovery of rents, etc.

(*a*) This is not a *rent* within the meaning of the Bankruptcy Act, 1869, s. 34. See *Ex parte Harrison, In re Peake* (1883), 13 Q. B. D. 753.

41. Whenever any person neglects to pay any rent or sum due and payable by him to the undertakers, the undertakers may recover the same with full costs of suit, in any court of competent jurisdiction, and the remedy of the undertakers under this enactment shall be in addition to their other remedies for the recovery of such rent or sum. Recovery of sums due to undertakers.

LEGAL PROCEEDINGS.

42. Any summons or warrant issued for any of the purposes of this Act may contain, in the body thereof or in a schedule thereto, several names and several sums. Contents of summons or warrant.

43. Any justice who issues a warrant of distress in pursuance of the provisions of this Act may order that the costs of the proceedings for the recovery of the money to be levied shall be paid by the person liable to pay such money, and such costs shall be ascertained by the justice, and shall be included in the warrant of distress for the recovery of such money. Warrant of distress shall include costs.

44. All offences and penalties under this Act, and all money forfeited, and all money and costs by this Act directed to be recovered as penalties, may be prosecuted and recovered in manner directed by the Gasworks Clauses Act, 1847, with respect to the recovery of penalties (*a*). Summary proceedings. 10 & 11 Vict. c. 15.

(*a*) See 10 & 11 Vict. c. 15, s. 40, *ante*, p. 2176, incorporating 8 & 9 Vict. c. 20, ss. 140 *et seq.*, *ante*, p. 2139.

45. Every notice which the undertakers are by this Act required to serve upon any person shall be served by being delivered to the person for whom it is intended, or by being left at his usual or last known place of abode, or sent by post addressed to such persons, or if such person or his address be not known to the undertakers, and cannot after due inquiry be found or ascertained, then by being affixed for three days to some conspicuous part of the premises to which such notice relates. Service of notices by undertakers.

46. No justice or judge or any county court or quarter sessions shall be disqualified from acting in the execution of this Act by reason of his being liable to the payment of any gas rent or other charge under this Act. Liability to gas rent not to disqualify justices from acting.

SCHEDULES.

SCHEDULE A.

[Sect. 28.]

PART I.

Regulations in respect of Testing Apparatus.

1. *The apparatus for testing the illuminating power of the gas* shall consist of the improved form of Bunsen's photometer, known as Letheby's open 60-inch photometer, or Evans' inclosed 100-inch photometer, together with a proper meter, minute clock, governor, pressure gauge, and balance.

The burner to be used for testing the gas shall be such as shall be prescribed.

The candles used for testing the gas shall be sperm candles of six to the pound, and two candles shall be used together.

2. *The apparatus*—

(a) *For testing the presence in the gas of sulphuretted hydrogen.*—A glass vessel containing a strip of bibulous paper moistened with a solution of acetate of lead, containing sixty grains of crystallized acetate of lead dissolved in one fluid ounce of water.

[Sects. 12, 32.]

PART II.

Rules as to mode of Testing Gas.

I.—*Mode of Testing for Illuminating Power.*

The gas in the photometer is to be lighted at least fifteen minutes before the testings begin, and it is to be kept continuously burning from the beginning to the end of the tests.

Each testing shall include ten observations of the photometer made at intervals of a minute.

The consumption of the gas is to be carefully adjusted to five cubic feet per hour.

The candles are to be lighted at least ten minutes before beginning each testing, so as to arrive at their normal rate of burning, which is shown when the wick is slightly bent and the tip glowing. The standard rate of consumption for the candles shall be 120 grains each per hour. Before and after making each set of ten observations of the photometer the gas examiner shall weigh the candles, and if the combustion shall have been more or less per candle than 120 grains per hour, he shall make and record the calculations requisite to neutralise the effects of this difference.

The average of each set of ten observations is to be taken as representing the illuminating power of that testing.

II.—*Mode of Testing.*

(a) *For sulphuretted hydrogen.*—The gas shall be passed through the glass vessel containing the strip of bibulous paper moistened with the solution of acetate of lead for a period of three minutes, or such longer period as may be prescribed; and if any discoloration of the test paper is found to have taken place, this is to be held conclusive as to the presence of sulphuretted hydrogen in the gas.

SCHEDULE B (*a*).

(*a*) This Schedule is omitted because of the provision of s. 15 of the Gas Regulation Act, 1920, *post*, p. 2816.

THE LOCAL GOVERNMENT BOARD ACT, 1871.

(34 & 35 VICT. c. 70) (*a*).

An Act for constituting a Local Government Board, and vesting therein certain functions of the Secretary of State and Privy Council concerning the Public Health and Local Government, together with the powers and duties of the Poor Law Board. [14th August, 1871.]

PRELIMINARY.

1. This Act may be cited as "The Local Government Board Act, 1871." Short title.

(*a*) See 21 & 22 Vict. c. 97, *ante*, p. 2254.

ESTABLISHMENT OF LOCAL GOVERNMENT BOARD (*a*).

2. A Board shall be established, to be called the Local Government Board, and all powers and duties vested in or imposed on the Poor Law Board by the several Acts of Parliament relating to the relief of the poor and any other Acts, or vested in or imposed on one of her Majesty's principal Secretaries of State, by the enactments in that behalf mentioned in the first part of the Schedule annexed hereto, so far as such powers and duties relate to England (*b*), or vested in or imposed on her Majesty's most honourable Privy Council by the enactments in that behalf specified in the second part of the said Schedule, shall be transferred to and imposed on the said Local Government Board, and except as otherwise provided by this Act, shall be exercised and performed by such Board in like manner and form, and subject to the same conditions, liabilities, and incidents respectively as such powers and duties might before the passing of this Act have been exercised and performed by the authorities in whom the same were then vested respectively, or as near thereto as circumstances admit. Establishment of Local Government Board.

(*a*) A Minister of Health was created by the Ministry of Health Act, 1919, and by s. 3 (1) of that Act and an Order in Council made thereunder, which came into operation on 1st July, 1919, all the powers and duties of the L. G. B. were transferred to the Ministry of Health. Many other powers and duties theretofore vested in or imposed on other Government departments were by the same Act and Orders in Council made thereunder transferred to the Minister. See the Act and the Orders in Council, *post*, p. 2751.

(*b*) See the additional powers transferred to the Board by 35 & 36 Vict. c. 79, ss. 34—36, and preserved by 38 & 39 Vict. c. 55, Sched. V., Part III., *ante*, p. 704.

3. [*Constitution of Local Government Board*] (*a*).

(*a*) These sections were repealed by s. 11 (2) and the Second Schedule to the Ministry of Health Act, 1919, *post*, pp. 2755, 2756.

4. [*President and one of the secretaries may sit in Parliament*] (*a*).

(*a*) See note (*a*) to s. 3, *supra*.

5. [*Seal, style, and acts of Board*] (*a*).

(*a*) See note (*a*) to s. 3, *supra*.

6. [*Distribution of business*] (*a*).

(*a*) See note (*a*) to s. 3, *supra*.

7. In the construction of and for the purposes of any Act of Parliament, contract, or other document passed, entered into, or made before the establishment of the Local Government Board, but so far only as may be necessary for exercising the powers and discharging the duties by this Act transferred to and imposed on the Local Government Board, the name of such Board shall, according to circumstances, be deemed to be substituted for the Poor Construction of Acts and documents and power of Local Government Board.

Section 7. Law Board, one of her Majesty's principal Secretaries of State (*a*), or her Majesty's most honourable Privy Council, as the case may require; and any Act or thing which might, if this Act had not passed, have been done by the Poor Law Board, or by one of her Majesty's principal Secretaries of State, or by her Majesty's most honourable Privy Council, so far as relates to the powers and duties hereby transferred, may be done by the Local Government Board.

(*a*) See further, 35 & 36 Vict. c. 79, s. 34, re-enacted, *ante*, p. 704, whereby the consent of the L. G. B. was substituted for that of other departments in the cases there stated.

Duplicate returns to be sent to Local Government Board.

8. Where under an Act, whether passed before or after the passing of this Act, any return relative to any rate, toll, tax, or due raised in England (other than such as is raised for the public revenue of the United Kingdom) is required to be sent to one of her Majesty's Secretaries of State or any other department of the Government, a duplicate of such return shall in like manner be sent to the Local Government Board, and any person failing to send the same shall be subject to the like penalties as a person neglecting to send any return under the Local Taxation Returns Act, 1860 (*a*).

23 & 24 Vict. c. 51.

(*a*) See the Local Taxation Returns Act, 1860, *ante*, p. 2257, and 1877, *post*, p. 2400; also the District Auditors Act, 1879, s. 3, *post*, p. 2405. By reason of the provisions of the Ministry of Health Act, 1919, these returns must now be sent to the Ministry of Health.

SCHEDULE REFERRED TO IN THE FOREGOING ACT (*a*).

Sect. 2.

PART I.

Powers and Duties of Secretary of State.

Subject.	Act.
Registration of Births, Deaths, and Marriages	6 & 7 Will. 4, c. 86. 7 Will. 4 & 1 Vict. c. 22.
Baths and Washhouses	9 & 10 Vict. c. 74. 10 & 11 Vict. c. 61.
Public Improvement	23 & 24 Vict. c. 30.
Towns Improvement	10 & 11 Vict. c. 34.
Returns. Local Taxation	23 & 24 Vict. c. 51. And any Acts amending the said Acts, and conferring powers on the said Secretary of State.

(*a*) Several of the Acts originally contained in this Schedule are consolidated in the P. H. A., 1875, and have been entirely repealed and are, therefore, here omitted; the others are printed in this Appendix in so far as they concern local authorities.

PART II.

Powers and Duties of Privy Council.

Subject.	Act.
Vaccination	30 & 31 Vict. c. 84. And any Acts amending the said Acts, and conferring powers on the said Privy Council.

THE STEAM WHISTLES ACT, 1872.

(35 & 36 VICT. c. 61.)

An Act to Regulate the Use of Steam Whistles in certain Manufactories (a).
[6th August, 1872.]

1. The Act shall not apply to Scotland. Extent.

(a) The short title to this Act is as enacted by the Short Titles Act, 1896. The clause of enactment to this Act was repealed by the S. L. R. (No. 2) A., 1893.

2. No person shall use or employ in any manufactory, or any other place, any steam whistle (a) or steam trumpet for the purpose of summoning or dismissing workmen or persons employed without the sanction of the sanitary authority, and every person offending against this section shall be liable to a penalty not exceeding five pounds, and to a further penalty not exceeding forty shillings for every day during which such offence continues: Provided always, that the sanitary authority, in case they have sanctioned the use of any such instrument as aforesaid, may at any time revoke such sanction on giving one month's notice to the person using the same: Provided also, that it shall be lawful for the Local Government Board (b), on representation made to them by any person that he is prejudicially affected (c) by such sanction, to revoke the same, and such revocation shall have the same force and effect as if it had been made by the sanitary authority. Use of steam whistles and trumpets.

(a) L. formerly used a whistle directly connected with an engine boiler, but disconnected it, and used thereafter a gas engine to compress air and store it in a reservoir in his factory, and the same pipe connected therewith produced the same noise:—*Held*, that this was a "steam whistle," and required the consent of the sanitary authority pursuant to the above section (*Herbert* v. *Leigh Mills Co.* (1889), 53 J. P. 679; 5 T. L. R. 449).

(b) Now the M. of H. See Ministry of Health Act, 1919, *post*, p. 2751.

(c) Probably the sanitary authority would be guided by general and public considerations only in granting and revoking licences. The appeal to the M. of H. may, however, be of a personal character, and may be on the ground of annoyance, though this would doubtless have to be shown to be serious in order to succeed. The M. of H., it is believed, are guided by an opinion expressed by the Law Officers of the Crown as to the precise meaning to be attached to the words "prejudicially affected."

3. "Sanitary authority" means the authority at the time being empowered to execute the Nuisance Removal Acts, as defined and extended by the Sanitary Act, 1866 (a). Definition. 29 & 30 Vict. c. 90.

(a) Now the P. H. A., 1875. See s. 313 of that Act, *ante*, p. 655.

4. All offences and penalties under this Act may be prosecuted and recovered in England in manner directed by the Summary Jurisdiction (England) Acts . . . Legal procedure. 11 & 12 Vict. c. 43, etc.

THE METALLIFEROUS MINES REGULATION ACT, 1872.

(35 & 36 VICT. c. 77.)

An Act to Consolidate and Amend the Law relating to Metalliferous Mines (a).
[10th August, 1872.]

* * * * * *

13. Where any mine to which this Act applies (b) is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurred (c), the owner thereof, and every other person interested in the minerals of the mine (d), shall cause the top of the shaft Fencing of abandoned mine.

Section 13.

and any side entrance from the surface to be and to be kept securely fenced for the prevention of accidents (*e*).

Provided that—

(1) Subject to any contract to the contrary, the owner of the mine shall, as between him and any other person interested in the minerals of the mine, be liable to carry into effect this section, and to pay any costs incurred by any other person interested in the minerals of the mine in carrying this section into effect:

(2) Where such abandonment or discontinuance has occurred in the case of a mine before the passing of this Act, this section shall apply only to such shaft or side entrance of the mine as is situate within fifty yards of any highway, road, footpath, or place of public resort, or in open or unenclosed land, or not being situate as aforesaid, is required by an inspector in writing to be fenced, on the ground that it is specially dangerous:

(3) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

If any person fail to act in conformity with this section he shall be guilty of an offence against this Act (*f*).

Any shaft or side entrance which is not fenced as required by this section, and is within fifty yards of any highway, road, footpath, or place of public resort, or is in open or unenclosed land, or is required by an inspector as aforesaid to be fenced, shall be deemed to be a nuisance within the meaning of section eight of the Nuisances Removal Act for England, 1855, as amended and extended by the Sanitary Act, 1866 (*g*).

18 & 19 Vict. c. 121.
29 & 30 Vict. c. 90.

(*a*) The preamble and clause of enactment of this Act have been repealed by the S. L. R. (No. 2) A., 1893.

The Coal Mines Regulation Act, 1872, referred to in the preamble, is now represented by the Coal Mines Act, 1911, which contains (see s. 26, p. 2711, *post*) a provision on the same point. See also the Quarry Fencing Act, 1887, *post*, p. 2488.

(*b*) By s. 3 (construed in accordance with s. 83 of the Coal Mines Regulation Act, 1887, and s. 38 (1) of the Interpretation Act, 1889), this Act applies to every mine of whatever description other than a mine to which the Coal Mines Act, 1911, applies: as to which see s. 1 of that Act, *post*, p. 2710. By s. 39, if any question arises whether a mine is one to which this Act or that Act applies, such question shall be referred to a Secretary of State, whose decision thereon shall be final. See *Sims* v. *Evans* (1875), 23 W. R. 730.

(*c*) This applies to mines abandoned before this Act (*Stott* v. *Dickinson* (1876), 34 L. T. 291). Notice must be given to the inspector of mines when a shaft is abandoned or working thereof discontinued (s. 12).

(*d*) By s. 41, the term "owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and does not include a person or body corporate who merely receives a royalty rent or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mines. Where a mine was abandoned the owner, who had let it on lease for a term of years subject to a rent or royalties, was held to be a person interested in the minerals within this section, though the lease was still in force and undetermined (*Evans* v. *Mostyn* (1877), 2 C. P. D. 547; 41 J. P. 775). Where a person had a lease of a mine from the Duchy of Cornwall on the terms that he was to pay as rent all he might receive in respect of the mine, and 5*s*. yearly in addition, it was held that he was not the owner nor interested within this section (*Arkwright* v. *Evans* (1880), 49 L. J. M. C. 82). Where a lease had expired, the lessee was held not liable, though by his covenant he had agreed to fence abandoned shafts (*Stott* v. *Dickinson*, *supra*). Harbour trustees having a licence to take flints and chalk from a quarry at a certain price, were held not to be owners nor interested in the minerals so as to be obliged to fence it (*Foster* v. *Newhaven Harbour Trustees* (1897), 61 J. P. 629; 13 T. L. R. 292). But a lord of the manor entitled to dues of lot, cope, and the third meer under the Derbyshire Mining Act, 1852, was held interested in the minerals and bound to fence (*Devonshire* (*Duke*) v. *Stokes* (1897), 61 J. P. 406; 76 L. T. 424). So also was the owner of the soil of an abandoned lead mine being owner of the calc-spar and calk (barytes) it contained (*Stokes* v. *Arkwright* (1897), 66 L. J. Q. B. 845; 61 J. P. 775).

Note to Section 13.

A local authority in whom is vested by statute a public well formed by an accumulation of water in the disused shaft of a mine, is not liable under this section to keep the shaft fenced for the prevention of accidents (*Knuckey* v. *Redruth R. D. C.*, [1904] 1 K. B. 382; 68 J. P. 172).

(*e*) A wall round an enclosure ten acres in extent, in which there is a side entrance to a mine, is not a sufficient fence round the side entrance within the meaning of this section (*Foster* v. *Owen* (1893), 62 L. J. M. C. 7; 57 J. P. 87).

(*f*) As to penalties, see s. 31. By s. 35, "No prosecution shall be instituted against the owner or agent of a mine to which this Act applies for any offence under this Act which can be prosecuted before a court of summary jurisdiction, except by an inspector or with the consent in writing of a Secretary of State." But where the inspector has determined on a prosecution, the information may be laid in his name by an agent employed by him (*Foster* v. *Fyfe*, [1896] 2 Q. B. 104; 60 J. P. 423).

(*g*) See now the P. H. A., 1875, ss. 91, 313, pp. 174, 655, *ante*, and cf. notes to Quarry Fencing Act, 1887, *post*, p. 2488.

* * * * * *

THE BOROUGH FUNDS ACT, 1872.

(35 & 36 VICT. c. 91) (*a*).

An Act to authorise the application of Funds of Municipal Corporations and other Governing Bodies in certain cases. [10th August, 1872.]

Interpretation of terms.

1. The term "governing body" in this Act shall mean the council of any municipal borough, the board of health, local board, commissioners, trustees, or other body acting under any general or local Act of Parliament for the management, improvement, cleansing, paving, lighting, and otherwise governing places or districts, and the term "district" shall mean the borough, place, township, or district within which the governing body may for the time being have jurisdiction (*b*): Provided, however, that in the borough of Cambridge, in any matters affecting the constitution, power, or functions of the Board of Cambridge Improvement Commissioners, as defined in the several Acts of Parliament relating thereto, the term "governing body" shall mean such board of improvement commissioners, and not the council of the borough of Cambridge (*c*).

(*a*) By the Short Titles Act, 1896, this Act, sometimes called Leeman's Act, may be cited as the Borough Funds Act, 1872, without prejudice to any other mode of citation. It has been amended by the Borough Funds Act, 1903, *post*, p. 2658, which has in turn been amended by s. 3 of the L. G. (County Boroughs and Adjustments) Act, 1926, *ante*, p. 1794. The preamble and clause of enactment of this Act were repealed by the S. L. R. (No. 2) A., 1893. The preamble recited 20 & 21 Vict. c. 50, and 5 & 6 Will. 4, c. 76, s. 92, both repealed by 45 & 46 Vict. c. 50. Also it referred to the powers of improving, cleansing, paving, etc. conferred on boards of health under 11 & 12 Vict. c. 63, and 21 & 22 Vict. c. 98, repealed by the P. H. A., 1875, s. 343, *ante*, p. 641; but see s. 313 of that Act, *ante*, p. 655.

(*b*) This definition was formerly considered not to include rural district councils, but by s. 55 of the L. G. A., 1929, *ante*, p. 1919, the Borough Funds Acts (with the exception of s. 1, etc. of the 1903 Act as to meetings and polls of electors) are expressly applied to such councils, and the definition of "governing body" in this section is to include a rural district council.

An outbreak of fever having occurred in the defendants' district, the L. G. B. required the defendants to provide a proper water supply. The defendants applied for a Provisional Order, but as they proposed to interfere with certain water rights, the L. G. B. pointed out that, having regard to s. 327 of the P. H. A., 1875, *ante*, p. 660, the procedure must be by Bill, and the defendants thereupon introduced a Bill, which was opposed and eventually thrown out. The plaintiff had acted as the defendants' solicitor, and he claimed payment of the costs in connection with the Bill from the defendants. It was argued that the provisions of the Act applied to a rural sanitary authority, and that the defendants had not complied with these provisions. The court gave no decision on this point, but held that, although the defendants were bound to provide a proper supply of water, they had no duty to apply to Parliament for statutory powers, and consequently

Note to Section 1.

that the costs could not be recovered from the defendants (*Cleverton* v. *St. Germans R. S. A.* (1886), 56 L. J. Q. B. 83; 3 T. L. R. 43).

(*c*) The Cambridge Improvement Commissioners were abolished and their powers, etc. transferred to the corporation of the borough by the L. G. B.'s Provisional Orders Confirmation (No. 15) Act, 1889.

Costs of promoting or opposing Parliamentary and other proceedings for benefit of inhabitants to be charged on borough and local funds, except in certain cases.

2. When in the judgment of a governing body (*a*) in any district it is expedient for such governing body to promote or oppose any local and personal (*b*) Bill or Bills in Parliament, or to prosecute or defend any legal proceedings (*c*) necessary for the promotion or protection of the interests of the inhabitants of the district, it shall be lawful for such governing body to apply the borough fund, borough rate, or other the public funds or rates under the control of such governing body to the payment of the costs and expenses attending the same; and when there are several funds or rates under the control of the governing body, such governing body shall determine out of which fund or funds, rate or rates, such expense shall be payable, and in what proportions: Provided that nothing in this Act contained shall authorise any governing body to promote any Bill in Parliament for the establishment of any gas or water works to compete with any existing gas or water company established under any Act of Parliament (*d*): Provided that no powers contained in this clause shall apply in any case where the promotion of or opposition to a Bill by a governing body has been decided by a committee of either House of Parliament to be unreasonable or vexatious.

(*a*) See the definition in s. 1, *ante*, p. 2331, and notes thereto.

In *Att.-Gen.* v. *Lambeth Vestry* (1888), 4 T. L. R. 257, NORTH, J., restrained the defendants from promoting a Bill at the expense of the rates on the ground that they were a statutory body, and could not apply the rates for purposes outside those for which they were constituted. And in *Att.-Gen.* v. *Camberwell Vestry* (1895), 71 L. T. 478, NORTH, J., restrained the defendants from contributing out of the rates to the costs of legal proceedings for obtaining a declaration that a water company were not entitled to charge for supply to fixed baths.

As to opposing Bills to confirm Provisional Orders under the Railway and Canal Traffic Act, 1888, s. 24, see the Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891, and s. 7 (2) of the Borough Funds Act, 1903, *post*, pp. 2528, 2660.

This Act applies, with modifications, to county councils. See the L. G. A., 1888, s. 15, and the County Councils (Bills in Parliament) Act, 1903.

Where a county surveyor attends the House of Commons by direction of and on behalf of his county council to give assistance as an expert witness in opposing a Bill before Parliament, such attendance is not within his ordinary duties and he is entitled to a special fee therefor in addition to his ordinary salary (*R.* v. *Newell*, [1911] 2 I. R. 535).

(*b*) This does not include Provisional Order Bills under the P. H. Acts, because, by s. 297 (8) of the P. H. A., 1875, *ante*, p. 631, every Act confirming a Provisional Order shall be deemed to be a public general Act. Hence the approval of the M. of H. is not required for opposing any such Bill. Section 298 of the Public Health Act, 1875, *ante*, p. 633, may be referred to. Where a county borough council promote a private Bill for the extension of the area of the county borough either of their own motion, or in consequence of the Minister declining to entertain a representation under 16 & 17 Geo. 5, c. 38, s. 2, *ante*, p. 1794, this Act and the 1903 Act as amended by s. 3 of the 1926 Act shall apply to such Bill notwithstanding that the object may be obtainable by Provisional Order, and so excluded from the Acts by s. 10, *post*, p. 2334 (16 & 17 Geo. 5, c. 38, s. 3 (2), *ante*, p. 1794).

The Standing Orders of the House of Commons provide for local authorities having a *locus standi* to oppose lighting and water Bills affecting their own town or district.

(*c*) See *Att.-Gen.* v. *Tynemouth Corporation*, [1899] A. C. 293; 63 J. P. 404.

(*d*) This proviso is singularly expressed, but it is understood as preventing the application of this Act to any competing Bill. It may be stated that since the passing of this Act all private Bills to which it applies have contained a detailed statement in the preamble of these requirements, and the committees to which they are referred have to ascertain that due proof is given of this part of the preamble. It is also to be noticed that the Standing Orders of the House of Lords require that where it is proposed in any Bill that any local authority shall be authorised to borrow money for sanitary purposes without the sanction of the M. of H., estimates showing the proposed application for permanent work shall be recited therein and proved before the committee.

Section 3.

No payment to member of governing body to be so charged.

3. No payment to any member of a governing body for acting as counsel or agent in promoting or opposing any such Bill shall be charged as aforesaid (*a*).

(*a*) See also s. 12 of the Municipal Corporations Act, 1882, and s. 46 of the L. G. A., 1894, *ante*, p. 1002.

The section, it will be seen, does not prevent councillors from being summoned and paid as witnesses.

Costs of promoting or opposing Bills to require sanction of special meetings.

4. No expense in relation to promoting or opposing (*a*) any Bill or Bills in Parliament shall be charged as aforesaid unless incurred in pursuance of a resolution of an absolute majority of the whole number of the governing body at a meeting of the governing body, after ten clear days notice by public advertisement of such meeting and of the purpose thereof in some local newspaper published or circulating in the district, such notice to be in addition to the ordinary notices required for summoning such meeting, nor unless such resolution shall have been published twice in some newspaper or newspapers circulating in the district, and shall have received, in respect of matters within the jurisdiction of the Local Government Board (*b*), the approval of such Board, and in respect of other matters, the approval of one of her Majesty's Secretaries of State (*c*), and in case of the promotion of a Bill in Parliament no further expense shall be incurred or charged as aforesaid after the deposit of the Bill, unless the propriety of such promotion shall be confirmed by such absolute majority at a further special meeting to be held in pursuance of a similar notice not less than fourteen days after the deposit of the Bill in Parliament . . . (*d*).

(*a*) By s. 7 (1) of the Borough Funds Act, 1903, the provisions contained in this section that no expense in opposing a Bill in Parliament shall be charged unless the opposition has had the consent of the owners of the district shall cease to apply.

(*b*) For L. G. B. must now be read Minister of Health. As to the jurisdiction of the latter, see the Ministry of Health Act, 1919, *post*, p. 2751, and the various Orders in Council issued thereunder.

Memoranda of the Minister of Health as to the making of applications for the approval of the Minister will be found in App. II., *post*, p. 3076.

(*c*) Now the Minister of Health. See s. 8 of the Borough Funds Act, 1903, *post*, p. 2660, but see the note thereto.

(*d*) The proviso in this section is repealed by s. 10 and the Schedule to the Borough Funds Act, 1903. It required the consent of owners and ratepayers to be obtained in manner provided by the L. G. A., 1858. The amending Act now requires the consent of the parochial electors obtained in manner thereby prescribed in the case of the authorities mentioned in s. 1 of that Act, *post*, p. 2658, except in the case of the Bills mentioned in s. 3 of the 1926 Act, *ante*, p. 1794.

It is to be observed that this section does not take away the right under the Municipal Corporations Act, 1882, or under the general law applicable to trustees, which a municipal corporation has to defray out of the borough fund the expenses of any attack made by a Bill in Parliament, whether against their existence as a corporation or against their property, or only against their rights, powers, or privileges (*Att.-Gen.* v. *Brecon Corporation* (1879), 10 Ch. D. 204). But in *Leith Council* v. *Leith Harbour Commissioners*, [1899] A. C. 508, it was held that a municipal corporation is not entitled to charge otherwise than upon the Borough Fund, the costs incurred in opposition to a private Bill although such opposition is successful and the Bill would, if passed, have put an end to the separate existence of the corporation; and in *Att.-Gen.* v. *Swansea Corporation*, [1898] 1 Ch. 602; 62 J. P. 408, it was held that an alteration in the price of gas in the district of a municipal corporation, which were large consumers, for public lighting, did not affect its rights, privileges, and duties within the principle of *Att.-Gen.* v. *Brecon Corporation*, *supra*, and the corporation not having complied with the requirements of s. 4 of this Act, were restrained at the instance of the gas company from applying any part of the borough fund of which there was no surplus in paying the costs of opposing a Bill promoted by the gas company for raising the price of gas. And see the cases cited in the notes to s. 2, *ante*, p. 2332, and *R.* v. *Norfolk Commissioners of Sewers* (1850), 15 Q. B. 549; *Att.-Gen.* v. *Wigan Corporation* (1854), 23 L. J. Ch. 429; 5 De G. M. & G. 52; *R.* v. *Marris* (1857), 5 W. R. 254; *R.* v. *Sheffield Corporation* (1871), L. R. 6 Q. B. 652; *S. C. sub nom. Roberts* v. *Sheffield Corporation*, 24 L. T. 659; 19 W. R. 1159; *Bower* v. *Sligo Commissioners* (1869), 4 Ir. C. L. R. 489; *Att.-Gen.* v. *Rickmansworth U. D. C.* (1902), 66 J. P. 410; 86 L. T. 521.

Note to Section 4.

The court will not grant a *mandamus* to the mayor of a borough to hold a fresh meeting under this Act after a prior meeting has been held at which a poll was refused in order that at the fresh meeting a poll of the ratepayers might be taken, if the ratepayer applying for the *mandamus* is also one of the promoters of the Bill (*R.* v. *Peterborough Corporation* (1875), 44 L. J. Q. B. 85; 23 W. R. 343).

All the preliminary consents, including the necessary resolutions of the electors, must be obtained before the M. of H. will give their approval, and they must be supplied with a statutory declaration by a competent person showing that all the statutory notices had been given and the requisite consents obtained.

Proviso as to approval of Local Government Board, to any such resolution.

5. The approval of the Local Government Board (*a*) . . . shall not be given to any such resolution as aforesaid, until the expiration of seven days after the second publication thereof, as provided by this Act, and in the meantime any ratepayer within the district of the governing body may give notice in writing to the Local Government Board (*a*) . . . objecting to such approval.

(*a*) Now the M. of H. See note (*b*) to s. 4, p. 2333, *ante*.

Costs to be examined.

6. All costs, charges, and expenses incurred under the provisions of this Act shall before the same become chargeable, be examined and allowed by some person to be authorised . . . by the Local Government Board (*a*), as the case may be.

(*a*) Now the M. of H. See note (*b*) to s. 4, p. 2333, *ante*.

Power to direct local inquiry.

7. The Local Government Board (*a*) . . . shall have power to direct a local inquiry to be held upon any application under this Act, by any person or persons whom they may respectively nominate for the purpose, and to charge the costs and expenses of such local inquiry upon the governing body or the person by whom such application shall be made (*b*).

(*a*) Now the M. of H. See note (*b*) to s. 4, p. 2333, *ante*.

(*b*) The section does not require that the person appointed to hold the inquiry should be an officer of the Ministry, and he cannot take evidence on oath. These inquiries are not governed by ss. 293—296 of the P. H. A., 1875, *ante*, pp. 627—630, and they are extremely rare.

Saving clause.

8. Nothing in this Act shall extend or be construed to alter or affect any special provision which is or shall be contained in any other Act for the payment of the costs, charges, and expenses intended to be provided for by this Act, or to take away or diminish any rights or powers now possessed or enjoyed by any governing body, or which are or shall be vested in or exerciseable by the inhabitants of any district under any general or special Act (*a*).

(*a*) See also saving for special Acts in s. 4 of the Borough Funds Act, 1903, *post*, p. 2659. And see *Brooks, Jenkins & Co.* v. *Torquay Corporation*, [1902] 1 K. B. 601; 66 J. P. 293.

Towns Improvement Clauses Act, 1847, s. 142, repealed.

9. [*The one hundred and forty-second section of the Towns Improvement Clauses Act*, 1847, *is hereby repealed so far as the same is inconsistent with the provisions of this Act* (*a*).]

(*a*) Section 9 is now repealed by the S. L. R. A., 1883.

Act not to extend to Bills if object attainable by Provisional Order.

10. The provisions of this Act shall not extend to applications for any Bill in Parliament for any object which would, for the time being, be attainable by Provisional Order (*a*).

(*a*) Other than Bills having for their object the extension of the area of a county borough (16 & 17 Geo. 5, c. 38, s. 3 (2), *ante*, p. 1794). The Minister of Health is required to report to Parliament on every local Bill relating to sanitary matters deposited in the offices prior to the meeting of Parliament, and hence he will generally adversely criticise any Bill which proposes to introduce into any local district provisions which can be obtained by a provisional order, or provisions which the law of the land already supplies.

Extent.

11. This Act shall not extend or apply to Ireland or the city of London . . . (*a*).

(*a*) This Act originally did not apply in the metropolis at all. It was, however, extended to the councils of metropolitan boroughs by s. 6 (6) of the London G. A., 1899.

THE PAWNBROKERS ACT, 1872.

(35 & 36 VICT. c. 93) (*a*).

An Act for consolidating, with amendments, the Acts relating to Pawnbrokers in Great Britain. [10th August, 1872.]

PRELIMINARY.

1. This Act may be cited as "The Pawnbrokers Act, 1872." Short title.

(*a*) This Act has been amended by the Pawnbrokers Act, 1922, which refers only to those provisions omitted as outside the scope of the present work. The amending Act has therefore not been included in this volume. The duties of justices with reference to pawnbrokers' certificates under this Act are now transferred to district councils by the L. G. A., 1894, ss. 27, 32, *ante*, pp. 992, 994.

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3. The Schedules to this Act, including the notes thereto, shall have effect as part of this Act (*a*). Effect of Schedules.

(*a*) The earlier part of this section was repealed by the S. L. R. (No. 2) A., 1893.

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DEFINITIONS; APPLICATION OF ACT.

5. In this Act— Interpretation.

"Pawnbroker" includes every person who carries on the business of taking goods and chattels in pawn:

"Pledge" means an article pawned with a pawnbroker:

"Pawner" means a person delivering an article for pawn to a pawnbroker:

"Shop" includes dwelling-house and warehouse, or other place of business, or place where business is transacted:

"Unfinished goods or materials" includes any goods of any manufacture or of any part or branch of any manufacture either mixed or separate, or any materials whatever plainly intended for the composing or manufacturing of any goods, after such goods or materials are put into a state or course of manufacture, or into a state for any process or operation to be performed thereupon or therewith, and before the same are completed or finished for the purpose of wear or consumption:

"Constable" includes any peace officer:

"Justice" means justice of the peace having jurisdiction in the county or place where the matter requiring the cognizance of a justice arises.

6. In order to prevent evasion of the provisions of this Act, the following persons shall be deemed to be persons carrying on the business of taking goods and chattels in pawn (that is to say), every person who keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for money advanced thereon, and who purchases or receives or takes in goods or chattels, and pays or advances or lends thereon any sum of money not exceeding ten pounds with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred, that those goods or chattels may be afterwards redeemed or repurchased on any terms; and every such transaction, article, payment, advance, and loan shall be deemed a pawning, pledge, and loan respectively within this Act. Extension of Act to keepers of certain shops.

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Section 37.

INLAND REVENUE LICENCES.

Yearly licence and excise duty.

37. Every pawnbroker shall yearly take out from the Commissioners of Inland Revenue an excise licence for carrying on his business, on which licence there shall be charged and paid for the use of her Majesty (*a*), an excise duty of seven pounds ten shillings.

Every licence shall be dated on the day on which it was issued and shall determine on the thirty-first day of July.

A separate licence shall be taken out and paid for by a pawnbroker for each pawnbroker's shop kept by him.

If a person acts as a pawnbroker without having in force a proper licence he shall for every such offence be liable to an excise penalty not exceeding fifty pounds.

All the provisions contained in any Act relating to excise licences, duties or penalties, and in force at the commencement of this Act, shall, as far as the same are applicable, have full effect with respect to the licence and duty and penalty aforesaid.

(*a*) Certain words are here repealed by the S. L. R. A., 1898.

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Licences not to be granted without certificate.

39. (*a*) A pawnbroker's licence shall not be granted to any person except on the production and in pursuance of the authority of a certificate granted under this Act; save that it shall not be necessary for any person being at the commencement of this Act a licensed pawnbroker, or for his executors, administrators, assigns, or successors, to obtain such a certificate (*b*).

Any licence granted in contravention of this section shall be void.

(*a*) Certain words are here repealed by the S. L. R. A., 1898.

(*b*) This exemption is not confined to the business actually carried on by a pawnbroker at the commencement of the Act. It extends to all pawnbrokers then licensed, their executors, assigns, or successors, who may open a new business on payment of the licence duty without any certificate (*R.* v. *Inland Revenue Commissioners*, [1891] 1 Q. B. 485; 55 J. P. 117). But the exemption only enables a successor to carry on without obtaining a certificate the actual business to which he succeeds, and does not enable him to open or carry on a new business merely upon payment of the licence duty (*R.* v. *Inland Revenue Commissioners, Ex parte Silvester*, [1907] 1 K. B. 108).

Certificates to be granted by justices.

40. Certificates under this Act shall be granted (as regards England) in the metropolitan police district by a magistrate sitting in any police court in the metropolis having jurisdiction in the district where the application is made, and in any place within the jurisdiction of a stipendiary magistrate by that magistrate, and in other places by the justices of the petty sessional division assembled at petty sessions specially convened for that purpose (*a*).

(*a*) Certificates are now granted by district councils; see note (*a*) to s. 1, *ante*, p. 2335.

Form and duration of certificate.

41. A certificate under this Act shall be in the form given in the Sixth Schedule to this Act, or to the like effect, and shall be in force for one year from this date.

Notice of first application.

42. A person intending to apply for the first time for a certificate under this Act shall proceed as follows:

(1) Twenty-one days at least before the application he shall give notice by registered letter sent by post of his intention to one of the overseers (*a*) of the poor of the parish or place in which he intends to carry on business, and to the superintendent of police of the district, and shall in the notice set forth his name and address:

Section 42.

(2) Within twenty-eight days before the application he shall cause a like notice to be affixed and maintained between ten o'clock in the morning and five o'clock in the afternoon of two consecutive Sundays, on the principal door or one of the doors of the church or chapel of the parish or place, or if there is none, then on some other public and conspicuous place in the parish or place.

(a) Overseers having been abolished by s. 62 of the R. & V. Act, 1925, *ante*, p. 1741, this notice should now be given to the clerk to rating authority in an urban district, and in a rural district to the chairman of the appropriate parish council or parish meeting (Art. 14, Overseers Order, 1927, in App. II., *post*, p. 3684).

Grounds of refusal of certificate.

43. An application for a certificate shall not be refused, except on the following grounds, or one of them:

(1) That the applicant has failed to produce satisfactory evidence of good character;

(2) That the shop in which he intends to carry on the business of a pawnbroker, or any adjacent house or place owned or occupied by him, is frequented by thieves or persons of bad character;

(3) That he has not complied with the last preceding section.

Forgery of certificate.

44. If any person forges a certificate, or tenders a certificate knowing it to be forged, he shall, on conviction thereof in a court of summary jurisdiction, be liable to a penalty not exceeding twenty pounds, or, in the discretion of the court, to imprisonment for any term not exceeding six months, with or without hard labour.

A licence granted in pursuance of a forged certificate shall be void; and if any person makes use of a forged certificate, knowing it to be forged, he shall be disqualified from obtaining at any time thereafter a pawnbroker's licence.

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Appeal to quarter sessions.

52. If any person thinks himself aggrieved by any conviction or order of a court of summary jurisdiction under this Act, or by the refusal of a certificate for a licence, he may appeal therefrom, subject to the conditions and regulations following:

(1) The appeal shall be made to some court of general or quarter sessions (*a*) for the county or place in which the cause of appeal has arisen, held not less than fifteen days and (unless adjourned by the court) not more than four months after the decision or refusal appealed from:

(2) The appellant shall within seven days after the cause of appeal has arisen give notice to the other party and to the court or authority appealed from of his intention to appeal and the ground thereof:

(3) The appellant shall immediately after such notice enter into a recognizance before a justice with two sufficient sureties conditioned personally to try such appeal, and to abide the judgment of the court thereon, and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice allows:

(4) . . .

(5) The court of appeal may adjourn the appeal; and, upon the hearing thereof, they may confirm, reverse, or modify the decision or refusal appealed from, or remit the matter with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and may make such order as to costs to be paid by either party as the court thinks just.

Note to Section 52. (*a*) The remainder of this section, though repealed by the S. J. A., 1884, so far as it related to appeals from convictions or orders of a court of summary jurisdiction, remains in full force as regards appeals from the refusal of a certificate for a licence. Paragraph (4) relating to release out of custody is, however, inapplicable and therefore omitted.

* * * * * *

SAVING.

Saving for local Acts.

57. Nothing in this Act shall repeal or in any manner interfere with the operation of any local or local and personal Act for the time being in force in any city, town, burgh, or other place.

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[Sect. 41.]

THE SIXTH SCHEDULE (*a*).

FORMS OF CERTIFICATES OF MAGISTRATES AND JUSTICES.

I.—*England.*

I [*or* We] [*here insert description of the magistrate or justices*] do hereby certify that I [*or* we] do authorise the grant to *A. B.* of in the county of of a licence to carry on the business of a pawnbroker within the township of [*or* parish of *or other place as the case may be*].

Witness my hand [*or* our hands] this day of , 18 .

(*a*) See ss. 40, 41, and the note thereto, *ante*, p. 2336.

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THE FAIRS ACT, 1873.

(36 & 37 VICT. c. 37) (*a*).

An Act to amend the Law relating to Fairs in England and Wales.

[7th July, 1873.]

Short title.

1. This Act may be cited as "The Fairs Act, 1873."

(*a*) The powers and duties of justices under this Act are transferred to district councils by the L. G. A., 1894, ss. 27, 32, *ante*, pp. 992, 994. The sections and parts of sections repealed by the S. L. R. (No. 2) A., 1893, have been here omitted. See also 34 & 35 Vict. c. 12, *ante*, p. 2315.

Extent.

2. This Act shall not extend to Scotland or Ireland.

Definition of terms.

3. In this Act the term "owner" means any person or persons or body of commissioners or body corporate, entitled to hold any fair, whether in respect of the ownership of any lands or tenements, or under any charter, letters patent, or otherwise howsoever.

4. [*Commencement of Act* (*repealed by the Statute Law Revision* (*No.* 2) *Act*, 1893 (56 *&* 57 *Vict. c.* 54)).]

5. [*The Fairs Act*, 1868 (31 *&* 32 *Vict. c.* 51), *repealed*] (*a*).

(*a*) This section is in turn itself repealed by the S. L. R. A., 1883.

Power to Secretary of State to alter days of holding fairs.

6. In case it shall appear to a Secretary of State, upon representation duly made to him by the justices (*a*) acting in and for the petty sessional division within which any fair is held, or by the owner of any fair in England or Wales, that it would be for the convenience and advantage of the public that any such fair shall be held in each year on some day or days other than

Section 6.

that or those on which such fair is used to be held or on the day or days on which such fair is used to be held and any preceding or subsequent day or days or on or during a less number of days than those on which such fair is used to be held, it shall be lawful for a Secretary of State to order that such fair shall be held on such other day or days, or on the same day or days and any preceding or subsequent day or days, or on or during any less number of days as he shall think fit: Provided always, that notice of such representation and of the time when it shall please a Secretary of State to take the same into consideration shall if such representation shall have been made by justices (*a*) be given to the owner of such fair, and shall if such representation shall have been made by the owner of such fair be given to the clerk to the justices (*a*) acting in and for the petty sessional division within which such fair is held, and shall also be published once in the London Gazette, and in three successive weeks in some one and the same newspaper published in the county, city, or borough in which such fair is held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, before such representation is so considered.

(*a*) See note (*a*) to s. 1, *ante*, p. 2338.

Order of Secretary of State to be published in certain newspapers.

7. When and so soon as any such order as aforesaid shall have been made by a Secretary of State, notice of the making of the same shall be published in the London Gazette and in some one newspaper of the county, city, or borough in which such fair is usually held, or if there be no newspaper published therein, then in the newspaper of some county adjoining or near thereto, and thereupon such fair shall only be held on the day or days mentioned in such order; and it shall be lawful for the owner of such fair to take all such toll or tolls, and to do all such act or acts, and to enjoy all and the same rights, powers, and privileges in respect thereof, and enforce the same by all and the like remedies, as if the same were held on the day or days upon which it was used to be held previous to the making of such order.

All rights, etc. of owner to remain good.

THE GAS AND WATER WORKS FACILITIES ACT, 1870, AMENDMENT ACT, 1873.

(36 & 37 VICT. c. 89) (*a*).

An Act to extend and amend the provisions of the Gas and Water Works Facilities Act, 1870. [5th August, 1873.]

Short title.

1. This Act may be cited for all purposes as "The Gas and Water Works Facilities Act, 1870, Amendment Act, 1873" (*b*).

(*a*) See the Gas and Water Works Facilities Act, 1870, *ante*, p. 2272. The clause of enactment of this Act has been repealed by the S. L. R. (No. 2) A., 1893.

(*b*) Sections 2—11 and the Schedule to this Act were repealed by the S. L. R. A., 1883.

* * * * * *

Power of Board of Trade to revoke, amend, extend, or vary Provisional Order.

12. Where under the Gas and Water Works Facilities Act, 1870, or this Act, the Board of Trade (*a*) have made any Provisional Order, they may from time to time revoke, amend, extend, or vary such Provisional Order by a further Provisional Order.

33 & 34 Vict. c. 70.

Every application for such further Provisional Order shall be made in like manner and subject to the like conditions as the application for the former Provisional Order.

Section 12.

Every such further Provisional Order shall be made and confirmed in like manner in every respect as the former Provisional Order.

(*a*) The L. G. B. were substituted for the Board of Trade so far as regards Provisional Orders for the supply of gas by an urban authority. See s. 161 of the P. H. A., 1875, *ante*, p. 382. However, by Order in Council of November 9th, 1920, the powers and duties of the Minister of Health (who had succeeded to the powers and duties of the L. G. B.) in relation to gas undertakings were once more vested in the Board of Trade. See also the provisions of the Gas Regulation Act, 1920, and the Gas Undertakings Act, 1929, *post*, pp. 2807, 3025. Special Orders may now be made instead of Provisional Orders.

Inquiries by the Board of Trade for purposes of 33 & 34 Vict. c. 70, and this Act.

13. Where, in relation to any application for a Provisional Order under the Gas and Water Works Facilities Act, 1870, or under this Act, it is in the opinion of the Board of Trade (*a*) expedient that an inquiry should be held, they may order and direct such inquiry to be held at such time and place as they may think proper, subject to the provisions following:

1. The inquiry shall be held in public before an officer or officers to be appointed in that behalf by the Board of Trade, hereinafter called the commissioner or commissioners:
2. Ten days notice at the least shall be given by the commissioner or commissioners of the time and place at which the inquiry is to be commenced:
3. The inquiry shall be commenced at the time and place so appointed, and the commissioner or commissioners may adjourn the inquiry from time to time as may be necessary to such time and place as he or they may think fit:
4. The commissioner or commissioners by summons shall, on the application of any party interested in the inquiry, require the attendance before him or them, at a place and time to be mentioned in the summons, of any person to be examined as a witness before him or them, and every person summoned shall attend the commissioner or commissioners, and answer all questions touching the matter to be inquired into, and any person who wilfully disobeys any such summons or refuses to answer any question put to him by the commissioner or one of the commissioners for the purposes of the said inquiry shall, on summary conviction before two justices . . . be liable to a penalty not exceeding five pounds: Provided always, that no person shall be required to attend in obedience to any such summons unless the reasonable charges of his attendance shall have been paid or tendered to him and no person shall be required in any case in obedience to any such summons to travel more than ten miles from his place of abode:
5. The commissioner or commissioners shall make a report to the Board of Trade in writing, and shall deliver copies of the report upon request to all or any of the parties to the inquiry(*b*).

(*a*) See note (*a*) to s. 12, *supra*.

(*b*) This is an unusual provision, as reports made to a Government Department by officers appointed to investigate applications are usually treated as confidential documents, cf. *R.* v. *L. G. B.*, *Ex parte Arlidge*, [1915] A. C. 120; 79 J. P. 97, at p. 598, *ante*.

Rules for carrying Acts into effect.

14. The Board of Trade (*a*) may from time to time make, and, when made may rescind, annul, or add to, rules with respect to the following matters (*b*):

33 & 34 Vict. c. 70.

The proceedings to be had before the Board under the Gas and Water Works Facilities Act, 1870, or this Act; and

As to any other matter or thing in respect of which it may be expedient to make rules for the purpose of carrying the said Act or this Act into execution.

Section 14.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by the said Act or this Act, and shall be of the same force as if enacted in the said Act or this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made, if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the then next session of Parliament.

(*a*) See note (*a*) to s. 12, *ante*, p. 2340.

(*b*) See the Rules of the Board of Trade, dated March 1st, 1922, as to special orders relating to gas under the Gas Regulation Act, 1920, which have superseded provisional orders under this Act; the rules of October 1st, 1926, issued by the Board of Trade and Minister of Health as to gas and water (combined purposes); and rules of October 1st, 1926, by the Minister of Health as to Water Orders. These Rules are set out in App. II., *post*, pp. 3334, 3341, 3908.

Act not to extend to Metropolis. 18 & 19 Vict. c. 120.

15. This Act shall not apply to any place within the metropolis as the same is defined in the Metropolis Management Act, 1855.

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THE EXPLOSIVES ACT, 1875.

(38 & 39 VICT. c. 17.)

An Act to amend the Law with respect to manufacturing, keeping, selling, carrying, and importing Gunpowder, Nitro-glycerine, and other Explosive Substances. [14th June 1875.]

Short title.

1. This Act may be cited as "The Explosives Act, 1875."

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Byelaws as to conveyance by road or otherwise, or loading of gunpowder.

37. The Secretary of State may from time to time make, and when made rescind, alter, or add to byelaws (*a*) for regulating the conveyance, loading and unloading of gunpowder in any case in which byelaws made under any other provision of this Act do not apply, and in particular for declaring or regulating all or any of the following matters; that is to say,

1. Regulating the description and construction of carriages to be used in the conveyance of gunpowder as merchandise; and

2. Prohibiting or subjecting to conditions and restrictions the conveyance of gunpowder with any explosive, or with any articles or substances, or in passenger carriages; and

3. Fixing the places and times at which the gunpowder is to be loaded or unloaded, and the quantity to be loaded or unloaded or conveyed at one time or in one carriage; and

4. Determining the precautions to be observed in conveying gunpowder, and in loading and unloading the carriages used in such conveyance, and the time during which the gunpowder may be kept during such conveyance, loading, and unloading; and

5. Providing for the publication and supply of copies of the byelaws; and

6. Generally for protecting, whether by means similar to those abovementioned or not, persons or property from danger; and

7. Adapting on good cause being shown the byelaws in force under this section to the circumstances of any particular locality.

Section 37.

The penalties to be annexed to any breach, or attempt to commit any breach, of any such byelaws may be all or any of the following penalties, and may be imposed on such persons and graduated in such manner as may be deemed just, according to the gravity of the offence, and according as it may be a first, second, or other subsequent offence, that is to say, pecuniary penalties not exceeding twenty pounds for each offence, and ten pounds for each day during which the breach continues, and forfeiture of all or any part of the gunpowder in respect of which, or being in the carriage in respect of which, the breach of byelaw has taken place.

For the purpose of any mode of conveyance which is not a conveyance by land this section shall be construed as if ship and boat were included in the term " carriage."

(*a*) See the byelaws as to the deposit of explosives for conveyance as refuse made under this section, and contained in an Order dated September 20th, 1924, in App. II., at p. 3299, *post.*

* * * * * *

39. Subject to the provisions hereafter in this Part of this Act contained, Part I. of this Act relating to gunpowder shall apply to every other description of explosive, in like manner as if those provisions were herein re-enacted with the substitution of that description of explosive for gunpowder.

THE SALE OF FOOD AND DRUGS ACT, 1875.

(38 & 39 VICT. c. 63) (*a*).

An Act . . . to make better provision for the Sale of Food and Drugs in a pure state. [11th August, 1875.]

(*a*) This Act is repealed by and its provisions are consolidated in the Food and Drugs (Adulteration) Act, 1928, *post*, p. 2948, except ss. 30, 31 and 36, which continue in force.

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SPECIAL PROVISION AS TO TEA.

Tea to be examined by the Customs on importation.

30. All tea imported as merchandise into and loaded at any port in Great Britain or Ireland shall be subject to examination by persons to be appointed by the Commissioners of Customs, subject to the approval of the Treasury, for the inspection and analysis thereof, for which purpose samples may, when deemed necessary by such inspectors, be taken and with all convenient speed be examined by the analysts to be so appointed ; and if upon such analysis the same shall be found to be mixed with other substances or exhausted tea, the same shall not be delivered unless with the sanction of the said commissioners, and on such terms and conditions as they shall see fit to direct, either for home consumption or for use as ships stores or for exportation ; but if on such inspection and analysis it shall appear that such tea is in the opinion of the analyst unfit for human food, the same shall be forfeited and destroyed or otherwise disposed of in such manner as the said commissioners may direct (*a*).

(*a*) Some words at the beginning of this section were repealed by the S. L. R. (No. 2) A., 1893. A person who represents tea to be good when it is in fact unfit to drink may be convicted of obtaining money by false pretences. See *R.* v. *Foster* (1876), 2 Q. B. D. 301 ; 41 J. P. 295. As to the sale of green tea in the same state as imported, see *Roberts* v. *Egerton* (1874), L. R. 9 Q. B. 494. As to the powers of the Commissioners of Customs in regard to articles other than tea, see the Food and Drugs (Adulteration) Act, 1928, ss. 12 and 20, *post*, pp. 2964, 2974.

31. Tea to which the term "exhausted" is applied in this Act shall mean and include any tea which has been deprived of its proper quality, strength, or virtue by steeping, infusion, decoction, or other means.

Section 31.

Definition of "exhausted tea."

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36. This Act may be cited as "The Sale of Food and Drugs Act, 1875." Short title.

THE LOCAL LOANS ACT, 1875.

(38 & 39 VICT. C. 83) (*a*).

An Act to amend the Law relating to Securities for Loans contracted by Local Authorities. [13th August, 1875.]

(1) PRELIMINARY.

1. This Act may be cited for all purposes as "The Local Loans Act, 1875." Short title.

(*a*) This Act is amended by the Local Loans Sinking Funds Act, 1885, *post,* p. 2487. The preamble and clause of enactment and s. 3 of this Act were repealed by the S. L. R. (No. 2) A., 1893.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

3. [*Commencement of Act.*]

4. A local authority (*a*) shall be deemed to borrow, subject to the provisions of this Act, whenever it raises a loan by the issue of debentures or debenture stock (*b*) or annuity certificates, purporting to be created under its powers, or partly in one way, and partly in another; subject to this proviso, that where a loan is directed to be raised by debentures or debenture stock or annuity certificates under this Act, the prescribed mode only shall be adopted (*c*).

Definition of borrowing under Act.

(*a*) See the definition of local authority in s. 34, *post,* p. 2354. The term includes sanitary authorities. As to stamp duty on loan capital, see the Finance Act, 1899, s. 8, *ante,* p. 915, as amended by the Finance Act, 1907, s. 10, *post,* p. 2687.

(*b*) This Act itself does not give power to issue debenture stock. See s. 6, *post,* p. 2344. The L. G. B. stated that they had been advised by the law officers of the Crown that a local authority could not exercise a borrowing power by the issue of debenture stock under this Act unless they had power independently of the Act to raise the loan by the issue of debenture stock. The Board, however, thought that it was competent to a local authority to avail themselves of the Act for the exercise of borrowing powers under Acts passed subsequently to this Act so far as regards the issue of securities other than debenture stock.

(*c*) As to what is the prescribed mode, see s. 34, *post,* p. 2354.

(2) DEBENTURES (*a*).

5. A debenture under this Act shall be an instrument taking effect as a deed, and charging the local rate (*b*) or property in such debenture specified with payment, as in the debenture mentioned, of the principal sum and interest therein specified.

Regulations as to debenture stock.

Where a debenture under this Act charges property other than the local rate, and it is intended that in default of payment of the principal sum due on such debenture, or of the interest thereon, the property is to be sold, a statement to that effect shall be inserted in the debenture.

The principal sum may be made payable to the bearer of the debenture, or to a person to be named therein, his executors, administrators, or assigns.

A debenture in which the principal sum is made payable to the bearer shall be transferable by delivery.

Section 5.

A debenture in which the principal sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act referred to as a nominal debenture, and shall be transferable by writing in manner directed by the local authority.

There may be attached to a debenture under this Act, or be thereafter issued in respect thereof, or partly in one way and partly in the other, coupons making the interest as therein mentioned payable to the bearer of each coupon, or to the person named in each coupon or his order, or the interest on a debenture may be made payable to the owner for the time being of such debenture, or may be otherwise made payable in such manner as in the said debenture mentioned.

A coupon making the interest therein mentioned payable to the person named therein or his order is in this Act referred to as a coupon payable to order.

A debenture under this Act shall not be issued for a less sum than the prescribed sum, or, where no sum is prescribed, than twenty pounds.

(*a*) As to stamp duty, see Stamp Act, 1891, ss. 82 (1), 85 (1), (2), 122, and Schedule, title "Marketable Security." And as to composition for stamp duty, see s. 115 of the same Act.

(*b*) See the definition in s. 34, *post*, p. 2354.

(3) DEBENTURE STOCK (*a*).

Regulations as to debenture stock.

6. A debenture stock may be created and issued by a local authority having power to raise a loan or any part thereof by the issue of debenture stock (*b*). Such debenture stock shall be of a nominal amount, not exceeding the amount of money authorised to be raised by such stock, and shall, unless otherwise provided by the conditions of issue, be redeemable at par at the option of the local authority at such times and upon such conditions as the local authority may declare at the time of the issue thereof (*c*).

The title of any person to any share in debenture stock shall be evidenced by the entry in the register as in this Act mentioned of the name of such person as owner of such share.

Debenture stock shall bear such rate of interest, to be payable at such times as the local authority may declare at the time of issue of the stock.

Debenture stock and the interest thereon shall be a charge on the local rate or property specified at the time of issue thereof, in the same manner as if it were a principal sum and interest charged thereon by deed.

Where debenture stock and the interest thereon is a charge on property other than the local rate, and it is intended that in default of the payment of the interest thereon, or for the purpose of raising the money required for the redemption of the stock, the property is to be sold, a declaration to that effect shall be made by the local authority at the time of the issue of the stock, and shall be deemed to form one of the conditions of such issue.

Debenture stock shall have all the incidents of personal estate, and shall, subject to the provisions of this Act, be transferable by writing in manner directed by the local authority.

The interest on any share of debenture stock shall be recoverable by the owner of such share in the same manner in all respects as if such interest were an annuity of like amount secured to him by an annuity certificate under this Act.

The owner of any share in debenture stock shall not be entitled to require payment of the nominal amount of stock held by him, except at the time and upon the conditions declared by the local authority at the time of the issue of such stock.

The conditions of issue of debenture stock shall be declared by the local authority at the time of such issue, and a printed copy of such conditions shall be supplied to every owner of debenture stock requiring the same, and shall be entered in the register of such stock.

The local authority may, if it thinks fit, on the application of the owner of any share in debenture stock, grant to him a certificate of title to his share in such stock, or any part of such share, with coupons attached entitling the bearer of the coupons to the interest on the share or part of a share specified in such certificate.

A certificate of title to a share in debenture stock under this section (in this Act called a stock certificate to bearer) shall entitle the bearer to the stock therein described, and to the interest thereon, and shall be transferable by delivery.

Any share in stock in respect of which a stock certificate to bearer has been issued, shall, so long as such certificate is outstanding, cease to be dealt with through the medium of the register.

Debenture stock, in respect of which a stock certificate to bearer has not been issued, is in this Act referred to as nominal debenture stock.

(*a*) As to stamp duty, see the Stamp Act, 1891, ss. 108, 109, and Schedule, title "Share Warrants, etc." As to composition for stamp duty, see s. 115 of the same Act. As to corporation duty under the Customs and Inland Revenue Act, 1885, s. 11, payable on income of a sinking fund vested in trustees, see *Att.-Gen.* v. *City of London Corporation*, [1913] 2 K. B. 497.

(*b*) Therefore there must be power under a special Act to issue debenture stock. See note (*b*) to s. 4, *ante*, p. 2343. An urban authority can, by adopting Part V. of the P. H. A., 1890, *ante*, p. 914, acquire power to create stock. See also s. 1 (2) of the Public Authorities and Bodies (Loans) Act, 1916, *ante*, p. 1235 (made permanent by 9 & 10 Geo. 5, c. 99, s. 8), and s. 87 of the Housing Act, 1925, *ante*, p. 1453, which give to certain local authorities power to raise money by the issue of securities and bonds.

(*c*) A corporation were empowered by a local Act to create and issue corporation stock "to bear any rate of dividend which the corporation may fix, and all stock of such class shall be redeemable at the option of the corporation at one and the same period to be fixed by the corporation but not exceeding sixty years from the first issue of such stock." The corporation created and issued stock, the certificates for which stated that the holders were the proprietors of a certain amount of "Edinburgh 2½ per cent. stock subject to the Acts of Parliament relating thereto . . . redeemable at par after Whitsunday, 1927." It was held that the corporation had an option to redeem the stock at par after Whitsunday, 1927, but that they were not bound to do so (*Edinburgh Corporation* v. *British Linen Bank*, [1913] A. C. 133).

(4) ANNUITY CERTIFICATES.

Regulations as to annuity certificates.

7. An annuity certificate under this Act shall be an instrument taking effect as a deed, and charging the local rate or property in such certificate specified with payment, as in the certificate mentioned, of the annual sum therein specified.

Where an annuity certificate under this Act charges property other than the local rate, and it is intended that in default of payment of the annual sum secured by such annuity certificate, or of some part thereof, the property is to be sold, a statement to that effect shall be inserted in the annuity certificate.

The annual sum may be made payable to the bearer of the certificate or to a person to be named therein, his executors, administrators, or assigns.

An annuity certificate in which the annual sum is made payable to the bearer shall be transferable by delivery.

An annuity certificate in which the annual sum is made payable to a person named therein, his executors, administrators, or assigns, is in this Act

Section 7. referred to as a nominal annuity certificate, and shall be transferable by writing in manner directed by the local authority.

An annuity certificate under this Act shall not be issued for a less annual sum than the prescribed sum, or, where no sum is prescribed, than three pounds.

(5) PRIORITY OF LOANS.

Priority of loans.

8. All sums for the time being due or authorised to be raised on or in respect of any securities issued in respect of the same loan by a local authority under this Act shall be paid without any preference the one over the other by reason of the priority of date of any of such securities.

Where more than one loan has been raised under this Act by the same local authority, the sums for the time being due or authorised to be raised on or in respect of any securities issued in respect of each loan shall take priority according to the date of such loan.

Where any sum of money is authorised to be borrowed in manner provided by this Act, such sum may, unless it is otherwise prescribed, be raised under this Act as one loan or several loans, as may be deemed most convenient by the borrowing authority, so that the aggregate amount authorised to be borrowed be not exceeded.

The date of each loan shall, with a view to the priority of the loan and to the period within which such loan is to be discharged, and for the other purposes of this Act, so far as relates to that period, be fixed by the local authority, and may be so fixed irrespectively of the dates of the particular securities issued in respect of such loan, so that the period within which the loan is required to be discharged be not exceeded.

(6) NOTICE OF TRUSTS.

Notice of trust not receivable.

9. No notice of any trust, expressed implied or constructive, shall be received by the local authority, or by any registrar or officer of the local authority, in relation to any security issued by such authority under this Act (*a*).

(*a*) The object of this section is (a) to relieve the local authority from taking notice of equitable interests in securities, and (b) to preclude persons claiming under equitable titles from converting the local authority into a trustee for them.

Owners of securities not responsible for act of local authority.

10. A person advancing any money to a local authority and receiving in consideration of such advance any security under this Act, shall not be bound to inquire into the application of the money advanced, or be in any way responsible for the non-application or misapplication thereof.

(7) REMEDY FOR NON-PAYMENT.

Remedy by mandamus for non-payment of money.

11. The local authority shall pay or raise all sums for the time being due or authorised to be raised on or in respect of any security issued by them under this Act, and if default is made in payment of any sum so due, such sum shall be deemed to be a specialty debt due to the person entitled thereto from the local authority of such a nature that a mandamus will be granted to enforce the payment thereof; and an action may be brought accordingly, in which a mandamus may be claimed (*a*).

(*a*) See R. S. C., 1883, Order LIII.

Section 12.

Remedy by appointment of receiver for non-payment of money.

12. Where a local authority makes default for a period of twenty-one days in paying an amount of not less than five hundred pounds (whether in one sum or separate sums) for the time being due on or in respect of any security issued under this Act, the persons entitled to the said amount, or any of such persons, may, instead of or in addition to bringing an action or actions, apply to the county court for the appointment of a receiver (*a*); and any receiver so appointed (subject to any direction which may be given by the court) shall from time to time raise as hereinafter mentioned, by or out of the local rate or property charged, sufficient money to pay the amount the payment of which is so in default, and all sums due while he is receiver on or in respect of any such security, together with all costs, charges, and expenses incurred in or about the appointment of such receiver and the execution of his duties under this section, including a proper remuneration for his trouble, and shall render to the defaulting authority the balance, if any, remaining in his hands after making the said payments.

Where the amount so due or authorised to be raised is charged on the local rate, the receiver may raise the money he is authorised to raise under this section by means of the local rate, and for that purpose shall have the same power as the defaulting authority of levying the local rate, and the receiver shall have such access to and use of the documents of the defaulting authority relative to the local rate as he may require.

Where the amount so due or authorised to be raised is charged on any property, other than the local rate, the receiver may raise the sum which he is authorised to raise under this section by the receipt of the rents and profits of the property, and if the security involves a power of sale, as in this Act mentioned (*b*), by sale of the property in such manner and subject to such conditions of sale and otherwise as the court may direct.

A county court may appoint a receiver under this section with respect to any local rate levied, or any property situate wholly or partly within the jurisdiction of such court, and may remove such receiver and appoint another in his stead, and so from time to time; and may make such orders and give such directions as to the powers and duties of the receiver, and otherwise as to the disposal of the moneys received by him, as may be thought fit for carrying this section into effect.

(*a*) See County Court Rules, Order XLIII., rr. 1, 3.
(*b*) See ss. 5, 6, *ante*, pp. 2343, 2344.

(8) DISCHARGE OF LOAN.

Loan borrowed to be discharged within prescribed period.

13. Every loan borrowed in manner provided by this Act shall be discharged within the prescribed period (*a*) from the date thereof, and if no period is prescribed, within the period of twenty years from the date thereof, which period of twenty years shall for the purposes of this Act be included under the term "prescribed period," and such discharge shall be secured by one or more of the following methods; that is to say,

By the issue of annuity certificates limited to expire within the prescribed period; or

By the issue of debentures made payable in such a manner that in each year such number of debentures will become due and be paid off as will secure the repayment of the whole sum secured by such debentures by equal annual instalments, extending over the whole of the prescribed period, or over a less time than the prescribed period; or

By the annual appropriation, as in this Act mentioned, of a fixed sum to the discharge of a certain portion of such loan; or

Section 13.

Where a sinking fund is prescribed, but not otherwise (*b*), by the establishment of a sinking fund and the application thereof in manner in this Act mentioned.

(*a*) As to the prescribed period, see s. 34, *post*, p. 2354; *cf.* the P. H. A., 1875, s. 234 (4), (6), *ante*, pp. 526, 527.

(*b*) It is provided by the Local Loans Sinking Funds Act, 1885, *post*, p. 2487, that, notwithstanding anything contained in the above Act, every loan borrowed in manner provided by the above Act, may be discharged by the establishment of a sinking fund as therein mentioned, notwithstanding that a sinking fund may not have been prescribed by the special Act authorising the loan.

Discharge of loan by appropriation of annual sum.

14. Where a fixed annual sum is appropriated to the discharge of a loan, or part of a loan, the local authority shall raise in every year an equal sum of money of such amount as will, at or before the expiration of the prescribed period, pay off the whole of such loan or part of a loan, and the interest thereon. The local authority shall in each year pay out of such fixed sum the interest due on the loan or part of a loan during the current year, and appropriate the residue of such sum, in the case of money borrowed on debentures, to the payment off of a corresponding amount of the principal sum secured by such debentures, and in the case of money borrowed by the issue of debenture stock to the redemption of a corresponding amount of such stock.

The debentures or portion of debenture stock to be paid off in every year shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged. Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn in the presence of the local authority, and any owners of debenture (*a*) or debenture stock who choose to be present; the local authority shall cause not less than one month's previous notice of the time and place at which lots are to be drawn to be given by advertisement, published once at the least in each of four successive weeks in some newspaper circulating in the district within which the local authority has jurisdiction.

Any fractional sum remaining of such residue as aforesaid, after payment of the debentures or debenture stock, payable as aforesaid, shall be carried to the credit of the annual sum to be raised in the ensuing year. All expenses incurred by the local authority in respect of any drawings by lot or otherwise in respect of the discharge of a loan shall be paid out of the current revenue of the local authority.

(*a*) *Sic* in statute. It should read "debentures."

Discharge of loan by sinking fund.

15. Where a sinking fund is prescribed (*a*) for any loan or part of a loan, the local authority shall create a sinking fund as hereinafter mentioned; that is to say,

(1) Such equal yearly or half-yearly sums shall be paid into the sinking fund in each year as, being accumulated at compound interest at the prescribed rate, or if no rate is prescribed, at such rate as in the opinion of the local authority, (regard being had to the securities in which they are authorised to make investments), will at the expiration of some period not longer than the prescribed period, be sufficient, after payment of all expenses, to discharge such loan or part of a loan; and

(2) The first of such payments shall be made within one year from the date of the loan; and

(3) All sums paid into the sinking fund shall be, as soon as may be, invested by the local authority in the prescribed manner, and if no manner

is prescribed, or if a manner having been prescribed, the Local Government Board (*b*) shall assent, in securities in which trustees are by law for the time being authorised to invest, or in debentures, debenture stock, or annuity certificates issued under this Act; and any such investments may be from time to time varied or transposed; and all dividends and other annual sums received in respect of such investments shall, as soon as may be after they are received, be paid into the sinking fund and invested by the local authority in like manner; and

(4) The local authority may from time to time apply the sinking fund, or any part thereof, in or towards the discharge of the loan or part of a loan for which it was created, and until such loan or part is wholly discharged shall not apply the same for any other purpose:

(5) The debentures or portion of debenture stock, to the payment of which such sinking fund is for the time being applicable, shall be ascertained in such manner as may have been fixed at the time of the issue of the debentures or debenture stock, or may thereafter have been arranged. Where the debentures or portion of debenture stock to be paid off are or is to be determined by lot, the lots shall be drawn and notice shall be given in manner hereinbefore in this Act mentioned:

(6) Any surplus of the sinking fund remaining after the discharge of the loan or part of a loan for the discharge of which it was created shall be paid into some other sinking fund under the control of the local authority; or if there is no such fund shall be applied to any purpose to which such loan is applicable, or otherwise, as the local authority may, with the assent of the Local Government Board (*b*), think expedient:

(7) Where any part of the sinking fund is invested in any securities of the local authority, or is applied in paying off any part of the loan before the prescribed period, the interest which would otherwise be payable on such securities or on such part of the loan shall be paid into the sinking fund and invested in manner provided by this Act:

(8) If the annual income of the sinking fund is not less than the annual interest payable on so much of the loan or part of the loan in respect of which it was created as remains undischarged, the equal annual sums required by this section to be paid into the sinking fund may cease to be so paid.

(*a*) See note (*b*) to s. 13, *ante*, p. 4348.
(*b*) The L. G. B. has now been superseded by the Minister of Health.

Annual return as to sinking fund.

16. Where a sinking fund is created for the purpose of discharging any loan or part of a loan the local authority shall, until such loan or part of a loan is discharged, within twenty-one days after the expiration of each year, transmit to the Local Government Board (*a*) a return in such form and verified in such manner as the Board from time to time directs (*b*), showing the amount which has been invested or applied for the purpose of such sinking fund during the year next preceding the making of such return, and the description of the securities upon which any investment has been made, and the purposes to which any portion of the sinking fund has been applied during the same period, and the total amount (if any) remaining invested at the end of the year. If it appears to the Local Government Board (*a*), by such return or otherwise, that the local authority have failed to comply with the provisions of

Section 16.

this Act with respect to the sinking fund, the Board (*a*) may, if they think fit and after hearing the local authority, if desirous to be heard, by order direct that the sum in respect of which default has been made is to be raised and invested or applied as part of the sinking fund, and any such order may be enforced by mandamus.

(*a*) The L. G. B. has now been superseded by the Minister of Health.

(*b*) The L. G. B., by an Order dated November 14th, 1878, prescribed a form of return under this section. The Order will be found in Glen's Local Government Orders, p. 324. See also Circular, November 25th, 1878, *ibid.*, p. 327.

SUPPLEMENTAL PROVISIONS.

(1) AS TO COUPONS.

Temporary issue of coupons.

17. Coupons in respect of any debenture or stock certificate to bearer under this Act may be issued comprising the interest payable during the whole period of years for which the debenture or stock certificate is in force, or any less period, and at the expiration of any such less period fresh coupons may be issued in respect of the debenture or stock certificate, or such debenture or stock certificate may be exchanged for another debenture or stock certificate with coupons for a further period (*a*).

(*a*) For power of local authority to make rules as to issue of coupons, see s. 30, *post*, p. 2353.

Endorsement and crossing of coupons.

18. A coupon payable to order which when presented for payment purports to be endorsed by the person named therein, shall be a sufficient authority to the person paying the money to pay the amount due in respect of such coupon to the bearer thereof, and it shall not be incumbent on the person paying such coupon to prove that such endorsement or any subsequent endorsement was made by or under the direction or authority of the person who is named in the coupon, or to whom the coupon was made payable by any endorser.

Where the coupon bears across its face an addition in written, printed, or stamped letters of the name of any banker or the words of " and company " in full or abbreviated, between two transverse lines, such addition shall be deemed to be a material part of the coupon, and have the force of a direction to the person by whom such coupon is to be paid that the same is to be paid only to or through the banker named, or if none is so named, to or through some banker, and the same shall be payable only to or through the banker named, or some banker (*a*).

(*a*) As to crossed coupons, see s. 32, *post*, p. 2354. Also Bills of Exchange Act, 1882, ss. 76—82, and Revenue Act, 1883, s. 17.

Coupons issued exempt from stamp duty.

19. Any coupons issued in respect of any debenture or stock certificate to bearer under this Act shall for the purpose of the Acts relating to stamp duties be deemed to have been attached to and issued with such security.

(2) AS TO STOCK CERTIFICATES.

Conversion into nominal debenture stock of stock certificate to bearer.

20. The bearer of a stock certificate to bearer may, on delivery to the local authority of his certificate and of all unpaid coupons belonging thereto, require the local authority to enter him in the register of the local authority as an owner of the share of stock described in the stock certificate to bearer, and thereupon that stock shall become nominal debenture stock and the interest thereon shall be payable as if no stock certificate to bearer had been issued in respect of that share of stock.

21. [*Trustee not to apply for stock certificate to bearer*] (*a*).

(*a*) This section was repealed by s. 51 of the Trustee Act, 1893. See now s. 7 of the Trustee Act, 1925, *post*, p. 2874.

(3) AS TO EXECUTION AND SUPPLY OF SECURITIES.

22. Every debenture, stock certificate to bearer, and annuity certificate under this Act shall be deemed to be well executed if under the common seal of the local authority, where that authority is a body corporate, and if signed by two or more members of the local authority, where the local authority is not a body corporate, or if otherwise executed in such manner as the Local Government Board (*a*) may direct on the application of any local authority. whether corporate or unincorporate. Execution and supply of securities.

(*a*) Now the M. of H. (see 9 & 10 Geo. 5, c. 21).

The Commissioners of Inland Revenue may, when required by the local authority, and on payment of such sum as may, with the sanction of the Treasury, be agreed upon, supply such authority with debentures, stock certificates to bearer, coupons, and annuity certificates under this Act in such form and of such materials as the local authority may direct.

(4) AS TO REGISTER OF NOMINAL SECURITIES.

23. A local authority issuing nominal debentures, nominal debenture stock, or nominal annuity certificates under this Act, shall cause a register (*a*) of such securities to be kept in one or more book or books, and there shall be entered in such register— Register of nominal securities.

(1) The names and addresses and the descriptions of the owners for the time being of every such security, with a statement of the securities held by each person registered; and,

(2) The date at which the name of any person was entered in the register in respect of any such security.

The register under this section shall be evidence of any matters by this Act directed or authorised to be inserted therein.

(*a*) For power of local authority to make rules as to registry, see s. 30, *post*, p. 2353.

24. Any person may inspect the register at any reasonable time upon payment of such fee not exceeding one shilling as may be fixed by the local authority, and shall be entitled to obtain from the registrar, copies or extracts certified by him to be true copies or extracts of such register, upon payment of such fee not exceeding two shillings and sixpence, and twopence for every folio of seventy-two words, as the local authority may from time to time fix, and any copy or extract so certified shall be admissible in evidence. Inspection of register.

25. If the name of any person is without sufficient cause entered in or omitted from the register, or if default is made or unnecessary delay takes place in making any entry in such register, the person aggrieved or the local authority may apply to the court for an order that the register may be rectified. Rectification of register.

The court may either refuse the application with or without costs to be paid by the applicant, or may, if satisfied of the justice of the case, whether there has or has not been any default on the part of the registrar, make an order for the rectification of the register, and make such order as to the payment of the costs of the application or of damages to the person aggrieved as to the court may seem just.

The court may, in any proceeding under this section, decide any question relating to the title of any party to such proceeding to have his name entered in or omitted from the register, and generally any question which it may be necessary or expedient to decide for the rectification of the register.

The court for the purposes of this section means any of her Majesty's superior courts of law or equity, or any court to which the jurisdiction of such courts may be transferred; and where the value of any security or securities to which the application relates does not exceed fifty pounds shall include a county court (a); and the jurisdiction by this Act given to a superior court may be exercised in a summary manner by any judge or judges of such court sitting in chambers or otherwise.

(a) See County Court Rules, Order XLIII., rr. 2, 3.

(5) AS TO LOANS UNDER OFFICIAL SANCTION.

Permissive issue of securities under official sanction.

26. Any local authority about to raise a loan by the issue of any securities under this Act may apply to the Local Government Board (a) to authorise the issue of such securities under official sanction.

The Local Government Board, (a) before granting their official sanction to such issue, shall require the local authority to furnish in such form, and with such particulars, and supported by such evidence as the Local Government Board (a) may require, such returns of the financial condition of such authority and borrowing powers of such authority and of the indebtedness of such authority, whether incurred before or after the passing of this Act, and such other particulars as will enable the Local Government Board (a) to ascertain the facts required by this section to be stated in relation to such issue; and the Local Government Board (a) may make such examination or inquiries for ascertaining the said matters and the accuracy of such returns as they may think expedient; and they shall not give their sanction unless they are satisfied with the information given and the result of the inquiries made.

The issue of any securities under official sanction shall be authenticated by an official stamp on such securities or otherwise as the Local Government Board (a) may from time to time direct.

The sanction of the Local Government Board (a) given in respect of any securities shall be conclusive evidence that the local authority by whom such securities may be issued had power to issue the same, and that the same have been duly issued, and are as to form and otherwise in conformity with this Act.

The owner of any security issued under official sanction shall on request made by him to the Local Government Board (a) be furnished with a statement of the following particulars; that is to say,

Where a security is charged on a rate, of the rateable value, at the date of the issue of such security, of the property subject to the rate, and where the security is a charge on property, of the estimated value of such property; also of

The relative priority of the loan, in respect of which such security is issued, and of the other loans (if any) of the borrowing authority;

and such statement shall be evidence of the particulars therein stated.

(a) The L. G. B. has now been superseded by the Minister of Health.

(6) AS TO INVESTMENTS ON LOANS UNDER ACT.

27. [*Power for trustees to invest in loans under Act*] (a).

(a) This section was repealed by s. 51 of the Trustee Act, 1893. See now s. 5 (4) of the Trustee Act, 1925, enacting that a trustee having power to invest money in debentures or debenture stock, of any railway, or other company may invest in any nominal debentures or nominal debenture stock issued under the Local Loans Act, 1875. But if the power of investment in railway stock is limited by the express terms of the instrument, it would seem that the limitation applies also to investment in stock under this Act (*Re Maberley* (1887), 33 Ch. D. 455).

Note to Section 27.

The power given by the Act of 1893, s. 5 (3) (now s. 5 (4) of the 1925 Act), is limited to trustees having power by the express terms of the instrument creating the trust to invest in railway debentures or debenture stock. Trustees only having power under s. 1 (g) of the Act of 1893 (now s. 1 (1) (g) of the 1925 Act) to invest in railway debentures or debenture stock, have not the additional power conferred by s. 5 (3) of investing in local loans debentures or debenture stock (*Re Tattersall, Topham* v. *Armitage*, [1906] 2 Ch. 399; 70 J. P. 537).

See also s. 1 (1) (p) of the Trustee Act, 1925, *post*, p. 2873, as to mortgages of rates, etc., being trustee securities.

Power for Public Works Loan Commissioners to take securities under Act.

28. When the Public Works Loan Commissioners are authorised to grant any loan to a local authority under any Act, passed either before or after the passing of this Act, and are satisfied with the sufficiency of the rates or other property on which such loan is charged to defray the loan, they may, notwithstanding anything contained in any other Act of Parliament, take debentures, debenture stock, or annuity certificates under this Act as a security for such loan.

(7) AS TO GENERAL RULES.

Application of rules in Schedule.

29. The general rules in the Schedule to this Act with respect to the transfer and transmission of nominal securities shall have the same force as if they were enacted in the body of this Act.

Power to make general rules.

30. The local authority may from time to time, with the consent of the Local Government Board (*a*), make, and, when made, add to, rescind, or alter, such rules as they think fit with respect to the following matters:

(1) The issue of coupons, the registry of securities, the mode of transferring securities not transferable by delivery, the fees, if any, to be charged in respect of registry and otherwise in respect of any security issued by them under this Act; and

(2) With respect to any matter or thing required for the purposes of carrying into effect this Act, and not inconsistent therewith.

The local authority may also by such rules as aforesaid add to, rescind, or alter any of the rules in the Schedule hereto.

Any general rules made by the local authority in pursuance of this section shall, so far as they are consistent with this Act, have the same force as if they were enacted therein.

Provided, that any rules made, added to, rescinded, or altered in pursuance of this section shall not affect any securities issued in respect of any loan the date of which is prior to the date of such making, addition, rescission, or alteration.

(*a*) The L. G. B. has now been superseded by the Minister of Health.

(8) AS TO BORROWING.

Borrowing and re-borrowing by local authorities.

31. Any local authority, notwithstanding any provision in any other Act of Parliament passed before the passing of this Act, may, if it thinks fit, borrow in manner provided by this Act any loan which it is authorised to borrow (*a*).

Any local authority may from time to time in like manner re-borrow money for the purpose of discharging any loan lawfully contracted by them either before or after the passing of this Act: Provided that the time for repayment of any money so borrowed shall not be extended beyond the unexpired

Section 31. portion of the term for which the original loan was contracted, unless with the sanction of the Local Government Board (*b*), and in no case shall be extended beyond the prescribed period.

(*a*) It is to be observed that this Act regulates the mode of borrowing and the securities to be given, but it does not itself authorise borrowing in any particular case or cases.

(*b*) The L. G. B. has now been superseded by the Minister of Health.

(9) AS TO FORGERY AND LOSS OF SECURITIES.

Forgery of securities. 24 & 25 Vict. c. 98.

32. For the purposes of the Forgery Act, 1861, debenture stock under this Act shall be deemed to be capital stock of a body corporate, and any other security issued in pursuance of this Act shall be considered to be a writing obligatory, and any coupon bearing across its face an addition in written, printed, or stamped letters of the name of any banker, or of the words "and company" in full or abbreviated, between two transverse lines, shall be deemed to be a cheque or draft on a banker (*a*).

(*a*) As to crossed coupons, see note (*a*) to s. 18, *ante*, p. 2350. And see the Forged Transfers Acts, 1891 and 1892, *post*, pp. 2532, 2541.

Loss of securities.

33. If any security issued under this Act is lost mislaid or destroyed, the local authority shall, on such indemnity being given as they may require, and on payment of the expenses of the issue, issue a fresh security in the place of the security so lost mislaid or destroyed.

(10) DEFINITIONS.

Definitions.

34. For the purposes of this Act—

"Prescribed" means prescribed by any Act passed either before or after the passing of this Act authorising a local authority to borrow money:

"Local authority" means the justices of any county, liberty, riding, parts, or division of a county in general or quarter sessions assembled, the council of any municipal borough, also any authority whatsoever having power to levy a rate, as in this Act defined, also any prescribed authority:

5 & 6 Will. 4, c. 76.

"Municipal borough" means any borough for the time being subject to the Municipal Corporations Act, 1835, and any Acts amending the same (*a*):

A "rate" means a rate the proceeds of which are applicable to public local purposes and leviable on the basis of an assessment in respect of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other document requiring payment from some authority or officer, is or can be ultimately raised out of a rate; and the levy of a rate includes the issue and enforcement of any such precept, certificate, or document as aforesaid; and expressions relating to the levy and the assessment and making of a rate shall be construed accordingly:

"Local rate" means any rate as before defined which a local authority have power to levy or charge by way of mortgage or otherwise:

"Security" means any debenture, debenture stock, annuity certificate, coupon, or stock certificate to bearer issued under this Act:

"Person" includes a body of persons corporate or unincorporate:

"Executors and administrators" includes successors.

(*a*) Now the Municipal Corporations Act, 1882. See s. 242 of that Act.

Section 35.

(11) REPEAL AND CONSEQUENTIAL ENACTMENT.

35. [*Repeal of* 36 *&* 37 *Vict. c.* 35] (*a*).

(*a*) Repealed by the S. L. R. A., 1883.

36. [*Incorporation of justices*] (*a*).

(*a*) This section is omitted as immaterial for the purposes of the present work. It related to the incorporation of the justices of a county for the purposes of this Act.

SCHEDULE.

GENERAL RULES.

Transfer of Nominal Securities.

[Sect. 29.]

(1) A number of persons, not exceeding such number as may from time to time be directed by the local authority, may be registered as joint owners of the same nominal security, with right of survivorship between them (*a*).

(2) Unless otherwise directed by a general rule of the local authority, the instrument of transfer of any nominal security issued by local authority shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain owner of such security until the name of the transferee is entered in the register in respect thereof.

(3) The transfer books of nominal securities may be closed at such times, not exceeding twice in each year, and not exceeding fourteen days at each time of closing, as the local authority may direct.

Transmission of Nominal Securities.

(4) The executors or administrators of a deceased owner of a nominal security shall be the only persons recognised by the local authority as having any title to such security.

(5) Any person becoming entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may be registered as owner upon such evidence being produced as may from time to time be required by the local authority.

(6) Unless otherwise directed by a rule of the local authority, any person who has become entitled to a nominal security in consequence of the death or bankruptcy of any owner, or in consequence of the marriage of any female owner, may, instead of being registered himself, elect to have some person to be named by him registered as a transferee of such security.

(7) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such security.

(8) The instrument of transfer shall be presented to the local authority, accompanied with such evidence as the local authority may require to prove the title of the transferor, and thereupon the local authority shall register the transferee as owner.

(9) In the construction of this schedule the term "nominal security" means any nominal debenture, nominal debenture stock, or nominal annuity certificate.

(*a*) See also the Law of Property Act, 1925, s. 111.

Section 1.

THE CONSPIRACY, AND PROTECTION OF PROPERTY ACT, 1875 (*a*).

(38 & 39 VICT. c. 86.)

An Act for amending the Law relating to Conspiracy, and to the Protection of Property, and for other purposes. [13th August, 1875.]

Short title.

1. This Act may be cited as "The Conspiracy, and Protection of Property Act, 1875."

(*a*) This Act is amended by the Trade Disputes and Trade Unions Act, 1927 (17 & 18 Geo. 5, c. 22). Section 6 of that Act which relates to local authorities is set out at p. 2944, *post.*

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Breach of contract by persons employed in supply of gas or water.

4. Where a person employed by a municipal authority or by any company or contractor upon whom is imposed by Act of Parliament the duty, or who have otherwise assumed the duty of supplying any city, borough, town, or place, or any part thereof, with gas or water, wilfully and maliciously (*a*) breaks a contract of service with that authority or company or contractor, knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, will be to deprive the inhabitants of that city, borough, town, place, or part, wholly or to a great extent of their supply of gas or water, he shall on conviction thereof by a court of summary jurisdiction or on indictment as herein-after mentioned, be liable either to pay a penalty not exceeding twenty pounds or to be imprisoned for a term not exceeding three months, with or without hard labour.

Every such municipal authority, company, or contractor as is mentioned in this section shall cause to be posted up, at the gasworks or waterworks as the case may be, belonging to such authority or company or contractor, a printed copy of this section in some conspicuous place where the same may be conveniently read by the persons employed, and as often as such copy becomes defaced, obliterated, or destroyed, shall cause it to be renewed with all reasonable despatch.

If any municipal authority or company or contractor make default in complying with the provisions of this section in relation to such notice as aforesaid, they or he shall incur on summary conviction a penalty not exceeding five pounds for every day during which such default continues, and every person who unlawfully injures, defaces, or covers up any notice so posted up as aforesaid in pursuance of this Act, shall be liable on summary conviction to a penalty not exceeding forty shillings (*b*).

(*a*) As to the meaning of this word, see s. 15, *post*, p. 2357. As to the right to claim trial by jury, see *R.* v. *Mitchell*, [1913] 1 K. B. 561; 77 J. P. 148.

(*b*) This section has been extended to persons employed by a joint electricity authority or by any authorised undertakers, see s. 31 of the Electricity (Supply) Act, 1919, *post*, p. 2890.

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Definitions of "municipal authority" and "public company."

14. The expression "municipal authority" in this Act means any of the following authorities, that is to say, the Metropolitan Board of Works, the Common Council of the city of London, the Commissioners of Sewers of the city of London, the town council of any borough for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and any Act amending the same, any commissioners, trustees, or other persons invested by any

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local Act of Parliament with powers of improving, cleansing, lighting, or paving any town, and any local board.

Any municipal authority or company or contractor who has obtained authority by or in pursuance of any general or local Act of Parliament to supply the streets of any city, borough, town, or place, or of any part thereof, with gas, or which is required by or in pursuance of any general or local Act of Parliament to supply water on demand to the inhabitants of any city, borough, town, or place, or any part thereof, shall for the purposes of this Act be deemed to be a municipal authority or company or contractor upon whom is imposed by Act of Parliament the duty of supplying such city, borough, town, or place, or part thereof, with gas or water.

"Maliciously" in this Act construed as in Malicious Injuries to Property Act.

15. The word "maliciously" used in reference to any offence under this Act shall be construed in the same manner as it is required by the fifty-eighth section of the Act relating to malicious injuries to property, that is to say, the Act of the session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty, chapter ninety-seven, to be construed in reference to any offence committed under such last-mentioned Act.

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THE PUBLIC WORKS LOANS ACT, 1875.

(38 & 39 VICT. c. 89) (*a*).

An Act to consolidate with Amendments the Acts relating to Loans for Public Works. [13th August, 1875.]

PRELIMINARY.

Short title.

1. This Act may be cited as "The Public Works Loans Act, 1875."

(*a*) The clause of enactment and s. 2 of this Act are repealed by the S. L. R. (No. 2) A., 1893. See the P. H. A., 1875, ss. 233—244, *ante*, pp. 519—537. See also the amending Acts, 39 & 40 Vict. c. 31; 41 Vict. c. 18; 42 & 43 Vict. c. 77; 44 & 45 Vict. c. 38; 45 & 46 Vict. c. 62; 50 & 51 Vict. c. 37; 55 & 56 Vict. c. 61; 59 & 60 Vict. c. 42; 60 & 61 Vict. c. 51; 61 & 62 Vict. c. 54; 62 & 63 Vict. c. 31; 3 Edw. 7, c. 28; 1 & 2 Geo. 5, c. 17; 7 & 8 Geo. 5, c. 32; 8 & 9 Geo. 5, c. 27. The other Acts relating to Public Works Loans, 43 & 44 Vict. c. 1; 47 & 48 Vict. c. 49; 48 & 49 Vict. c. 65; 49 & 50 Vict. c. 45; 51 & 52 Vict. c. 39; 52 & 53 Vict. c. 71; 53 & 54 Vict. c. 50; 54 & 55 Vict. c. 59; 56 & 57 Vict. cc. 24, 40; 57 & 58 Vict. c. 11; 59 Vict. c. 2; 1 Edw. 7, c. 35; 2 Edw. 7, c. 22; 3 Edw. 7, c. 28; 4 Edw. 7, c. 36; 5 Edw. 7, c. 22; 6 Edw. 7, c. 29; 7 Edw. 7, c. 36; 2 & 3 Geo. 5, c. 11; 3 & 4 Geo. 5, c. 22; 4 & 5 Geo. 5, c. 33; 5 & 6 Geo. 5, c. 68; 6 & 7 Geo. 5, c. 28; 9 & 10 Geo. 5, c. 52; 10 & 11 Geo. 5, c. 61; 11 & 12 Geo. 5, c. 54; 12 & 13 Geo. 5, c. 33; 13 & 14 Geo. 5, c. 29; 14 & 15 Geo. 5, c. 26; 15 & 16 Geo. 5, c. 62; 16 & 17 Geo. 5, c. 2; 17 Geo. 5, c. 1; 17 & 18 Geo. 5, c. 28; 19 Geo. 5, c. 5; are not included in this Appendix, as they relate only to the appointment of Commissioners, or to the grant of money by Parliament for the purposes of loans, or to particular loans.

2. [*Commencement of Act.*]

Extent of Act.

3. This Act shall extend to the Isle of Man.

PUBLIC WORKS LOAN COMMISSIONERS.

Constitution, etc. of Public Works Loan Commissioners.

4. For the purpose of loans out of moneys issued in pursuance of this Act, and for the purpose of the execution of this Act and of any enactment passed or hereafter to be passed authorising or referring to such loans, there shall be a body of commissioners (in this Act referred to as the Loan Commissioners), who may be styled the Public Works Loan Commissioners.

Section 4.

Every person who may from time to time be appointed by Act of Parliament a Public Works Loan Commissioner shall, on signing the declaration in the Second Schedule to this Act, be deemed to be one of the Public Works Loan Commissioners under this Act (*a*).

The Public Works Loan Commissioners shall hold office during such period as may be authorised by any Act appointing them, and if no period is so authorised, during the period of five years after the passing of such Act, and, if at the expiration of such period successors have not been appointed, may continue to hold office until successors be appointed, subject to this qualification, that they shall not grant any new loan after the expiration of such period.

Whenever any vacancy among the Commissioners occurs by any Commissioner dying or declining to act, or declining further to act, the remaining Commissioners or a majority of them may by writing under their hands and seals, with the concurrence of the Treasury, appoint such person to fill the vacancy as seems fit, and the person so appointed shall, on signing the declaration in the Second Schedule to this Act, be deemed to be one of the Public Works Loan Commissioners under this Act, and shall hold office for the period during which the Commissioner in whose place he is appointed would have held office.

A Public Works Loan Commissioner shall not receive any salary, fee, or emolument in respect of his services as such Commissioner.

(*a*) The names of the present Commissioners will be found in 15 & 16 Geo. 5, c. 62.

Powers, etc. of Commissioners.

5. With respect to the Loan Commissioners the following provisions shall have effect:

(1) The Loan Commissioners may sue and be sued in the name of their secretary for the time being; and no action or suit in law or equity brought or commenced by or against the said Commissioners in the name of their secretary for the time being shall abate or be discontinued by the death or removal of such secretary, or by the act of such secretary without the consent of the said Commissioners; but the secretary to the said Commissioners for the time being shall always be deemed the plaintiff or defendant in such action or suit as the case may be; and

(2) The Commissioners may examine any persons willing to be examined on any matters connected with the execution of this Act, and may for that purpose, or otherwise for the purpose of the execution of this Act, administer an oath, and take any affidavits or declaration; and

3) The Loan Commissioners shall annually cause to be made out up to the end of every financial year a report of their transactions under this Act during the year, and such report shall contain or have annexed thereto the prescribed particulars respecting moneys issued to and loans granted by the Commissioners either before or after the passing of this Act, and the execution of the duties of the Loan Commissioners, and such other particulars as the Loan Commissioners may from time to time think fit:

Such particulars shall include a statement of any difference that may have arisen between the Loan Commissioners and any public department respecting the grant of any loan or the construction of any Act relating to loans by the Loan Commissioners:

Such report shall be transmitted to the Treasury within two (*a*) months after the date up to which it is required to be made, and shall be forthwith laid by the Treasury before both Houses of

Parliament if Parliament be then sitting, or if not, within one month after the then next sitting of Parliament; and

Section 5.

(4) Any minute made of proceedings at meetings of the Commissioners, if signed by any person purporting to be the chairman, either of the meeting of the Commissioners at which such proceedings took place, or of the next ensuing meeting of the Commissioners, shall be receivable in evidence in all legal proceedings without further proof, and until the contrary is proved every meeting of the Commissioners, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act; and

(5) An act or proceeding of the Commissioners shall not be questioned on account of any vacancy or vacancies in their body.

(a) Three. See the Public Works Loans Act, 1899, s. 6.

Officers and their salaries and expenses.

6. The Loan Commissioners may from time to time appoint or employ a secretary, solicitor, civil engineer, surveyor, and such number of officers, clerks, messengers, and other persons as they may, with the consent of the Treasury, deem necessary, and may remove any person so appointed or employed.

The Loan Commissioners may from time to time assign to any person so appointed or employed by them such salary or remuneration as they may, with the sanction of the Treasury, think proper.

A person appointed or employed by the Loan Commissioners, in pursuance of this section, shall not receive any remuneration in respect of such appointment or employment or otherwise in respect of the execution of his duties under this Act, except such as may be assigned to him in pursuance of this section.

Every such salary or remuneration, and all expenses incurred by the Loan Commissioners in the execution of this Act, shall be paid out of moneys provided by Parliament.

Securities given to and property vested in secretary to vest in his successor.

7. Where under this or any other Act or any conveyance obligation, or security, any real or personal property, or any estate or interest therein, or any chose in action, has been or may be vested in, conveyed, made payable, or secured to the secretary of the Loan Commissioners for the time being as such secretary, and in respect of his office, all such real and personal property, estate and interest, and chose in action whatsoever, upon the death, removal, or resignation of any such secretary from time to time, and as often as the same happens and the appointment of a successor takes place, shall (subject to the same trusts, and equities, if any, as the same were before respectively subject to) vest in such succeeding secretary, by force of this Act and without any act or deed whatever to be done by the secretary dying, resigning or removed, or by the heirs, executors, or administrators of such secretary, or by any person or persons claiming under him, them, or any of them, and notwithstanding the same may have been expressed to be vested in, conveyed, made payable to or secured to such secretary, his heirs, executors, administrators, and assigns, or any of them; and shall be proceeded upon in the name of any succeeding secretary, by any action or suit in law or equity, or in any other manner as the same might have been proceeded upon by or in the name or names of such secretary dying, resigning, or removed.

Where the secretary of the Loan Commissioners is a party to any action, suit, or other legal proceeding, such secretary acting under the direction of the Commissioners shall be deemed to represent the Crown, so far as regards

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the interest of the Crown in any loan granted under this Act or any money due under a security for any such loan, and it shall not be necessary to make the Crown or any other person on behalf of the Crown, a party to such action, suit, or proceeding, in respect of such interest as aforesaid.

Execution of conveyances, leases, etc. by secretary on behalf of Commissioners.

8. All conveyances, leases, mortgages, releases, arrangements, and things which the Loan Commissioners are authorised by this Act to grant, execute, make, or concur in, and all powers, acts, and things which the Loan Commissioners are authorised by this Act to exercise, do, or concur in, in relation to any mortgaged property or rate, may be granted, executed, made, concurred in, exercised, and done by their secretary for the time being under their direction, and when so granted, executed, made, concurred in, exercised, and done by such secretary, shall be deemed to have been granted, executed, made, concurred in, exercised, and done by him under the direction of the Commissioners, unless the contrary is shown by some person interested in contesting the validity thereof.

Any property, chose in action, estate, interest, powers, authorities, and privileges vested in or exercisable by the secretary of the Commissioners in pursuance of this Act shall be dealt with and exercised by him under the direction of the Commissioners and not otherwise.

OBJECTS, TERMS, AND DURATION OF LOAN.

Loans for public works.

9. The Loan Commissioners may, if they think it expedient, from time to time, in manner mentioned in this Act, make loans for the purpose of any of the works mentioned in the First Schedule to this Act, to any person having power under an Act of Parliament or otherwise to borrow for such purpose (*a*).

The Loan Commissioners in considering the propriety of granting a loan shall have regard to the sufficiency of the security for its repayment, and, subject to the provisions of any special Act, shall determine whether the work for which the loan is asked would be such a benefit to the public as to justify a loan out of public money, having regard to the amount of money placed at their disposal by Parliament (*b*).

(*a*) The schedule includes all, or nearly all, the purposes for which a sanitary authority may borrow money. By the Public Works Loans Act, 1896, s. 2, *post*, p. 2565, there shall be added to the works for which the Commissioners may lend, any work for which the council of a county, borough, district, or parish are authorised to borrow. By the Small Dwellings Acquisition Act, 1899, s. 9 (7), *ante*, p. 1078, the Commissioners may lend money to a local authority for the purposes of that Act. Separate accounts must be kept by a local authority of all loans from the Commissioners on the security of the rates. See the Public Works Loans Act, 1882, s. 8, *post*, p. 2459. See also Housing Act, 1925, ss. 89 and 90, *ante*, p. 1454.

(*b*) See the notes to s. 243 of the P. H. A., 1875, *ante*, p. 536.

Interest on loan.

10. Every loan granted under this Act shall bear interest at a rate not less than the rate authorised by a special Act relating to such loan (*a*), or if no rate be so authorised, not less than five per cent. per annum: Provided that when the aggregate amount of principal moneys due by any harbour authority to the Commissioners under the Harbours and Passing Tolls, etc. Act, 1861, exceeds one hundred thousand pounds, the rate of interest on such excess shall be three-and-a-half per cent., or such higher rate, not exceeding five per cent., as may in the judgment of the Treasury be necessary to enable the loan to be made without loss to the Exchequer.

24 & 25 Vict. c. 47.

(*a*) See the P. H. A., 1875, s. 243, *ante*, p. 536, and the notes thereto. See also the Housing Act, 1925, s. 89 (2), *ante*, p. 1454, and s. 1 of the Public Works Loans Act, 1897, s. 1, and notes thereto, *post*, p. 2567. In the application of the above sections to loans granted after June 28th, 1892, 4 per cent. is to be read instead of 5 per cent. See the Public Works Loans Act, 1892, s. 2, *post*, p. 2551.

Term of years for repayment of loan.

11. Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within a period from the date of the actual advance of such loan, not exceeding the period authorised by a special Act relating to such loan, or if no period be so authorised not exceeding *twenty* (*a*) years.

Where a loan has been granted repayable within a period less than the full period allowed by the foregoing provisions of this section, the Loan Commissioners, if the repayment of the loan with interest is in their opinion sufficiently secured by such security as is required by this Act, and if they think fit, may extend the period for the repayment of such loan to a period not exceeding the said full period from the date of the advance of such loan.

Where no period is authorised by a special Act relating to the loan, the Treasury, on the recommendation of the Loan Commissioners, stating special circumstances, may either before or after the grant of the loan, extend the period within which the loan is to be repaid to such period as may be recommended by the Loan Commissioners (*b*).

The Loan Commissioners in considering whether the period for the repayment of a loan should or should not be the said full period, and the Loan Commissioners and the Treasury in considering whether the period should be extended as aforesaid, shall have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by such work.

The first instalment for the repayment of every loan shall be made payable within a period not exceeding five years from the date of the advance of such loan.

(*a*) This maximum period is now fifty years: see Public Works Loans Act, 1911, s. 4, *post*, p. 2709; it had previously been raised to thirty by the Public Works Loans Act, 1898, s. 5.

(*b*) See note (*a*) to s. 10, *ante*, p. 2360.

Security for loans.

12. The Loan Commissioners before advancing any money on account of a loan shall take security for the repayment of the loan with the interest, consisting of the security authorised by the special Act relating to the loan, or if none is so authorised, of a mortgage of property or of a rate, or of both property and a rate, and (save as hereinafter mentioned) of personal security.

The Loan Commissioners may, if they think fit, dispense with personal security in any case in which in their opinion the mortgaged property or rate is sufficient security for the payment of the principal and interest of the loan within the stipulated period.

FUNDS FOR LOANS.

13. [*Annual estimates of amounts required*] (*a*).

(*a*) This section is repealed by the Public Works Loans Act, 1882—see note (*b*) to s. 8 of that Act, *post*, p. 2460.

14. [*Treasury to issue sums required for loans*] (*a*).

(*a*) This section and part of s. 15 were repealed by the National Debt and Local Loans Act, 1887, s. 21. By that Act the National Debt Commissioners were required to issue to the Public Works Loan Commissioners the amount authorised by Parliament for advances to be made by the Loan Commissioners, and these advances are in the Act included under the expression "local loans." For this purpose the Act further established the Local Loans Fund under the control of the National Debt Commissioners, and out of this fund all advances are now made for the purpose of local loans.

Borrowing for the purpose of raising money.

15. . . . The annuities created in pursuance of this section, and the principal moneys borrowed in pursuance of this section (otherwise than by

Section 15.

the issue of Exchequer bonds) and all interest from time to time due thereon, or on Exchequer bonds issued under this section (not exceeding the rate of five per cent. per annum) shall be charged upon and be payable out of the Consolidated Fund, or out of the growing produce thereof, at such times in each year as may be fixed by the Treasury.

The principal of any Exchequer bonds issued under this section shall be paid out of moneys provided by Parliament.

. . . . . .

The said annuities shall, in manner directed by the warrant, be consolidated in the said books, if terminable, with annuities payable at the same date, and, if permanent, with annuities at the same rate of interest, and payable at the same date, and shall be transferable in the said books in like manner as the annuities with which they are consolidated, and shall be subject to the enactments relating to those annuities so far as is consistent with the tenor of those enactments.

16. [*Money issued by Treasury to be issued to National Debt Commissioners*] (*a*).

(*a*) Sections 16 and 17 were repealed by the National Debt and Local Loans Act, 1887, s. 21.

17. [*Sums repaid to be paid into the Exchequer*] (*a*).

(*a*) See note (*a*) to s. 16, *supra*.

RECOVERY OF LOANS.

Charge on property and priority of loan by the Commissioners.

18. Where a loan is granted by the Loan Commissioners on the security of a mortgage of any property (whether with or without any other security), the property from and after the date of the mortgage shall be charged with the payment to the use of her Majesty of the loan with interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage, or charge whatsoever affecting the property, except any loan due to any creditor not assenting to such priority which has been advanced in good faith before the loan advanced by the Commissioners and secured by a mortgage of the property executed to a person who is entitled as a bonâ fide creditor to the repayment thereof with interest.

Provided that if there is more than one such creditor and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, in such case the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the loan granted by the Commissioners and to the said charge thereof, and to the security for the same.

Nothing in any special Act (*a*), and no rule of law or custom, shall affect the priority given by this section, except so far as the special Act negative such priority in terms expressly referring to this Act.

(*a*) The special Act includes any Act relating to any person having power to borrow from the Commissioners. See the Public Works Loans (Money) Act, 1876, s. 7, *post*, p. 2374.

Charges on rate of loan and loan not to be repudiated by locality having had the benefit of it.

19. Where a loan is granted by the Loan Commissioners on the security of a mortgage of any rate (whether with or without any other security) such rate from and after the date of the mortgage shall be charged with the payment to the use of her Majesty of the loan with interest as in the mortgage mentioned.

Where the loan has been granted to any borrower who appeared to the

Commissioners to have power to levy and mortgage such rate and has been expended upon the work in respect of which or in or for the benefit of the locality in which such rate or any part thereof is levied, the mortgage of the rate for securing the repayment of the loan with interest shall be valid, and may be enforced in pursuance of this Act, notwithstanding any defect in the power or title of the borrower by whom the mortgage purports to be granted; and in particular the Commissioners may, although such borrower was not legally constituted or is dissolved, or is otherwise incapable and always was incapable of making, levying, or mortgaging such rate, have the same power of making and levying and enforcing the making or levying the said rate for the purpose of repaying such loan and interest, and all other sums due under the mortgage, as if such borrower had been duly constituted, and was not dissolved, and had had full power to make, levy, and mortgage such rate.

Securities to be taken in name of secretary.

20. All securities for any loan granted by the Loan Commissioners in pursuance of this Act may be given to the secretary of the Commissioners on their behalf. Every such security is in this Act referred to as a security given to the Commissioners.

Taking possession by Commissioners of property on default of payment.

21. Where a mortgage of property has been given to secure any loan granted by the Loan Commissioners, and default is made in making payment according to the terms of such mortgage, then at any time after such default and without any consent on the part of any person interested in the equity of redemption of the mortgaged property, the Commissioners, without prejudice to any other remedy, shall have power to do all or any of the following things; namely,—

(1) Take possession of the mortgaged property, or any part thereof; and

(2) Grant any lease of the mortgaged property, or any part thereof, for such term and upon such reasonable conditions as they may think expedient, and that either for a premium or rent, or both; and

(3) Sell or mortgage the mortgaged property or any part thereof.

Powers of Commissioners when in possession.

22. The Loan Commissioners, when authorised to take possession of any mortgaged property, may take possession either by themselves or by any person appointed by them (whether such person is interested in the mortgaged property or not), and upon possession of any mortgaged property being so taken,—

(1) All the estate, right, interest, powers, authorities, and privileges, of what nature or kind soever, which were at the time of the making of the mortgage or may for the time being be vested in or exerciseable by the mortgagor or any person claiming through or under the mortgagor, either in relation to the property or necessary for carrying on and managing the same, shall become vested in the secretary of the Commissioners; and

(2) The Commissioners may by themselves or any person appointed as aforesaid manage and carry on the property, and receive the revenue arising therefrom, or in any way receivable in respect thereof, or otherwise, in pursuance of the mortgage, and exercise all or any of the powers and authorities vested in the secretary by this Act; and

(3) The Commissioners or their secretary or such person as aforesaid shall not be liable for the repairs or maintenance of the mortgaged property, but may apply any moneys received in respect thereof or raised from any rate towards such repairs or maintenance to such extent as the Commissioners may think expedient; and

(4) The Commissioners may, with the consent of the Treasury, advance out of moneys at their disposal under this Act sums for the completion, repair, improvement, or security of the mortgaged property, and every such sum shall be deemed and shall be a loan secured on the property and repayable with the like interest (*a*) from the time of the advance, and by the like person, and shall have the like priority and be recoverable in the like manner as if it were part of the original loan secured by the said mortgage ; and

(5) If the revenue received from or in respect of the property is insufficient to keep down the current expenses of working, maintaining, and repairing the same, together with the instalments of principal and the interest for the time being due on the mortgage, and no rate or no sufficient rate can be levied to meet the deficiency, the Commissioners may, with the consent of the Treasury, destroy or cause to be destroyed, or (if they sell the same) authorise the purchaser with the like consent to destroy the same, and sell or authorise the purchaser to sell the materials thereof and other the articles, goods, and effects belonging thereto, and neither the Commissioners, nor their secretary, nor the purchaser so authorised, nor his representatives, shall be liable in damages or otherwise to any person whomsoever for such destruction ; and the provisions of this Act with respect to the sale of any mortgaged property shall apply to any sale under this section ; and

(6) Possession under this Act may be relinquished at such time and in such manner and upon such terms and conditions as the Commissioners think fit, and upon such relinquishment all powers, authorities, and privileges which on the taking of possession become vested in the secretary of the Commissioners shall, so far as they are not reserved, revert to and become vested in the person in whom the same would have been vested if possession had not been taken, but the Commissioners may, if they think fit, on the relinquishment of possession, reserve any of the said powers, authorities, and privileges, with a view to the payment of any sum due to them :

(7) Every such relinquishment of possession of any mortgaged property shall be without prejudice to the power of again taking possession thereof under the provisions of this Act.

(*a*) Not less than 5 per cent. See the Public Works Loans Act, 1881, s. 7, *post*, p. 2409.

Powers in relation to rate where default made.

23. Where a loan made by the Commissioners is secured by the mortgage of a rate (whether with or without any other security), and the Commissioners might, if such loan were secured upon a mortgage of property, take possession of such property, the Commissioners may, without prejudice to any other remedy, by notice in writing served at the office or last known place of address of the mortgagor, or where from any cause the same cannot be so served by notice in writing published in the prescribed manner, declare their intention to exercise the powers conferred by this Act, and thereupon the Commissioners shall have and may exercise the same power as the mortgagor of making and levying the rate mortgaged, and for that purpose the Commissioners or their secretary with their concurrence may appoint an officer who, subject to the direction of the Commissioners, shall have and may exercise the same powers, authorities, and duties as if he had been appointed by the mortgagor.

The Commissioners, in making an estimate of the rate to be levied for the purpose of paying any sum due, may add such sum as they think sufficient for defraying and may defray thereout all costs, charges, and expenses, including remuneration to any officer or other person employed, incurred by the Commissioners in the execution of their powers under this section or otherwise by reason of the default in payment.

Any balance remaining in the hands of the Commissioners shall be paid by them to the mortgagor.

The Commissioners may, by a like notice, declare their intention to relinquish the powers conferred by this section, and that either absolutely or with reservations and conditions, and thereupon all such powers shall revest in the mortgagor, subject to the said reservations and conditions.

Liability of Commissioners after taking possession or in default of payment.

24. When the Loan Commissioners have taken possession of any property under this Act, or exercised the powers conferred by this Act in relation to any rate, neither they nor their secretary, nor any person appointed by them in that behalf, shall be liable to account to any person interested in the equity of redemption in such property or rate for any moneys which, but for their wilful neglect or default, they or he might have received when so in possession or exercising such powers, or for any moneys other than those which have actually come to their or his hands.

Sale and mortgage by Commissioners of mortgaged premises.

25. Where the Loan Commissioners have power to sell or mortgage, they shall have power to sell or mortgage either together or in parcels, by public auction or private contract, and subject to such conditions as to title or evidence of title or otherwise as the Commissioners may think proper.

They may also buy in at any auction and rescind any contract for sale or mortgage, and resell or remortgage, without being responsible for any loss occasioned thereby.

Where a sale cannot be made in the ordinary way for a sum equal to the amount remaining due under the mortgage, the Loan Commissioners may, if they think fit, sell in such manner and subject to such conditions, stipulations, and agreements as they may think expedient for the purpose of ensuring the completion or carrying on of the work comprised in such mortgage by the purchaser thereof, with a view to the public good or general benefit, or for any other purpose, notwithstanding such conditions, stipulations, and agreements may be prejudicial to the sale, or may not be beneficial to the persons interested in the equity of redemption in the property.

The Loan Commissioners may for the purpose of any sale or mortgage execute all such agreements, conveyances, and instruments as they may think fit.

Purchaser not liable to see to the validity of sale or application of money.

26. Every sale or mortgage made by the Commissioners or their secretary, and purporting to be made in pursuance of this Act, shall, so far as regards the interest of the purchaser and mortgagee, be deemed to be valid, and the purchaser or mortgagee shall not be bound to see or inquire whether the sale or mortgage is authorised, nor in the case of a mortgage whether the money raised is required to be raised, nor as to the necessity or expediency of or authority for making the conditions, stipulations, or agreements subject to which the sale or mortgage was made, nor otherwise as to the propriety or regularity of such sale or mortgage, nor be affected by express notice as to any matters into which he is not bound to see or inquire.

The receipt in writing of the Bank of England, or one of their cashiers or other proper officer for the purpose of the Bank of England, or other prescribed receipt, shall be a full discharge for the money paid on the sale or mortgage, and the person paying the same shall not be bound to see to the application of such money, or be liable or in any manner accountable for the misapplication or non-application thereof.

Terms of lease, sale, or mortgage.

27. Any lease, mortgage, conveyance (*a*), or other disposition made by the secretary of the Commissioners under this Act of any mortgaged property may be in the prescribed form, and shall convey to the person in whose favour such lease, mortgage, conveyance, or other disposition is made, and according to the terms thereof, all or any part of the estate, right, interest, powers, authorities, and privileges, which under the mortgage and this Act are vested in or capable of being exercised by the Loan Commissioners, or their secretary, either before or after possession taken, and the same shall thereupon be vested in and may be exercised and put in force by such person accordingly.

Nothing in this Act shall operate to invalidate or affect the rights of any person entitled bonâ fide to any debt, estate, or interest, having priority over or ranking pari passu with the loan granted by the Commissioners, or the security for such loan, or the rights of any lessee under any lease made either prior to such security or with the concurrence of the Commissioners.

(*a*) See the definition of a conveyance in s. 51, *post*, p. 2371.

Application of money arising on taking possession, sale, mortgage, etc. by Commissioners.

28. Any money arising from the taking possession, lease, sale, mortgage, or other disposition under this Act by or under the direction of the Loan Commissioners of any mortgaged property shall be applied first in discharge of all costs, charges, and expenses incurred by or under the direction of the Commissioners in respect thereof, or otherwise by reason of the default in payment, and secondly in discharge of the whole of the principal of the loan secured by the mortgage and for the time being unpaid (notwithstanding that the same or any instalment thereof may not have become actually due), and in discharge of all interest accrued due on such principal, and of all other sums (if any) due under the mortgage.

The surplus (if any) of such money either shall be paid to the mortgagor or other person or persons entitled thereto, or, if the Commissioners think fit, shall be paid by the secretary of the Commissioners into the Court of Chancery in England in like manner as if he were a trustee of such money for the persons entitled thereto, and the court may make such orders for the payment and distribution of such money to or among those persons as may from time to time seem to the court just.

Payment of loan before it is due, and transfer of security for all or part of loan.

29. The Loan Commissioners may, if they think fit, at any time accept payment of the whole or any part of the principal and interest of any loan or other moneys secured by any mortgage under this Act before the time when the same is due, and may release or convey the mortgaged property or rate to the person paying the same or as he may direct, upon such terms and conditions and in such manner and form as the Commissioners may think expedient.

The person in whose favour any conveyance of the mortgaged property or rate under this section is made shall, subject to any limitations inserted therein, be entitled to the like priorities, powers, and authorities as the Commissioners or their secretary were entitled to, either subject to or with priority over or concurrently with any priorities, powers, and authorities reserved to the Commissioners by the conveyance.

The Commissioners shall have full power to enter into and concur in all such arrangements as they may deem expedient for the purposes of carrying into effect a release or conveyance under this section.

Discharge of security and revesting of property on

30. Upon all money due under a mortgage under this Act being fully paid the Commissioners shall, when required, give in the prescribed manner to the person liable to the payment thereof a receipt in writing for the same, and such further sufficient discharge (if any) as may seem to the Commissioners to be necessary, and upon such receipt being given the mortgaged rate shall be released from the charge and the mortgaged property, or the part thereof not sold or disposed of under this Act, shall (unless the Commissioners, on the request and at the expense of the person paying the said money, make any other disposition thereof), revest in the person who would have been entitled thereto if the mortgage had not been made, subject nevertheless to any lease, mortgage, or other act previously made or done by or under the direction of the Commissioners.

Repayment of loan.

31. Where an individual liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or insolvent, or enters into any composition or arrangement with his creditors, or has his affairs liquidated by arrangement, or takes the benefit of, or becomes subject to the provisions of any Act passed for the relief of persons in debt, or for enabling the property of such persons to be distributed among their creditors, or where any company liable to pay as principal or surety the principal or interest of any loan under this Act becomes bankrupt or is wound up, the whole of such loan shall become due immediately, notwithstanding that the date for the payment thereof or part thereof has not arrived, unless in the case of a surety the Commissioners think fit to accept some other surety.

Bankruptcy debtor.

32. Every security given under this Act may be in such form as may be prescribed (*a*), and the fact of the secretary of the Loan Commissioners being a party thereto shall be conclusive evidence that the same is in the prescribed form, and every such security shall be valid and effectual to pass all the estate, right, and interest purporting to be passed thereunder by the parties executing the same, subject to the provisions of this Act.

Form of mortgage.

(*a*) See the definition in s. 51, *post*, p. 2371.

33. Every sum payable under any security made in pursuance of this Act shall be made payable to the use of her Majesty, and may be recovered as a specialty debt due to the Crown, in like manner as if the security had been made in the form provided by the Act of the thirty-third year of the reign of Henry the Eighth, chapter thirty-nine; but no person shall be liable for any larger sum than that which he is expressed to be bound to pay.

Recovery of debt on personal security.

Every sum payable in respect of a loan granted by the Loan Commissioners (either before or after the passing of this Act) or under the security for such loan, shall be compounded for or released only under the authority of Parliament in each case (*a*).

The Loan Commissioners may issue a warrant to the proper officer forthwith to enforce payment of such debt to the Crown as aforesaid, and if necessary to enter satisfaction therefor, and shall have the control over any proceedings taken to enforce such debt, and such proceedings shall not be discontinued, quashed, or abated without the written authority of the Loan Commissioners.

The Court of Exchequer, or other competent court, or any judge thereof, may, upon the production of the said warrant, direct an immediate writ of extent, or of diem clausit extremum, to issue without any writ of scire facias or any affidavit or other proof of the cause of the proceeding.

Nothing in this Act shall render it the duty of the Loan Commissioners to issue such warrant or to register such writ or debt, unless they are of opinion that it is necessary for the purpose of securing the payment of the debt, or that otherwise under the particular circumstances it is expedient so to do.

Note to Section 33.

(a) The Commissioners may reduce the interest on any loan made before this Act to any rate not less than 4 per cent., but this provision is not to take away or abridge the power of the Commissioners to reduce the interest on any loan under the P. H. A., 1875, s. 243 (*ante*, p. 536). See the Public Works Loans (Money) Act, 1876, s. 6, *post*, p. 2374.

Recovery of loan after the expiration of term for repayment.

34. The expiration of the period within which a loan under this Act is made repayable (whether such period is the full period allowed by this or the special Act or a shorter period) shall not in any way affect any power of the Loan Commissioners of recovering or enforcing payment of any sum due in respect of such loan (*a*).

(a) This provision appears to meet a difficulty such as occurred in *R.* v. *Wigan*, *ante*, p. 528.

SUPPLEMENTAL PROVISIONS AS TO LOANS AND SECURITIES.

Security for completion of works partly finished or not commenced.

35. Where the Commissioners grant a loan in aid of any work which is either partly completed or not commenced, they may, by a bond to her Majesty or otherwise, take such security for the application of the loan to the work, and for the due completion of the work (including the raising of sufficient funds for that purpose), as they may think sufficient for securing the interest to the public.

Examination as to proper application of moneys lent.

36. Where the Loan Commissioners advance any loan for any purpose on the security of a rate, it shall be the duty of the Local Government Board to satisfy themselves that the loan is applied to such purpose; they may from time to time make such examination as they may think necessary with a view to ascertain that such loan has been so applied.

The Local Government Board may appoint any officer to conduct on their behalf any examination under this section, and such officer shall have the same powers to require the attendance of persons and the production of accounts and other documents, so far as such attendance or production is required for the purpose of such examination, as an inspector of the Local Government Board has under the Acts relating to the relief of the poor (*a*).

(a) This section is amended by the Public Works Loans Act, 1878, s. 4 (giving power to the Commissioners to enforce the proper application of the loans by *mandamus*), *post*, p. 2404, and by the Public Works Loans Act, 1881, ss. 8, 9 (giving power to make and enforce orders as to expenses of inquiries into the application of loans and providing for the application of unapplied balances), *post*, p. 2409. For the powers of a poor law inspector, see the Poor Law Act, 1927, s. 223, and notes to s. 296 of the P. H. A., 1875, *ante*, p. 630.

Suspension of payment of principal and interest.

37. The Treasury may, on the recommendation of the Loan Commissioners, postpone for any time not exceeding five years the payment of the instalments of principal and interest, or either, due or to become due in respect of a loan granted by the Commissioners for the purpose of any work, and that upon such terms and conditions for the completion and improvement of such work, and the ultimate payment of such principal and interest, as the Treasury may on the said recommendation authorise.

Change of security.

38. The Loan Commissioners may, subject to the prescribed regulations if under the circumstances of the case they think fit, accept any security in lieu of any security previously given to them, or of any part of such security, and that subject to such terms and conditions as they direct; so, however, that the substituted security shall be of the character which the Commissioners might take if the loan were originally granted at the time of such substitution, and that no change of security under this section shall extend the period for the repayment of the loan.

Concurrence by Commissioners in leases, sales, etc. of mortgaged property.

39. The Loan Commissioners may concur in any lease, conveyance, release, or other disposition of any property mortgaged under this Act, or any part thereof, and in the arrangements relative thereto, upon such terms and conditions as they may think fit, and either with or without consideration, so that in their opinion the payment, with interest, of the loan charged on the mortgaged property is sufficiently secured or is not thereby made less secure.

SPECIAL PROVISIONS AS TO BORROWERS.

Power to various authorities to mortgage and levy rates.

40. The justices for any county, or any riding, division, parts, or liberty of a county, in general or quarter sessions assembled, may (if they resolve by a majority of not less than five justices so to do) borrow money from the Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police station and justices room, and offices connected therewith, or any of such purposes, and may levy a rate or any increase of a county rate for the purpose of paying the principal and interest of such loan, and may mortgage such rate or the county rate to the Loan Commissioners in accordance with this Act (*a*).

The council of any borough may borrow money from the Loan Commissioners for the purpose of building, rebuilding, enlarging, repairing, improving, and fitting up any police station and justices room, and offices connected therewith, or any of such purposes, and may levy a rate or an increase of the borough rate for the purpose of paying the principal and interest of such loan, and may mortgage such rate or the borough rate to the Loan Commissioners in accordance with this Act (*b*).

The said justices and council respectively (*b*) shall have power to give the mortgage in such manner and form as the Loan Commissioners may direct.

(*a*) County loans are now raised by the county council under s. 69 of the L. G. A., 1888, and securities for loans previously raised by the justices are to be discharged by the county council under s. 122 (1) of the same Act.

(*b*) This paragraph and the words "and council respectively," are repealed as to boroughs within the Municipal Corporations Act, 1882 (see Sched. I., Part 2, of that Act), because other provision is now made under s. 120 of that Act.

MISCELLANEOUS.

Regulations by Commissioners (*a*).

41. The Loan Commissioners may from time to time make regulations for carrying into effect this Act, and in particular with respect to the quorum and proceedings of the Commissioners and the authentication of documents made or issued or directions given or acts done by them, and with respect to loans under this Act and application therefor, and annual and quarterly statements of the amounts required to be borrowed, and the information to be given and conditions to be complied with by the applicants, and with respect to the forms to be used, including the forms of the securities, and with respect to any fees or sums to be paid by the applicants or by other persons dealing with such Commissioners, and with respect to the relations between such Commissioners and the National Debt Commissioners and the Bank of England.

Every such regulation shall be submitted for the approval of the Treasury, and as approved by them with such modifications and additions as they think fit, shall be published in the London Gazette, and when so published shall have effect as if it was enacted in this Act.

Every such regulation shall be laid before both Houses of Parliament as soon as may be after the making thereof if Parliament be then sitting, or if

Parliament be not then sitting, within one month after the then next meeting of Parliament. Every regulation, purporting to be made in pursuance of this section, shall after the expiration of six months after its publication in the London Gazette be deemed to have been duly made and to have been within the powers of this Act.

Regulations made under this section may be from time to time rescinded, altered, and added to in like manner as the original regulations.

(*a*) Regulations have been made under this section, and will be found set out in App. II., *post*, p. 3452.

42. [*Payment of fees and other sums into the Exchequer*] (*a*).

(*a*) Repealed by S. L. R. A., 1883.

Accounts.

43. The Loan Commissioners shall keep at the Bank of England such account, and under such title as the Treasury may from time to time direct, and every such account shall be deemed to be a public account.

Such accounts as the Treasury may from time to time direct of all moneys issued from or payable to the Consolidated Fund in pursuance of this Act during every financial year, and of all transactions under this Act during that year, including all sums due for the time being from any person in respect of any loan granted by the Loan Commissioners either before or after the passing of this Act, shall be kept by the National Debt Commissioners and the Loan Commissioners respectively, and such other persons (if any), and be audited by the Comptroller and Auditor-General in such manner as the Treasury may from time to time direct.

Perjury.

44. Any person who, . . . (*a*) for the purpose of obtaining a loan under this Act, wilfully gives information to such Commissioners which is false in any material particular, shall be guilty of perjury.

(*a*) Some words here repealed by the Perjury Act, 1911.

Authority, and laying before Parliament Treasury warrants.

45. The warrant of the Treasury issued under the authority of this Act shall be a sufficient authority to the Bank of England for doing the things thereby directed to be done for the purposes of this Act, and copies of any such warrant relating to the borrowing of money shall be laid before both Houses of Parliament, within one month of the date thereof, if Parliament be then sitting, and if not within one month after the then next meeting of Parliament.

Receipt for money payable on account of loan, etc.

46. The receipt in writing of the Bank of England, or one of their cashiers or other the proper officer for the purpose of the Bank of England, and any other prescribed receipt for any money paid in discharge of the principal or interest of any loan granted under this Act, or of any sum due under any security made under this Act or otherwise payable to or by the direction of the Loan Commissioners or their secretary, shall be a complete discharge to the person paying the same.

Notices may be served by post.

47. Notices, directions, orders, and documents required by this Act, or by any regulation made under this Act, to be served or sent may, unless otherwise expressly provided, be served and sent by post, and, until the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice, direction, order, or document was prepaid, and properly addressed, and put into the post.

Section 47.

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48. Notices, and documents required by this Act, or by any regulation made under this Act, to be served on the Loan Commissioners, may be so served by serving the same on their secretary, or by sending the same addressed to or delivering the same at the office of the Commissioners.

Notices to and by Commissioners.

Notices and documents required for the purposes of this Act or of any regulation made thereunder, to be served by or on the Loan Commissioners, or to be made or issued by the Loan Commissioners, shall be in writing or in print, or partly in writing and partly in print.

49. The Schedules to this Act shall be construed and have effect as part of this Act.

Effect of schedules.

50. Except so far as a special Act, by express reference to some part of this Act, alters that part, every loan made by the Loan Commissioners shall, notwithstanding any provision in such special Act (*a*) and any rule of law or custom, be made in accordance with and under the powers of this Act, and be repayable in manner provided by this Act, and by the security for the same granted under this Act; and every such loan, together with the security for the same, shall have the priority and be subject to the powers, authorities, and remedies mentioned in this Act; and although made in pursuance of a special Act, shall be deemed for all purposes to be a loan under this Act.

Application of Act to loans under special Acts.

(*a*) As to the meaning of this term, see s. 18, note (*a*), *ante*, p. 2362.

51. In this Act, if not inconsistent with the context—

Definitions.

The expression "person" includes a body of persons, whether corporate or unincorporate (*a*):

. . . . . .

The expression "financial year" means the year ending the thirty-first day of March:

The expression "prescribed" means prescribed by the regulations made under this Act with the approval of the Treasury:

The expression "special Act" means any Act passed before the passing of this Act which authorises the Loan Commissioners to lend money for the purposes of any work mentioned in the First Schedule to this Act and any Act passed after the passing of this Act, which authorises the Loan Commissioners to lend money for any purpose (*b*):

The expression "security" includes a mortgage:

The expression "mortgage" includes a charge and any instrument in the nature of a mortgage or charge, and in Scotland any heritable security:

The expression "conveyance" includes any grant, assignment, transfer, or other disposition or assurance; and the expression "convey" shall be construed accordingly:

The expression "rate" means a rate, cess, or assessment the proceeds of which are applicable to public local purposes and leviable on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate, as before defined, and the making and levying of a rate includes the issue and enforcement of any such precept, certificate, or instrument as aforesaid, and expressions relating to the making and levy of a rate shall be construed accordingly:

Any toll, due, rent, imposition, and other sum not being a rate as above defined shall be deemed to be property for the purposes of this Act.

All references to a mortgagor or borrower shall, if need be, be deemed to include a reference to the successors heirs executors administrators and assigns of, or other persons claiming through or under such mortgagor or borrower.

(*a*) Definitions of "the Treasury," "National Debt Commissioners," and "Bank of England," are here repealed by the S. L. R. (No. 2) A., 1893, their places being now supplied by the definitions enacted by the Interpretation Act, 1889, s. 12.

(*b*) See note (*a*) to s. 18, *ante*, p. 2362.

Temporary Provisions and Repeal.

52. [*First commissioners*] (*a*).

(*a*) Repealed by the S. L. R. A., 1883.

53. [*Existing officers of commissioners*] (*a*).

(*a*) Repealed by the S. L. R. (No. 2) A., 1893.

54. [*Sending of statements, etc., before commencement of Act*] (*a*).

(*a*) Repealed by the S. L. R. A., 1883.

Reference in Act to repealed Acts.

55. A reference in any Act to any enactment hereby repealed, or to the commissioners for the execution of any Act hereby repealed, shall, so far as is consistent with the tenor thereof, be deemed to refer to the corresponding enactment in this Act and to the Public Works Loan Commissioners under this Act.

Saving for loans and transactions under repealed Acts.

56. Save as otherwise provided by this Act this Act shall apply only to loans granted and securities made after the commencement of this Act.

The Loan Commissioners shall have the same power of making further advances on any mortgages made before the commencement of this Act and intended to secure more than the sum which has actually been advanced thereon as they would have had under the Acts repealed by this Act if they had not been repealed, but such advances shall be made out of money issued under this Act.

The Loan Commissioners, on granting any new loan to persons by whom a loan granted before the commencement of this Act is still owing, may make it a condition of the grant of such new loan that the old loan shall be deemed to have been granted in pursuance of this Act, and on such condition being accepted the old loan shall be deemed to be a loan under this Act.

For the purpose of any loans granted and securities made before the commencement of this Act, the Loan Commissioners under this Act and their secretary and other officers for the time being shall be deemed to be the same commissioners, secretary, and officers as the commissioners, secretary, and officers under the Acts in pursuance of which such loan was granted and securities made; and all securities and documents relating to such commissioners, secretary and officers shall be construed accordingly.

Repeal of Acts.

57. (*a*) . . . so much of any . . . enactment as authorises any loan by the Public Works Loan Commissioners for the purpose of any work other than a work mentioned in the First Schedule to this Act, or as is otherwise inconsistent with this Act, is hereby repealed . . .

Provided that—

(1) The repeal of an enactment by this Act shall not affect—

. . . . . .

Section 57.

(b) Any power to make or levy rates, or any other power capable of being exercised for the purpose of enabling or compelling the repayment of any money due on account of any loan granted by the Public Works Loan Commissioners before the commencement of this Act, whether the same or any part thereof has been actually advanced before or after such commencement.

(a) This section is printed with the omission of parts repealed by the S. L. R. (No. 2) A., 1893, and the S. L. R. A., 1883.

. . . . . .

SCHEDULES.

FIRST SCHEDULE (*a*).

[Sect. 9.]

WORKS FOR THE PURPOSE OF WHICH THE COMMISSIONERS MAY LEND MONEY.

Baths and washhouses provided by local authorities.

Burial grounds provided by burial boards . . .

Conservation or improvement of rivers or main drainage (*b*).

Docks.

Harbours and piers, and any work for which the Public Works Loan Commissioners are authorised to lend by section 3 of the Harbours and Passing Tolls, etc. Act, 1861. 24 & 25 Vict. c. 47.

Improvement of towns.

Labourers dwellings.

Lighthouses, floating and other lights for the guidance of ships, buoys, and beacons.

Lunatic asylums of any county or borough in Great Britain . . .

Police stations and justices rooms of any county or borough in Great Britain, and the offices connected therewith . . .

Prisons.

Public libraries and museums.

Any schoolhouse or work for which a school board is authorised to borrow under the Elementary Education Acts, 1870 and 1873, or any Act amending the same . . . 33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86.

Waterworks established or carried on by a sanitary or other local authority.

Workhouses or poorhouses, and any work for which guardians of the poor . . . are authorised to borrow under the general Acts relating to the relief of the poor.

Any work for which a sanitary authority are authorised to borrow under the Public Health Act, 1875. 38 & 39 Vict. c. 55.

. . . . . .

Any work for which the Commissioners are authorised to lend by any Act passed after the passing of this Act (*c*).

(*a*) Parts of this Schedule relating to Scotland only are omitted.

(*b*) This includes works of underground drainage. See the Public Works Loans Act, 1894, s. 3, *post*, p. 2555.

(*c*) See, for example, the Public Works Loans Act, 1896, s. 2, *post*, p. 2565; the Small Dwellings Acquisition Act, 1899, s. 9 (7), *ante*, p. 1078; the Public Works Loans Act, 1908, s. 6 (purposes of the Territorial and Reserve Forces); the Housing Act, 1925, ss. 89 and 90, *ante*, p. 1454.

SECOND SCHEDULE.

[Sect. 4.]

FORM OF DECLARATION.

I, A. B., do hereby declare that according to the best of my judgment I will faithfully and impartially execute the powers and duties of a Public Works Loan Commissioner according to law (*a*).

(*a*) The Third Schedule was repealed by the S. L. R. (No. 2) A., 1893.

* * * * * *

THE PUBLIC WORKS LOANS (MONEY) ACT, 1876.

(39 & 40 VICT. c. 31) (*a*).

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners, and to amend the Public Works Loans Act, 1875.

[24th July, 1876.]

PRELIMINARY.

Short title.

1. This Act may be cited as the Public Works Loans (Money) Act, 1876.

(*a*) The preamble to this Act was repealed by the S. L. R. A., 1894, and by s. 4 of that Act it was enacted that in any revised edition of the Statutes published by authority, the clause of enactment may be omitted. It is accordingly omitted here and in every subsequent Act in this Appendix.

As to the subject of this Act, see also the Acts mentioned in note (*a*) to the Public Works Loans Act, 1875, *ante*, p. 2357.

2. [*Commencement of Act*] (*a*).

(*a*) Sections 2, 4, 5, and parts of ss. 6 and 7, here omitted, were repealed by the S. L. R. A., 1894. In s. 6, certain words relating to Scotland only are also omitted.

3. [*Issue of money for loans*] (*a*).

(*a*) This section was repealed by the S. L. R. A., 1883.

AMENDMENT TO PUBLIC WORKS LOANS ACT, 1875.

4. [*Application of* 38 *&* 39 *Vict. c.* 89, *s.* 56] (*a*).

(*a*) See note (*a*) to s. 2, *supra.*

5. [*Removal of doubt as to* 37 *&* 38 *Vict. c.* 24] (*a*).

(*a*) See note (*a*) to s. 2, *supra.*

Explanation of 38 & 39 Vict. c. 89, s. 33, as to reduction of interest on loans to sanitary authorities.

6 (*a*). . . . Nothing in the Public Works Loans Act, 1875, shall be deemed to take away or abridge the power of the Loan Commissioners under section two hundred and forty-three of the Public Health Act, 1875, . . . to reduce, if they think fit, any interest payable on any such loan to a local authority as is in those sections mentioned.

(*a*) See note (*a*) to s. 2, *supra.*

Explanation of ss. 18, 50 of 38 & 39 Vict. c 89.

7 (*a*). . . . Sections eighteen and fifty of the Public Works Loans Act, 1875 (*b*), shall be construed as if " special Act " in those sections included any Act relating to any person having power to borrow money from the Public Works Loan Commissioners.

(*a*) See note (*a*) to s. 2, *supra.*
(*b*) See the sections referred to, *ante*, pp. 2362, 2371.

8. [*Issue for adjustment of accounts prior to* 1*st April*, 1876] (*a*).

(*a*) This section was repealed by the S. L. R. A., 1883.

THE COMMONS ACT, 1876.

(39 & 40 VICT. c. 56) (*a*).

An Act for facilitating the Regulation and Improvement of Commons, and for amending the Acts relating to the Inclosure of Commons.

[11th August, 1876.]

Short title.

1. This Act may be cited for all purposes as the Commons Act, 1876.

(*a*) The preamble to this Act reciting the Inclosure Acts, 1845 to 1868, was repealed by the S. L. R. A., 1894. The powers and duties of the Inclosure Commissioners were by the Settled Land Act, 1882, s. 48, transferred to the Land Commissioners, and by the Board of Agriculture Act, 1889, s. 2, the powers and duties of the latter were transferred to the Board of Agriculture, now the Minister of Agriculture and Fisheries (see 9 & 10 Geo. 5, c. 91). Throughout this Act, therefore, it is necessary to substitute the Minister of Agriculture and Fisheries for the Inclosure Commissioners.

This Act confers on urban sanitary authorities important powers and duties with respect to suburban commons, which are extended to rural district councils in certain cases under s. 26 (2) of the L. G. A., 1894, *ante*, p. 989. See also the Commons Act, 1899, *post*, p. 2602, and reference should be made to the Law of Property Act, 1925, ss. 193 and 194, *post*, pp. 2880, 2981.

PART I.

LAW AS TO THE REGULATION AND INCLOSURE OF COMMONS.

Applications in relation to Commons.

Alternative Provisional Order for regulation or inclosure of commons.

2. The Inclosure Commissioners (*a*) may entertain an application made in manner in this Act mentioned for a Provisional Order—

(1) For the regulation of a common; or

(2) For the inclosure of a common or parts of a common.

Further, an application may be made as respects the same common for the regulation of part of such common, specifying the part to be regulated, and for the inclosure of the residue, and in such case the application shall be dealt with as respects such parts as if they were separate commons, with this exception, that the boundaries as proposed in the application of the part to be regulated and the part to be inclosed may be modified by the Provisional Order.

The Commissioners shall not proceed to carry any application under this Act into effect until it is made to appear to them that the persons making the application represent at least one-third in value (*b*) of such interests in the common as are proposed to be affected by the Provisional Order.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *supra*. The consent of the Minister is also necessary to an inclosure or approvement under the Statute of Merton and the Statute of Westminster the Second, or either of such statutes. See the Law of Commons Amendment Act, 1893, s. 1. Nothing in the Copyhold Act, 1894, authorises a lord to enclose any common or waste land (57 & 58 Vict. c. 46, s. 95).

A much less cumbrous and expensive method than that afforded by this Act of providing for the regulation of a common is now given by the Commons Act, 1899, *post*, p. 2602. See s. 194 of the Law of Property Act, 1925, *post*, p. 2881, for a restriction on the inclosure of commons.

(*b*) As to the method of arriving at the value, see Hunter on Open Spaces, 2nd ed., pp. 136—138.

"Regulation of common" includes adjustment of rights and improvement.

3. A Provisional Order for the regulation of a common may provide, generally or otherwise, for the adjustment of rights in respect of such common, and for the improvement of such common, or for either of such purposes, or for any of the things by this Act comprised under the expression "adjustment of rights" or "improvement of a common," or may state that all or any of such subjects are to be provided for in the proceedings subsequent to the confirmation of the Provisional Order by Parliament.

Section 4.

Explanation of adjustment of rights.

4. The adjustment of rights (*a*) in respect of a common comprises for the purposes of this Act all or any of the following things:

(1) As respects rights of common of pasture in a common, being waste land of a manor,—the determination of the persons by whom, the stock by which, and the times at which such common of pasture is to be exercised (*b*);

(2) As respects rights of common of turbary, or taking of estovers (*a*), or taking gravel, stone (*c*), or otherwise interfering with the soil of the common, being waste land of a manor,—the determination of the persons by whom, and the mode and place or places in which, and the times at which such rights are to be exercised, also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction modification or abolition of all or any of such rights which may permanently injure the common (*d*);

(3) As respects rights of common in land which is not waste land of a manor,—the stinting or other determination of such rights, and the persons by whom, and the mode in which, and the times at which such rights are to be exercised, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction modification or abolition of all or any of such rights which may be injurious to the general body of the commoners or to the proper cultivation of the land;

(4) As respects any common whether it is or is not waste land of a manor,—the determination of the rights and obligations of the lord of the manor, severalty owners or other person or persons entitled to the soil of such common, as also on compensation made to any person aggrieved, either by grant of a right of equal value, or with his consent in writing, in money,—the restriction modification or abolition of all or any of such rights, and in particular in the case of severalty owners of all or any of such rights which may be injurious to the general body of the severalty owners or to the proper cultivation of the land; and

(5) Generally as respects any common, whether it is or is not waste land of a manor,—the determination of any rights and settlement of any disputes relating to boundaries, rights in the soil or in the produce of the soil, or otherwise, whether arising between the commoners themselves, or between the commoners in relation to the lords of the manors, severalty owners, or other person or persons entitled to the soil of the common, which, settlement may be conducive to the interests of all or any class of persons interested in the common.

(*a*) The destruction of an ancient house to which rights of common were appurtenant does not necessarily operate as an abandonment of those rights (*Att.-Gen.* v. *Reynolds*, [1911] 2 K. B. 888).

(*b*) As to commonable animals straying from unenclosed common land into an adjacent close and the obligation to provide fences on the part of the owner of such close, see *Coaker* v. *Willcocks*, [1911] 2 K. B. 124. See also *Holgate* v. *Bleazard* (1916), 33 T. L. R. 116.

(*c*) See *Malvern Hill Conservators* v. *Whitmore* (1909), 73 J. P. 329; 100 L. T. 841.

(*d*) Where under an Inclosure Act (42 Geo. 3, c. xliii. s. 13), part of a waste was allotted to the lord in trust for the cottagers as a turf common, and subsequently a railway company took part of this turf common, it was held that the lord was entitled to so much of the fund in court as represented the value of the soil (*Att.-Gen.* v. *Meyrick*, [1893] A. C. 1; 75 J. P. 212).

5. The improvement of a common comprises for the purposes of this Act all or any of the following things; that is to say,

Section 5.

Explanation of improvement.

(1) The draining, manuring, or levelling the common; and

(2) The planting trees on parts of such common, or in any other way improving or adding to the beauty of the common; and

(3) The making or causing to be made byelaws (*a*) and regulations for the prevention of or protection from nuisances or for keeping order on the common; and

(4) The general management of such common;

(5) The appointment from time to time of conservators of the common for the purposes aforesaid.

(*a*) See ss. 16, 17, *post*, p. 2386.

Meaning of Provisional Order for inclosure.

6. A Provisional Order for the inclosure of a common means a Provisional Order for inclosing the common, as provided by the Inclosure Acts, 1845 to 1868, as amended by this Act.

Provisions for the benefit of a neighbourhood

7. In any Provisional Order in relation to a common, the Inclosure Commissioners (*a*) shall, in considering the expediency of the application, take into consideration (*b*) the question whether such application will be for the benefit of the neighbourhood (*c*), and shall, with a view to such benefit, insert in any such Order such of the following terms and conditions (in this Act referred to as statutory provisions for the benefit of the neighbourhood (*d*)) as are applicable to the case; that is to say.

(1) That free access is to be secured to any particular points of view; and

(2) That particular trees or objects of historical interest are to be preserved; and

(3) That there is to be reserved, where a recreation ground is not set out, a privilege of playing games or of enjoying other species of recreation at such times in such manner and on such parts of the common as may be thought suitable, care being taken to cause the least possible injury to the persons interested in the common (*e*); and

(4) That carriage roads, bridle paths, and footpaths over such common are to be set out in such directions as may appear most commodious; and

(5) That any other specified thing is to be done which may be thought equitable and expedient, regard being had to the benefit of the neighbourhood.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

(*b*) The Minister of Agriculture and Fisheries is required to have regard to the same considerations in giving his consent to an inclosure or approvement under the Statute of Merton and the Statute of Westminster the Second, or either of those statutes (The Law of Commons Amendment Act, 1893, s. 3).

(*c*) This expression by the preamble to the Act was explained to include "the health, comfort, and convenience of the inhabitants of any cities, towns, villages, or populous places in or near any parish in which the land proposed to be inclosed or any part thereof might be situate." See s. 193 of the Law of Property Act, 1925, *post*, p. 2880, for rights which are available to the public over waste lands and commons.

(*d*) Any of these statutory provisions for the benefit of the neighbourhood may be included in a scheme made by an urban or rural district council under the Commons Act, 1899, s. 1, *post*, p. 2602.

(*e*) See *Mitcham Common Conservators* v. *Cox*, [1911] 2 K. B. 855; 75 J. P. 471, and *Harris* v. *Harrison* (1914), 30 T. L. R. 532.

Suburban Commons (*a*).

Sanitary authorities to be represented in the case of commons in the neighbourhood of towns.

8. Notice of any application under this Act in relation to a common which is situate either wholly or partly in any town or towns, or within six miles (*b*) of any town or towns (which common so situate is in this Act referred to as a suburban common) shall be served as soon as may be on the urban sanitary authority or authorities having jurisdiction over such town or towns, and it shall be lawful for the urban sanitary authority of any such town to appear before the assistant commissioner on the occasion of his holding a local inquiry as in this Act mentioned, and also to appear before the Inclosure Commissioners (*c*), and to make to him or them, at any time during the proceedings in relation to obtaining a Provisional Order under this Act, such representations as they may think fit with respect to the expediency or inexpediency of such application, regard being had to the health comfort and convenience of the inhabitants of the town over which such authority has jurisdiction, and to propose to him or them such provisions as may appear to such urban sanitary authority to be proper, regard being had as aforesaid.

Any urban sanitary authority entitled to receive notice of an application in relation to a surburban common may, with the sanction of the Inclosure Commissioners (*c*), enter into an undertaking to contribute out of their funds for or towards the maintenance of recreation grounds, or of paths or roads, or the doing any other matter or thing for the benefit of their town in relation to the common to which such application relates.

They may also, in relation to any such common, and with such sanction as aforesaid, enter into an undertaking to pay compensation in respect to the rights of commoners, for the purpose of securing greater privileges for the benefit of their town.

An urban sanitary authority may acquire by gift and hold without licence in mortmain on trust for the benefit of their town any surburban common in respect of which they would be entitled to receive notice of any application made to the Inclosure Commissioners (*c*) in pursuance of this Act, and any rights in such a common (*d*).

They may also in the case of any such suburban common purchase (*e*) and hold as aforesaid, with a view to prevent the extinction of the rights of common (*f*), any saleable rights in (*g*) common or any tenement of a commoner having annexed thereto rights of common.

They may also, with the consent of persons representing at least one-third in value of such interests in a suburban common as aforesaid as are proposed to be affected by the Provisional Order, make an application to the Inclosure Commissioners for the regulation of such common with a view to the benefit of their town and the improvement of such common.

Where an urban sanitary authority makes an application under this Act with such consent as aforesaid in respect of the regulation of a common, or undertakes to make any contribution or to pay any compensation or make any other payment out of its funds in respect of a common, such urban sanitary authority may, if the Inclosure Commissioners deem it advisable, having regard to the benefit of the neighbourhood as well as to private interests, be invested with such powers of management or other powers as may be expedient.

The expenses incurred by an urban sanitary authority in pursuance of this section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875 (*h*), and not otherwise provided for.

38 & 39 Vict. c. 55.

A town for the purposes of this section means any municipal borough, or

Improvement Act district, or Local Government district, having a population of not less than five thousand inhabitants.

The population of any town for the purposes of this Act shall be reckoned according to the last published census for the time being, and distances shall be measured in a direct line from the town hall, or if there shall be no town hall, then from the cathedral or church, if there shall be only one church, or if there be more churches than one, then from the principal market place of such town to the nearest point of the suburban common. When part only of a common is situate within the aforesaid distance from a town, such part shall be deemed for the purposes of this section to be a common separate and distinct from the part situated without and beyond such distance.

(a) By s. 26 (2) of the L. G. A., 1894, *ante*, p. 989, any district council may, with the consent of the county council for the county within which any common land is situate, exercise in relation to any common within their district all such powers as may, under s. 8 of this Act, be exercised by an urban sanitary authority in relation to any common referred to in that section; and notice of any application to the Minister of Agriculture (and Fisheries, as he is now called) in relation to any common within their district shall be served upon the district council, and by s. 26 (3) a district council may for the purpose of carrying into effect this section institute or defend any legal proceedings, and generally take such steps as they deem expedient.

(b) Measured in a straight line on a horizontal plane. See Interpretation Act, 1889, s. 34.

(c) Now the Minister of Agriculture and Fisheries. See note (a) to s. 1, *ante*, p. 2375.

(d) The words " any rights in such a common " probably refer to limited interests in the soil, such as that of a tenant for life. It is thought they would enable a local authority to take a lease of a common (Hunter on Open Spaces, 2nd ed., p. 106). This Act, except s. 20, *post*, p. 2387, did not apply to metropolitan commons (see s. 35, *post*, p. 2392), but the power conferred under this section was extended to the Metropolitan Board of Works by the Metropolitan Commons Act, 1878, and the powers of that Board are now transferred to the London C. C. by the L. G. A., 1888, s. 40.

(e) Alternatively an urban district council might purchase or lease the common under s. 164 of the P. H. A., 1875, *ante*, p. 388.

(f) But purchase of rights to products such as wood, turf, or gravel in soil which cannot in the ordinary course of nature produce any more wood, turf, or gravel, will not prevent inclosure. See *Peardon* v. *Underhill* (1850), 16 Q. B. 120.

(g) *Sic* in Parliament Roll. Probably a misprint for " of."

(h) See s. 207, *ante*, p. 495.

Procedure.

Issue of forms by Commissioners.

9. The Inclosure Commissioners (a) shall from time to time, upon application made by the persons interested in any common (b), issue in such form as they may deem expedient information and directions as to the mode in which applications for the regulation or inclosure of commons under the Inclosure Acts, 1845 to 1868, as amended by this Act are to be made to the Commissioners, with such explanations as they may think fit with respect to the law for the regulation and inclosure of commons, and the persons so interested may apply accordingly in manner directed by the Inclosure Commissioners (a).

(a) Now the Minister of Agriculture and Fisheries. See note (a) to s. 1, *ante*, p. 2375.

(b) Application may now also be made by parish councils. See the L. G. A., 1894, s. 8 (1) (c). And that section also provides that notice of any application to the Board (now Minister) of Agriculture and Fisheries in relation to a common shall be served upon the council of every parish in which any part of the common to which the application relates is situate (The L. G. A., 1894, s. 8 (3)).

Rules as to application to Commissioners.

10. The following rules shall be observed with respect to an application to the Inclosure Commissioners (a) for a Provisional Order for the regulation or inclosure of a common; that is to say,

Section 10.

Publication of notices of application.

(1) The applicants previously to making their application shall publish, in such manner as the Inclosure Commissioners (*a*) may from time to time, by general or special order, direct, an advertisement giving notice of their intention to apply for such Provisional Order, and shall also serve a like notice on any urban sanitary authority entitled under this Act to receive such notice: Provided, that such advertisement as aforesaid shall always be inserted in at least one paper circulating in the neighbourhood of the common to which the application relates:

Manner of application.

(2) The application shall be in writing, accompanied with a map of the common, or part thereof, and, if for the regulation of a common, shall express whether the applicants propose that all or certain specified provisions only of this Act for the adjustment of rights or improvement of commons should be put in force in relation to such common, and whether to apply to the whole or part of such common, but, subject as aforesaid, an application for the regulation or inclosure of a common shall be in such form and be made in such manner as the Inclosure Commissioners (*a*) may from time to time direct:

Evidence to be furnished in support of application.

(3) On making their application in respect of any common, the applicants shall furnish the Inclosure Commissioners (*a*), in answer to questions previously submitted or otherwise in such manner as the said Commissioners may from time to time direct, with information bearing on the expediency of the application considered in relation to the benefit of the neighbourhood as well as to private interests:

Evidence in relation to benefit of neighbourhood.

(4) The information to be furnished as bearing on the expediency of the application, considered in relation to the benefit of the neighbourhood, shall comprise statements as to the particulars following; that is to say, as to the number and occupation of the inhabitants of the parish or place in which the common is situate; as to the population of the neighbourhood, and the distance of the common from any neighbouring towns and villages; as to the intention of the applicants to propose the adoption of all or any of the statutory provisions as defined by this Act for the benefit of the neighbourhood; as to the circumstance of any ground other than the common to which the application relates being available for the recreation of the neighbourhood; and in the case of a common being waste land of a manor, as to the site extent and suitableness of the allotments, if any, proposed to be made for recreation grounds and field gardens, or for either of such purposes; and as to any other matter which in the judgment of the Inclosure Commissioners (*a*) may assist them in forming an opinion as to whether such application ought to be acceded to, having regard to the benefit of the neighbourhood, and if acceded to, as to what statutory provisions as defined by this Act ought to be inserted in the Provisional Order for the benefit of the neighbourhood:

The Inclosure Commissioners (*a*) shall also require, in the case of an application for inclosure, special information as to the advantages the applicants anticipate to be derivable from the inclosure of a common as compared with the regulation of a common, also the reasons why an inclosure is expedient when viewed in relation to the benefit of the neighbourhood:

Evidence in relation to private interests.

(5) The information to be furnished as bearing on the expediency of the application considered in relation to private interests shall comprise statements as to the several particulars following; that is to say, as to the extent and nature of the common to which the application

relates; as to the mines minerals or valuable strata (if any) under the same; as to the questions of boundary (if any) concerning such common, or such mines minerals or strata; as to the parties interested in such common, and the numbers and proportion in value of interest who have consented to or dissented from the application; as to the nature of the rights requiring the intervention of the Inclosure Commissioners (*a*) or the interference of Parliament; as to the supposed advantages of the application being acceded to; as to (in cases where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the Provisional Order applied for) the allotment (if any) or compensation agreed on or proposed to be made to such lord of the manor in respect of his interest so affected; and as to any other matter which in the judgment of the Inclosure Commissioners (*a*) may assist them in forming an opinion as to whether such application ought to be acceded to, having regard to private interests, and if acceded to as to what provisions ought to be inserted in the Provisional Order for the protection of private interests:

Duty of Commissioners on application.

(6) The Inclosure Commissioners (*a*) shall take into consideration any application made to them as in this Act provided, and if satisfied by the information furnished to them as aforesaid, or by any further inquiries made by themselves or an Assistant Commissioner, that a primâ facie case has been made out, and that, regard being had to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, they shall order a local inquiry to be held by an Assistant Commissioner.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Rules as to local inquiry.

11. The following rules shall be observed with respect to a local inquiry held by order of the Inclosure Commissioners (*a*):

Inspection and public meeting.

(1) The Assistant Commissioner appointed to hold such inquiry shall inspect the common to which the application relates, and shall convene one or more public meetings at a suitable time and place for securing the attendance of the neighbouring inhabitants, and of all persons claiming interest in the common: Provided always, that one at least of such public meetings shall be held in the evening between the hours of seven and ten of the clock (*b*).

Notice of meeting.

(2) The Assistant Commissioner shall give not less than twenty-one days notice of his intention to hold the first of such meetings.

Contents of notice.

(3) The notice shall, in such form as the Inclosure Commissioners from time to time direct, state the nature of the application made, the objects of the meeting, that the meeting is a public one and held for the purpose of enabling the Assistant Commissioner to hear all persons desirous of being heard on the subject-matter of the application, whether considered in relation to the benefit of the neighbourhood or to private interests, and the desirability of the attendance of all persons interested in the subject-matter of the inquiry.

Publication of notice.

(4) The notice shall be given—

(a) By affixing a copy thereof on the principal door of the church of the parish in which the common to which the application relates, or the greater part thereof is situate; and

(b) By posting copies of the same on or near the common to which it relates at the post office or post offices of the parish or district in

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which the common to which the application relates is situate, at any town hall, or vestry hall, or other building or room the expense of maintaining which is payable out of any local rate, situate in the parish or district, and at all places therein where notices are usually posted; and

(c) By advertising in such manner as the Inclosure Commissioners (*a*) may direct, or otherwise giving notice of the meetings in such manner as they think best calculated to ensure publicity in the locality.

Conduct of meeting.

(5) The Assistant Commissioner shall preside and regulate the proceedings at such meetings, and shall hear all persons desirous of being heard in relation to the subject-matter of the inquiry. He may adjourn any such meeting from time to time, or from place to place, on giving such notice of adjournment as he thinks best calculated to ensure publicity.

Personal inquiries by Assistant Commissioner.

(6) The Assistant Commissioner shall also make any inquiries and do any other acts which he may be instructed by the Inclosure Commissioners (*c*) or may think it advisable to do, for the purpose of enabling the Commissioners to judge as to the expediency of making the Provisional Order applied for, also as to the nature of the provisions to be inserted in any such Provisional Order if made.

Report of Assistant Commissioner to Inclosure Commissioners.

(7) The Assistant Commissioner shall report in writing to the Inclosure Commissioners (*a*) the result of the local inquiry, and of the public meeting or meetings held by him (in such form and with such details as the Inclosure Commissioners (*a*) may from time to time direct), and specially shall report to the Inclosure Commissioners (*a*) the information obtained by him as to the several particulars in respect of which the applicants for a Provisional Order are by this Act required to furnish information to the Inclosure Commissioners (*a*).

He shall also report the number of persons who attended the meetings held by him, the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted in the Provisional Order for the benefit of the neighbourhood or for the protection of private interests, and any other circumstances which he may think expedient, with a view to enable the Inclosure Commissioners (*a*) to judge of the expediency of making the Provisional Order, having regard as aforesaid, and also, if the Order be made, of the provisions to be inserted therein.

Map to accompany report.

(8) The report shall be accompanied by an outline or other map on such scale and of such a description as may be directed by the Inclosure Commissioners (*a*), with a sketch in the case of an inclosure of a common being waste of land of a manor, of the allotments (if any) proposed to be made for recreation grounds and field gardens, or for either of such purposes.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

(*b*) It is the practice of the Minister to hold two meetings—one in the morning and the other in the evening.

Rules as to Provisional Orders.

12. The following rules shall be observed with respect to Provisional Orders to be made by the Inclosure Commissioners (*a*); that is to say (*b*),

Draft Provisional Order to be framed.

(1) The Inclosure Commissioners (*a*), if satisfied by the report of the Assistant Commissioner or by further inquiries to be made by themselves or an Assistant Commissioner, that, having regard to the benefit of the neighbourhood as well as to private interests, it is expedient to proceed further in the matter, shall frame in such form

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and with such provisions as they, having regard as aforesaid, may think expedient, and as are consistent with law and the description of Provisional Order applied for, a draft Provisional Order for the consideration of the persons interested in the common, specifying, if such application is for the regulation of a common, whether all or any one or more of the provisions of this Act for the adjustment of rights and the improvement of a common are to be put in force :

Provisions for benefit of neighbourhood.

(2) With respect to provisions for the benefit of the neighbourhood, there shall be inserted in such draft Provisional Order all such of the statutory provisions as defined by this Act for the benefit of the neighbourhood as are applicable to the case; also, if the order is an inclosure order in the case of a common being waste land of a manor, the quantity and situation of the allotments (if any) to be made for recreation grounds and field gardens :

Provisions for protection of private interests.

(3) With respect to private interests, there shall be inserted in such draft Provisional Order, (1) where the interest of any lord of the manor in the soil of a common or in mineral or other rights may be affected by the order, a statement of the allotment (if any) or other compensation to be allotted or made to the lord of such manor in respect of his interest so affected ; and (2) where there is any mineral property or other rights in relation thereto belonging to persons other than the lord of the manor which may be affected by the order, such provisions and reservations as are required to be inserted by the Inclosure Acts, 1845 to 1868, or as may appear to the Inclosure Commissioners (*a*) proper to be inserted; also, if there are any other rights which appear to the Commissioners proper to be specially provided for or to be excepted from the operation of the order, there shall be specified the provisions or exceptions to be made in that behalf :

Deposit of draft order for consideration of parties interested.

(4) As soon as may be after making their draft Provisional Order, the Inclosure Commissioners (*a*) shall cause a copy thereof to be deposited in the parish or parishes in which the common is situate to which such order relates, in order that the same may be considered by the parties interested therein, and they shall give notice, in such manner as they think best calculated to secure publicity, of such deposit having been made, and of their intention to certify the expediency of such order if the necessary consents are obtained thereto :

Consents before Provisional Order certified to be expedient.

(5) The Inclosure Commissioners (*a*) shall not certify the expediency of a draft Provisional Order unless they are satisfied that persons representing at least two-thirds in value of such interests in the common as are affected by the order consent thereto ; and when the common to which the order relates is the waste land of any manor, or land within any manor to the soil of which the lord of such manor is entitled in right of his manor, then, unless there is more than one person interested in such manor according to the definition of the Inclosure Act, 1845, the Commissioners shall not certify the expediency of the same, unless the person interested in the common in right of such manor, or his substitute under the said Inclosure Act, 1845, consent to such order ; and where there is more than one person interested in such manor the Commissioners shall not certify the expediency of the order, in case such persons or the majority of such persons in respect of interest signify their dissent within a time to be limited by the Commissioners (*c*) :

8 & 9 Vict. c. 118.

Reservation in favour of freemen interested in common.

(6) Where the freemen, burgesses, or inhabitant householders of any city borough or town are entitled to rights of common or other interest in the common to which the draft Provisional Order relates, the

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Inclosure Commissioners (*a*) shall not certify the expediency of such Order unless it appears to the Commissioners that two-thirds in number of such of the freemen and burgesses so entitled as may be resident in such city borough or town, or within seven miles thereof, or of such inhabitant householders, as the case may be, have consented to the Order; and in case two-thirds in number of such resident freemen and burgesses, or of such inhabitant householders have so consented, such consent shall be deemed the consent of the class of freemen, burgesses, or inhabitant householders, as the case may be, so entitled:

Means of obtaining consents.

(7) The Inclosure Commissioners (*a*) may cause a meeting or meetings to be held by an Assistant Commissioner for the purpose of obtaining the necessary consents, or of ascertaining the interests of consenting or dissenting parties, or they may cause such consents or dissents to be ascertained in such other manner as they may think fit:

Power to modify Provisional Order before expediency certified.

(8) The Inclosure Commissioners (*a*) may, at any time before certifying the expediency of a draft Provisional Order, modify the same, of their own mere notion, or on the suggestion of any parties interested, but such modifications shall not be of any validity unless they are consented to in the same manner as if they formed part of the draft Provisional Order originally deposited by the Commissioners:

Certificate of expediency of Provisional Order.

(9) When the necessary consents have been obtained to any draft Provisional Order as originally deposited, or as modified in pursuance of this Act, such Order shall be deemed to be final; and the Inclosure Commissioners (*a*) shall in a report or reports to be made from time to time, as respects each Provisional Order which has become final as aforesaid, certify that it is expedient that such Provisional Order should be confirmed by Parliament, together with their reasons for certifying such expediency, and specially, as respects each Provisional Order, they shall, in such manner as they think best adapted to enable Parliament to judge of the expediency of such Order, state the information furnished to them as to the several particulars in respect of which the applicants for a Provisional Order are by this Act required to furnish information to the Commissioners; also the result of the local inquiry, and of the number and description of the persons who attended the meetings held during such inquiry, and the nature of the objections (if any) made to the application, and the suggestions (if any) made in relation to the provisions to be inserted for the benefit of the neighbourhood or for the protection of private interests by the persons so attending, and any other circumstances which the Commissioners may think it expedient to state for such purposes as aforesaid:

Confirmation of Provisional Order.

(10) Every report made by the Inclosure Commissioners (*a*) certifying the expediency of any Provisional Order under this Act shall be presented to Parliament, and if at any time thereafter it is enacted by Act of Parliament that any Order for the regulation or inclosure of a common, the expediency of which has been so certified by the Commissioners, shall be confirmed, the regulation or inclosure of any common to which any such Order relates shall be proceeded with and completed according to the terms of the Provisional Order relating to such common, and to the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, and any Act of Parliament containing such enactments as aforesaid shall be deemed to be a public general Act, but a Provisional Order, until such Act of Parliament as aforesaid

has been passed in relation thereto, shall not be of any validity whatever:

Supplemental power to modify Provisional Order after expediency certified.

(11) If, after the presentation to Parliament of a report made by the Inclosure Commissioners (*a*) certifying the expediency of any Provisional Order for the regulation or inclosure of a common, and before a Bill has been brought in for the confirmation of such Order, such report is referred to a committee of either House of Parliament for consideration, and such committee recommend that such Provisional Order should not be confirmed by Parliament except subject to certain modifications, the Inclosure Commissioners may modify the Provisional Order accordingly, but such modifications shall not be of any validity unless they are consented to in the same manner as if they had formed part of the draft Provisional Order originally deposited by the Commissioners:

And it shall be the duty of the Commissioners (*a*) to take the necessary steps for ascertaining whether such consent as aforesaid can be obtained or not, and if such consent be obtained, the Commissioners shall make a special report to the effect that the Order has been modified as aforesaid and such consent duly obtained, and such report shall be presented to Parliament; and thereupon the Order so modified shall be deemed to be in the same position in all respects as if it were an Order in respect of which a report had been made by the Commissioners certifying the expediency thereof, and such report had been presented to Parliament.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

(*b*) In addition to these provisions, the Minister of Agriculture and Fisheries may insert in the Order a provision for the raising and payment of expenses of and incidental to the regulation of the common, either wholly or partly, by a sale of a portion of the common, specifying the situation and maximum quantity sold; the expenses to be raised and paid in manner provided by the Inclosure Acts, 1845 to 1868 (see the Commons Expenses Act, 1878, s. 2). He may also specify in any Provisional Order for the regulation of a common, as one of the terms and conditions of the regulation, the appropriation of an allotment for the neighbouring poor, in which case the provisions of the Inclosure Acts, 1845 to 1876, as to allotments made on enclosure of a common, are to apply (*ibid.*, s. 4).

(*c*) The necessity for obtaining the consents required by this sub-section was one of the great difficulties in the way of obtaining Provisional Orders under this Act. Under the Commons Act, 1899, which supplies an alternative and simpler procedure, the necessity for dissent on the part of the lord or commoners, is substituted for the necessity of consent, and in the absence of dissent the scheme goes forward.

Partial application of procedure under Inclosure Acts.

13. The Inclosure Commissioners (*a*) may insert in any Provisional Order for the regulation of a common any provisions they may deem necessary for the purpose of carrying such Order into effect; but, subject as aforesaid, when an Act of Parliament has been passed as aforesaid, enacting that the regulation of a common shall be proceeded with, the subsequent proceedings for carrying into effect the regulation of such common shall be the same, so far as is practicable, as they would be in case such common were to be inclosed instead of being regulated, and the provisions of the Inclosure Acts, 1845 to 1868, as amended by this Act, shall apply accordingly.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Power to raise money for improvement of common.

14. A Provisional Order for the regulation of a common may provide for the raising from time to time by such persons interested in the common, and for such amounts as the Commissioners (*a*) think fit, of money to be applied towards the improvement or protection of such common, either by means of rates to be levied on the persons and in respect of the property who and

Section 14. which respectively will be benefited or principally benefited by such improvement or regulation, or by means of the sale of any outlying or other small portion not exceeding in the whole one-fortieth part of the total area of such common (*b*).

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

(*b*) The Provisional Order must specify the situation and maximum quantity so sold. The Order may provide for the sale of part of the common in order to raise the expenses necessary for the regulation of the portion retained (41 & 42 Vict. c. 56, s. 2). The proceeds may, if the Order so provides, be invested, and the income applied towards the improvement or protection of the common; and the Order may also provide for the sale of all or part of the investment and the application of the proceeds for the like purpose (*ibid.*, s. 3).

Supplemental Provisions.

Owners may make byelaws. 8 & 9 Vict. c. 118.

15. The majority in value of the owners of skirts (*a*) or rights of pasture in any regulated pasture created under the provisions of the General Inclosure Act, 1845 (*b*), in addition to the powers they now possess are hereby authorised at any annual meeting for the election of field reeves (*c*) to make byelaws and regulations for the prevention of or protection from nuisances or for keeping order on the regulated pasture, and for general management (*d*), occupation, and enjoyment of the regulated pasture, provided the consent of the lord of the manor is given to such byelaws.

(*a*) *Sic.* An obvious misprint for "stints." Stints or cattlegaits are rights of pasture for a stinted or limited number of beasts in a common close. See Fitzherbert's Extenta Manerii, 12, 13; Elton on Commons, ed. 1868, pp. 34, 35.

(*b*) See 8 & 9 Vict. c. 118, s. 113, *et seq.*; 15 & 16 Vict. c. 79 s. 33; 17 & 18 Vict. c. 97, s. 6; 20 & 21 Vict. c. 31, s. 2.

(*c*) See 8 & 9 Vict. c. 118, s. 117, as to the election of field reeves.

(*d*) The Commons Act, 1908, enables regulations to be made as to turning out entire animals on commons.

Provision as to byelaws.

16. Any byelaw made in pursuance of this Act, and any alteration made therein, and any revocation of a byelaw, shall not be of any validity until it has been confirmed by one of her Majesty's principal Secretaries of State.

Pecuniary penalties (to be recovered summarily before any two justices) may be imposed by any such byelaws on persons breaking the same, provided that no penalty exceeds for any one offence the sum of forty shillings (*a*).

(*a*) M. had premises adjoining a common regulated by byelaws under this Act, and at such premises she let ponies for hire. M. at her premises let ponies to be used by two persons on the common, and they used them there:—*Held*, that this was no offence against a byelaw which forbade the letting for hire of ponies on the common (*Marcy* v. *Morris* (1888), 52 J. P. 168). Where a local improvement Act authorised conservators of a common to make byelaws for the prevention of and protection from nuisances and for keeping order, N. was charged with placing a boat-van for pleasure on the common contrary to the byelaw without a licence and without payment of the prescribed fee:—*Held*, that the byelaw was not *ultra vires* merely because it prohibited vans being brought on the common without leave without expressly confining such prohibition to cases amounting to nuisances (*Nash* v. *Manning* (1894), 58 J. P. 718). In *Scott* v. *Baring* (1894), 11 T. L. R. 175, a person was convicted of a contravention of a byelaw against digging loam, etc., made by the conservators of a common under the provisions of a local Act. He set up a claim of right under the authority of the lord of the manor, but it was contended that the question had been already decided in *Robertson* v. *Hartopp* (1890), 43 Ch. D. 484, that the lord of the manor had no right to dig loam on the common, and that, therefore, the claim of right was unreasonable:—*Held*, on appeal, that the conviction was wrong on the ground that the justices could not decide the question without going into the question of right.

Notice of application for confirmation of byelaws.

17. No such confirmation shall take place unless notice of the intention to apply therefor, stating the effect of this section, has been published by the conservators one month at least before the application.

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During one month at least before the application a copy of every byelaw, the making, alteration, or revocation of which is submitted for confirmation, shall be kept at the office of the person or body of persons making, altering, or revoking such byelaw open for inspection by persons interested, and such person or body of persons shall furnish a printed copy thereof to every person applying for the same on payment of a sum not exceeding one shilling for each copy.

Provision as to certain expenses under order for regulation of a common.

18. Subject to the terms of the Provisional Order the amount of any compensation to be paid for any restriction modification or abolition of rights in pursuance of an Order for the regulation of a common shall be deemed to be expenses of and incidental to the regulation of the common, and may be defrayed accordingly.

Definition of power of Charity Commissioners in certain cases.

19. Whereas by several awards made under the authority of Inclosure Acts prior to the year one thousand eight hundred and forty-five, fuel allotments for the poor have been set out and awarded, and vested in divers persons and bodies of persons as trustees of such allotments:

And whereas under the provisions of the Inclosure Acts, 1845 to 1868, and the several Acts of Parliament and awards made thereunder, allotments for recreation grounds and field gardens have been set out and awarded to the churchwardens and overseers of parishes and other persons:

And whereas power exists or is claimed under divers Acts of Parliament, to divert such allotments from the uses declared by Parliament respecting the same: Be it enacted, that notwithstanding anything in any other Act contained, it shall not be lawful (save as hereinafter mentioned) to authorise the use of or to use any such allotment, or any part thereof, for any other purpose than those declared concerning the same by the Act of Parliament and award, or either of them, under which the same has been set out: Provided, that it shall be lawful for the Charity Commissioners for England and Wales in the exercise of their ordinary jurisdiction under the Charitable Trusts Acts, upon the application of the trustees of any fuel allotment, to authorise the use of such fuel allotment as a recreation ground and field gardens, or for either of those purposes, and to make an order under the provisions of the Charitable Trusts Act, 1860, for the establishment of a scheme for the administration of such fuel allotment accordingly; and provided that it shall be lawful for the said Charity Commissioners, on such application as aforesaid, to authorise the exchange of any fuel allotment, or any part thereof, for land of equal value situate within the parish or district for the benefit of the poor of which such allotment was set out, if the Commissioners are of opinion that by means of such exchange land better suited for the purpose for which such allotment was set out will be obtained.

23 & 24 Vict. c. 136.

Gravel digging.

20. Where any common is regulated pursuant to this Act by a Provisional Order of the Inclosure Commissioners (*a*) confirmed by Parliament, or is the subject of a scheme confirmed by Parliament under the provisions of the Metropolitan Commons Act, 1866, or the Metropolitan Commons Amendment Act, 1869, or (being situate within the metropolitan police district) is the subject of any private or local Act of Parliament having for its object the preservation of such common as an open space, no surveyor of highways or highway board constituted in pursuance of the Highway Acts (*b*), . . . shall search for, dig, get, or carry away gravel sand stone or other materials in or from any part of such common which has not been set apart for that purpose with the sanction of Parliament, without the consent of the person or persons having the regulation or management of the same, or in default of such consent, without an order of two or more justices in petty sessions

29 & 30 Vict. c. 122.
32 & 33 Vict. c. 107.

Section 20. assembled, and acting in and for the petty sessional division in which such common is situate, who may in their order prescribe such conditions as to mode of working and restitution of the surface as to them shall seem expedient (*c*).

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

(*b*) Some words are here repealed by the S. L. R. A., 1898.

(*c*) This section is applied to any common regulated by scheme under Part I. of the Commons Act, 1899, *post*, p. 2602, by s. 8 of that Act.

The justices have an absolute discretion to make or to refuse to make an order under this section (*Hayes Common Conservators* v. *Bromley R. D. C.*, [1897] 1 Q. B. 321; 61 J. P. 104).

PART II.

AMENDMENT OF THE INCLOSURE ACTS.

Field Gardens and Recreation Grounds.

Expenses of clearing, draining, and fencing field gardens.

21. Whereas it is expedient that the expenses of clearing any allotments made for field gardens may be included in the expenses of an inclosure: Be it enacted that the valuer shall, unless the Inclosure Commissioners (*a*) otherwise direct, cause every allotment made for a field garden to be cleared drained fenced levelled and otherwise made fit for immediate use and occupation; and the expenses incurred by the valuer under this section shall be paid as part of the general expenses of the inclosure.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Substituted allotments for recreation grounds and field gardens.

22. The provisions (*a*) of the Inclosure Acts, 1845 to 1868, which authorise the Inclosure Commissioners (*b*) to allow an equal quantity of the land proposed to be inclosed to be allotted for the purpose of a recreation ground or field garden, or for any other public purpose, in lieu of that directed to be allotted by any Provisional Order, shall extend to authorise them to allow the allotment of land of equal value although it may not be of equal quantity.

(*a*) See 8 & 9 Vict. c. 118, ss. 30, 73; 9 & 10 Vict. c. 70, s. 4.

(*b*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Situation of allotments for recreation grounds and field gardens.

23. Every allotment made for the purpose of a recreation ground or field garden shall be in such part of the land proposed to be inclosed as is best suited for the purpose for which it is appropriated; and where any land proposed to be inclosed consists partly of common being waste land of a manor (in this section referred to as the first-mentioned land), and partly of common not being waste land of a mamor (in this section referred to as the second-mentioned land), and the Commissioners are satisfied that it would be advantageous that the allotment for a recreation ground or a field garden, or any part thereof, should be made out of the second-mentioned land instead of out of the first-mentioned land, the Commissioners may, in the Provisional Order relating to such land, specify as one of the terms and conditions of the inclosure thereof that the said allotments or the said part thereof shall be made accordingly out of the second-mentioned land, and shall out of the first-mentioned land allot land of equal value by way of exchange to the persons interested in the second-mentioned land.

Field gardens to be free of rent-charge.

24. There shall be repealed so much (*a*) of the Inclosure Acts, 1845 to 1868, as relates to the charging of an allotment made for the purpose of a field garden with a rent-charge; and every such allotment made after the passing of this Act shall be made free of any such rent-charge.

(*a*) See 8 & 9 Vict. c. 118, ss. 31, 73, 75, 78; 15 & 16 Vict. c. 79, s. 18.

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25. [*Allotments for recreation grounds to be vested in churchwardens and overseers*] (*a*).

(*a*) Repealed by the S. L. R. A., 1894. As to the holding and management of allotments whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants by the parish council, see s. 6 (1) (c) (iii) of the L. G. A., 1894.

Amendment of law as to letting field gardens.

26. (*a*) . . . Allotment wardens, if they are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in gardens not exceeding a quarter of an acre, may let the same, or any unlet portion thereof, in gardens not exceeding an acre each to such inhabitants as aforesaid ; Further, it shall be the duty of allotment wardens to offer the gardens under their management to the poor inhabitants of the parish at a fair agricultural rent, if from time to time sufficient to satisfy all rates taxes tithes tithe rent-charge and the rent-charge charged on the said allotments under the provisions of the General Inclosure Act, 1845, but not otherwise, instead of at such rent as is required by the said Act. Moreover, if in any parish the allotment wardens are unable to let the allotments under their management, or any portion thereof, to the poor inhabitants of the parish in such quantities and at such rents as aforesaid, they may let the same, or such portion as may be unlet to any person whatever at the best annual rent which can be obtained for the same, without any premium or fine, and on such terms as may enable the allotment wardens to resume possession thereof within a period not exceeding twelve months, if it should at any time be required for such poor inhabitants as aforesaid.

8 & 9 Vict. c. 118.

This section shall apply to all land allotted to the poor for the purpose of cultivation under any Inclosure Act whatever, whether public or private, whether under the management of allotment wardens, feoffees, trustees, rector, or vicar and churchwardens, overseers (*b*), managers, or any other person or persons whatever, and whether at present cultivated or uncultivated, so that all such persons as aforesaid shall have like powers and duties as are hereinbefore given to and imposed upon allotment wardens (*c*).

(*a*) The recital of s. 109 of the Inclosure Act, 1845, at the commencement of this section, and of s. 73 of that Act at the commencement of s. 27, with certain consequential parts of s. 27, were repealed by the S. L. R. A., 1894.

(*b*) Overseers were abolished by the R. and V. Act, 1925, s. 62. As to the transfer of property formerly held by overseers, see Arts. 4, 6 and 7 of the Overseers Order, 1927, in App. II. at p. 3680, *post.*

(*c*) In parishes where there is a parish council, the powers and duties of allotment wardens are now exercised and performed by the parish council (56 & 57 Vict. c. 73, s. 6 (1) (c) (iii)).

Application of surplus rents of recreation grounds and field gardens.

27. (*a*) . . . The surplus rents arising from recreation grounds shall be applied to all or any of the following purposes, and to no other purpose ; that is to say, in improving the recreation grounds or any or them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for recreation grounds in the same parish or neighbourhood (*b*) ; and the surplus rents arising from field gardens shall be applied to all or any of the following purposes, and to no other purpose (*c*) ; that is to say, in improving the field gardens or any of them in the same parish or neighbourhood, or maintaining the drainage and fencing thereof, or in hiring or purchasing additional land for field gardens in the same parish or neighbourhood.

The trustees of any recreation ground and the allotment wardens of any field gardens may, with the approval of the Inclosure Commissioners (*d*), sell all or any part of the allotment vested in them, and out of the proceeds of such sale purchase any fit and suitable land in the same parish or neighbour-

Section 27. hood: Provided that the land so purchased shall be held in trust for the purposes for which the allotment so sold as aforesaid was allotted, and for no others; and provided that the Inclosure Commissioners (*d*) shall not sanction any such sale as aforesaid unless and until it shall be proved to their satisfaction that land more suitable for the purposes for which the allotment proposed to be sold was allotted may and will be forthwith purchased; and the proceeds of any such sale shall be paid to the Inclosure Commissioners (*d*), and shall remain in their hands until such purchase of other land as aforesaid.

(*a*) See note (*a*) to s. 26, *ante*, p. 2389.

(*b*) And also in the improving of any of the field gardens to which this section applies in the same parish or neighbourhood, or maintaining the drainage and fencing thereof (42 & 43 Vict. c. 37, s. 2).

(*c*) But they may also be applied for any of the purposes for which surplus rents arising from recreation grounds may be applied (62 & 63 Vict. c. 30, s. 16, *post*, p. 2606). And under the same section surplus rents arising from any field garden or recreation ground may be applied towards the redemption of any land tax, tithe rent-charge, or other charge on the garden or ground.

(*d*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Reports by managers of recreation grounds and field gardens.

28. The trustees of recreation grounds, where such trustees are the overseers (*a*) or churchwardens of a parish, and the allotment wardens of field gardens (*b*) shall, from time to time, and at such intervals of not less than three years nor more than five years, as the Inclosure Commissioners (*c*) direct, make such reports to the said Commissioners in respect of the recreation grounds and field gardens under their management, with such particulars of the rents received by them, as the Commissioners may require.

(*a*) See note (*b*) to s. 26 at p. 2389, *ante*.

(*b*) See note (*c*) to s. 26, *ante*, p. 2389.

(*c*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Town and village greens.

29. (*a*) . . . An encroachment on or inclosure of a town or village green, also any erection thereon or disturbance or interference with or occupation of the soil thereof which is made otherwise than with a view to the better enjoyment of such town or village green or recreation ground, shall be deemed to be a public nuisance, and if any person does any act in respect of which he is liable to pay damages or a penalty under section twelve of the Inclosure Act, 1857, he may be summarily convicted thereof upon the information of any inhabitant of the parish in which such town or village green or recreation ground situate, as well as upon the information of such persons as in the said section mentioned (*b*).

20 & 21 Vict. c. 31.

This section shall apply only in cases where a town or village green or recreation ground has a known and defined boundary.

(*a*) The recital of s. 12 of the Inclosure Act, 1857, as to town and village greens was repealed by the S. L. R. A., 1894. Town or village greens cannot be taken for light railways without the consent of the Minister of Agriculture and Fisheries. They are also "commons" within the meaning of the Commons Act, 1899, though apparently not "commons" within the meaning of this Act. As to parish councils, see s. 8 of the L. G. A., 1894.

(*b*) The Inclosure Act, 1857, s. 12, provides a summary remedy for injury or damage to the fences of or for other nuisances to a town or village green. The penalty for each offence is forty shillings, which with the damage is recoverable summarily before justices. Under that section, however, the proceedings could only be instituted by a churchwarden or overseer, or the person in whom the soil was vested.

Jurisdiction of county court in respect of illegal inclosures.

30. (*a*) A county court within whose jurisdiction any common or part of a common is situate shall have jurisdiction to hear any case relating to any illegal inclosure or encroachment of or upon such common or part of a common respectively made after the passing of this Act, or to any nuisance impeding the exercise of any right of common arising after the passing of this Act, and to grant an injunction against such inclosure encroachment or nuisance, or to make an order for the removal or abatement of such inclosure encroachment or nuisance.

Any person aggrieved by any injunction granted or order made or refusal to grant an injunction or make an order by a county court in pursuance of this section may, on giving security for costs to the satisfaction of the county court, appeal to the High Court of Justice in a summary manner, or by special case or otherwise, as may be prescribed by rules of court to be made by the Supreme Court of Judicature in manner provided by the seventeenth section of the Supreme Court of Judicature Act, 1875. 38 & 39 Vict. c. 77.

The appellate court may on hearing the appeal reverse modify or confirm the injunction or order complained of, or remit the case to the county court from which the appeal lay, with instructions to deal with the case according to the directions given by the appellate court.

Where an appeal is lodged against the order of a county court directing the removal or abatement of any inclosure encroachment or nuisance, such order shall be suspended during such time as such appeal is pending.

Nothing in this Act contained shall abridge or interfere with any existing right of abating or otherwise preventing any illegal inclosure of or encroachment of any common, or any nuisance interfering with any right of common.

Until rules of court are made for the purposes of this section, an appeal may be had from the decision of any county court under this section in the same manner in which an appeal from the decision of a county court may be had in a case within its ordinary jurisdiction.

(a) Sections 30 and 31 are extended to metropolitan commons by the Metropolitan Commons Act, 1878, s. 3. For procedure in the county court, see County Court Rules, Order L., r. 9. No special procedure as to appeals is prescribed by the Rules of the Supreme Court, therefore the usual practice under s. 120 of the County Courts Act, 1888, is applicable in such appeals. See R. S. C., Order LIX., rr. 10, 18. See also the jurisdiction given to county courts as regards the restriction of inclosure of commons given by s. 194 of the Law of Property Act, 1925, *post*, p. 2881.

Three months' notice of claim to inclose to be given in the local papers.

31. Any person intending to inclose or approve a common or part of a common otherwise than under the provisions of this Act shall give notice to all persons claiming any legal right in such common or part of a common, by publishing, at least three months beforehand, a statement of his intention to make such inclosure, for three successive times, and in two or more of the principal local newspapers in the county, town, or district in which the common or part of a common proposed to be inclosed is situate; but the provisions of this section shall not apply to any commons or waste lands whereon the rights of common are vested solely in the lord of the manor (*a*).

A production of a newspaper containing such advertisement as aforesaid shall be evidence of the same having been issued, and the inclosure shall, until the contrary is proved, be deemed to have taken place at the time specified in such advertisement.

(*a*) This exception is hardly worded with due legal accuracy. Where all rights of common are released or conveyed to the lord of the manor, the land formerly common becomes freed from them and ceases to be common at all. A person inclosing a common without advertising his intention as required by this section might be indicted for misdemeanor in disobeying the statute, or be restrained by injunction from continuing his inclosure and ordered to remove it on an information filed by the Attorney-General at the instance of a person interested.

Appointment of valuer to be confirmed by Commissioners.

32. An appointment of a valuer shall not be valid until it has been confirmed by the Commissioners (*a*). The Commissioners (*a*) may disapprove of a valuer on the ground of his incompetency, interest, want of impartiality, or any reasonable cause, and where they so disapprove of a valuer may call a meeting, and a meeting may be held to appoint, and another person appointed (subject to the approval of the Commissioners (*a*)) to be valuer in like manner as if no previous meeting had been held and no valuer had been previously appointed, and so on until a valuer approved by the Commissioners is appointed.

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

General Amendment.

As to exchanges and partitions. 8 & 9 Vict. c. 118, s. 105.

33. The provisions of section one hundred and five of the Inclosure Act, 1845, relating to the validity after confirmation of an award of inclosure of the exchanges, and partitions set forth in such award, shall apply to orders of exchange partition and division of intermixed lands carried into effect in pursuance of the Inclosure Acts, 1845 to 1868, by separate orders, and not included in an award of inclosure.

PART III.

MISCELLANEOUS.

Amendment of law as to reports.

34. *There shall be repealed so much of section thirty of the Inclosure Act,* 1845, *as prescribes a limit to the quantity of land to be allotted to recreation grounds; also the twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh sections of the Inclosure Act,* 1845, *and* (*a*) the Inclosure Commissioners (*b*) shall not be required to repeat, in their general annual report, any of the particulars in relation to the regulation or inclosure of commons which they may have stated in any other reports made by them in pursuance of this Act, in relation to such commons, but they may refer to such other reports, or give a summary thereof, or otherwise deal with the same as may be thought expedient.

(*a*) This section was repealed down to this point by the S. L. R. A., 1883.
(*b*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 1, *ante*, p. 2375.

Metropolitan commons. 29 & 30 Vict. c. 122. 32 & 33 Vict. c. 107.

35. This Act, save as herein expressly provided (*c*), shall not apply to any metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 and 1869.

(*a*) See s. 20, *ante*, p. 2387; note (*d*) to s. 8, *ante*, p. 2379; and note (*a*) to s. 30, *ante*, p. 2391.

A common regulated under Act not to be inclosed without sanction of Parliament.

36. Where an Act of Parliament has been passed confirming a Provisional Order under this Act for the regulation of a common, then, subject to and without prejudice to the provisions of that Order, such common shall not, nor shall any part thereof, be inclosed without the sanction of Parliament subsequently obtained.

Definitions.

Definitions.

37. In this Act, unless the context otherwise requires,—

"A common" means any land subject to be inclosed under the Inclosure Acts, 1845 to 1868 (*a*):

"Waste land of a manor" means and includes any land consisting of waste land of any manor on which the tenants of such manor have rights of common, or of any land subject to any rights of common which may be exercised at all times of the year for cattle levant and couchant,

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or to any rights of common which may be exercised at all times of the year, and are not limited by number or stints:

"Person" includes a body corporate (*b*):

. . . .

"Municipal borough" means any place for the time being subject to the Municipal Corporations Act, 1835, and the Acts amending the same (*c*);

"Improvement Act district" means any area subject to the jurisdiction of any commissioners, trustees, or other persons invested by any local Act of Parliament with powers of improving, cleansing, lighting, or paving any town:

"Local government district" has the same meaning as it has in the Public Health Act, 1875 (*d*). 38 & 39 Vict. c. 55.

(*a*) See s. 4, *ante*, p. 2376.

(*b*) The definition of "Inclosure Acts, 1845 to 1868," and the schedule to this Act to which that definition referred, are repealed by the S. L. R. A., 1894. See now the Short Titles Act, 1896.

(*c*) Now the Municipal Corporations Act, 1882, see s. 242 of that Act.

(*d*) See s. 4 of that Act, *ante*, p. 4.

* * * * * *

THE LIMITED OWNERS RESERVOIRS AND WATER SUPPLY FURTHER FACILITIES ACT, 1877.

(40 & 41 VICT. c. 31) (*a*).

An Act to give further facilities to Landowners of limited interests in England and Wales and Ireland to charge their estates with the expenses of constructing Reservoirs for the Storage of water, and other similar purposes.

[2nd August, 1877.]

1. This Act may be cited as the Limited Owners Reservoirs and Water Supply Further Facilities Act, 1877. Short title.

(*a*) The preamble to this Act has been repealed by the S. L. R. A., 1894. See also s. 4 of that Act as to the omission of the clause of enactment. The effect of this Act and its bearing upon the subject of public health have already been stated in the notes to s. 51 of the P. H. A., 1875, *ante*, p. 126. It has been thought advisable to set out here the full text of the Act. See also 60 & 61 Vict. c. 44, *post*, p. 2565.

2. This Act shall not extend to Scotland (*a*). Extent.

(*a*) But see now 62 & 63 Vict. c. 46, s. 2.

3. This Act shall be incorporated with the Improvement of Land Act, 1864, and the two Acts shall be read together as one Act. Construction. 27 & 28 Vict. c. 114.

4. The provisions of the Waterworks Clauses Act, 1863, with respect to the security of the reservoirs constructed by the undertakers (*a*) are incorporated with this Act; and in that Act, as incorporated with this Act, the expression "the special Act" shall mean and include the Improvement of Land Act, 1864, and this Act; and the expression "the undertakers" shall mean any person who constructs or erects any reservoir or dam under the authority of either of the last-mentioned Acts. Certain provisions of 26 & 27 Vict. c. 93, incorporated. 27 & 28 Vict. c. 114.

(*a*) See 26 & 27 Vict. c. 93, ss. 3—10, *ante*, pp. 2265, 2266.

5. The construction or erection of reservoirs or other works of a permanent character for the supply of water to persons residing or engaged in labour What to be deemed improvements

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within 27 & 28 Vict. c. 114.

27 & 28 Vict. c. 114.

on the lands on which such works are situate, or on any other lands settled to the same uses, or for the more convenient or profitable user of such lands, or for the supply of water to any sanitary or other local authority or water company, or to any manufacturer or other person, or for any one or more of such purposes, shall be deemed to be an improvement of land within the meaning of the ninth section of the Improvement of Land Act, 1864, and shall be sanctioned by the Commissioners (*a*), if it can be shown to their satisfaction that such reservoirs or works for the supply of water will for any purpose effect a permanent yearly increase in the value of the lands on which they are situate, or any other lands settled to the same uses, or will be permanently productive of a yearly revenue to the owner of such lands exceeding the yearly amount proposed to be charged thereon (*b*) ; and the construction of any such works shall be deemed to include the purchase by the landowner of any water right or other easement which might otherwise interfere with or prevent the construction of the same or any such supply of water as aforesaid.

In calculating whether the improvement is likely to effect a permanent increase of the yearly value of the land, or be productive of a yearly revenue to the landowner exceeding the yearly amount proposed to be charged thereon, it shall be lawful for the Commissioners (*a*) to take into account the value of any contract, the terms of which have been agreed upon between the landowner and any sanitary or other local authority, or water company, or manufacturer or other persons, for the purpose of supplying such authority company person or persons with water, as well as the effect on such value or revenue of any sum expended by the landowner in the construction of the works over and above the sum proposed to be charged upon the land.

When the improvement will afford a supply of water to persons residing or engaged in labour on the lands on which the proposed works will be situate, or on any other lands settled to the same uses, the Commissioners (*a*) may, if they think fit, sanction the improvement, although it may not be shown that the same will effect a direct yearly increase in the value of the lands, or be productive of a yearly revenue to the owner of the lands exceeding the yearly amount proposed to be charged thereon (*c*).

(*a*) Now the Minister of Agriculture and Fisheries. See note (*a*) to s. 10, *post*, p. 2395.

(*b*) As to charging estates with the cost of improvements, see the Improvement of Land Acts, 1864 and 1899. Reference may also be made here to s. 83 and Sched. III., Pt. I., xiv., of the Settled Land Act, 1925, which enables the cost of waterworks to be paid for out of capital.

(*c*) Compare the District Councils (Water Supply Facilities) Act, 1897, s. 4, *post*, p. 2566.

Supply of water to local authority, etc.

6. Any landowner charging or proposing to charge (*a*) his estate with the cost of the construction of reservoirs or other works for the supply of water under this Act may enter into any agreement for the supply of water to any sanitary or other local authority, water company, manufacturer, or other person, for any term not exceeding the number of years during which the cost of the improvement, or any part of it, is made a charge upon the estate: Provided that every such agreement be approved by the Commissioners (*b*), and that no premium or benefit in the nature of a premium be reserved thereby by the landowner.

(*a*) See note (*b*) to s. 5, *supra*.

(*b*) See note (*a*) to s. 5, *supra*.

Power to contract for execution of reservoir, etc.

7. Any company now authorised to contract with landowners in England or Wales . . . (*a*) for the execution of any works for the improvement of land, or to make advances for the purpose of executing or assisting in the execution of such works, may, with the approval of the Commissioners (*b*), contract with any such landowner for the execution of any reservoirs or works of water supply, the cost of which may by this Act be charged upon the estates of such landowner, and may, with the like approval, make advances for the purpose of executing or assisting in the execution of such reservoirs or works; and for this purpose the execution of any such reservoirs or works shall be deemed to be an improvement of land within the meaning of any Act of Parliament or articles of association relating to any such company.

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(*a*) Words relating to Ireland only are here omitted.
(*b*) See note (*a*) to s. 10, *infra*.

Subscriptions to waterworks.

8. Any landowner desiring to charge (*a*) his estates with subscriptions for the construction of waterworks by a water company (*b*) may charge his estates with such moneys on the same terms and conditions as he may under the Improvement of Land Act, 1864, charge his estates with moneys subscribed for the construction of railways or navigable canals; and for this purpose the provisions contained in sections seventy-eight to eighty-nine, both inclusive, of the Improvement of Land Act, 1864, shall apply, mutatis mutandis, to such subscriptions, as if the same had been subscribed for the construction of a railway or navigable canal.

27 & 28 Vict. c. 114.

(*a*) See note (*b*) to s. 5, *ante*, p. 2394.
(*b*) As to charging the estate with contributions towards expenses incurred by any district council in supplying water, see the District Councils (Water Supply Facilities) Act, 1897, *post*, p. 2565.

Protection of rights.

9. Nothing in this Act shall be construed to authorise any landowner, or any water company, local authority, person or persons authorised by any landowner, to injuriously affect any reservoir canal river stream or navigation, or the feeders thereof, or the supply quality or fall of water contained in any reservoir canal river stream or navigation, or in the feeders thereof, or any other water rights or easements in cases where any body of persons or person would, if this Act had not passed, have been entitled by law to prevent or be relieved against the injuriously affecting such reservoir canal river stream navigation feeders, or such supply quality or fall of water, or other water rights or easements, unless the landowner, water company, local authority, person, or persons first obtain the consent in writing of the body of persons or person so entitled as aforesaid (*a*).

(*a*) Compare the Improvement of Land Act, 1864, s. 46.

Definitions.

10. In this Act the following words and expressions shall have the following meanings; that is to say,

"The Commissioners" means the Inclosure Commissioners of England and Wales . . . (*a*):

"Works for the supply of water" includes wells, pumps, reservoirs, cisterns, ponds, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, machinery, and things for supplying or used in supplying water:

"Water company" means any person or body of persons, corporate or unincorporate supplying or who may hereafter supply water for his or their own profit:

"Local authority" means any authority having jurisdiction for any public local purpose:

The several words and expressions to which by the Improvement of Land Act, 1864, meanings are assigned, shall in this Act have the same respective meanings as in that Act.

(*a*) Words relating to Ireland only are here omitted. The Inclosure Commissioners became, under the Settled Land Act, 1882, s. 48, the Land Commissioners for England, and the powers and duties of the Land Commissioners for England under this Act were together with their other powers and duties transferred to the Board of Agriculture by the Board of Agriculture Act, 1889, s. 2, and now to the Minister of Agriculture and Fisheries. See 9 & 10 Geo. 5, c. 91.

THE CANAL BOATS ACT, 1877.

(40 & 41 VICT. c. 60) (*a*).

An Act to provide for the Registration and Regulation of Canal Boats used as Dwellings. [14th August, 1877.]

Registration of canal boat as a dwelling.

1. *After the expiration of twelve months after the commencement of this Act, or if the regulations of the Local Government Board hereinafter mentioned have not at that time come into force, then after the expiration of six months from the date at which they have come into force* (*b*), a canal boat shall not be used as a dwelling unless it has been registered in accordance with this Act.

The owner of a canal boat may register that boat with the registration authority hereinafter mentioned (*c*) as a dwelling for such number of persons of the specified age and sex as may be allowed under the provisions of this Act; and the boat shall be used as a dwelling only for the number of persons of the age and sex for which it is registered.

If a canal boat is used as a dwelling in contravention of this Act, the master of the boat, and also the owner of the boat, if he is in fault, shall each be liable to a fine not exceeding twenty shillings for each occasion on which the boat is so used.

(*a*) See the amending Act, the Canal Boats Act, 1884, *post*, p. 2485.

(*b*) The words in italics at the commencement of this section have been repealed by the S. L. R. A., 1894.

(*c*) See s. 7, *post*, p. 2398. It will be observed that the owner has the choice of several authorities with whom to register. For the definition of *owner*, see s. 14, *post*, p. 2400.

Local Government Board to make regulations.

2. The Local Government Board (*a*) shall make regulations (*b*), and may from time to time revoke and vary such regulations—

(1) For the registration of canal boats under this Act, including certificates of registration, and the fees in connection with such registration; and

(2) For lettering, marking, and numbering of such boats; and

(3) For fixing the number age and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat; and

(4) For promoting cleanliness in and providing for the habitable condition of canal boats; and

(5) For preventing the spread of infectious disease by canal boats (*c*).

The registration authority shall register every canal boat which conforms to the conditions of registration provided by the said regulations for the number of persons allowed by those regulations to dwell therein.

(*a*) The powers of the L. G. B. were transferred to the Minister of Health by 9 & 10 Geo. 5, c. 21, and orders made thereunder.

(*b*) Regulations have been made under this section, and will be found in App. II., *post*, p. 3088. As to default in compliance with these regulations, see the Canal Boats Act, 1884, s. 2, *post*, p. 2485.

(*c*) See s. 4, *post*, p. 2397.

Certificate of registry and lettering and numbering of boats.

3. Upon the registry of a boat under this Act, the registration authority shall give to the owner thereof two certificates of registry, identifying the owner and the boat, and stating the place to which the boat is registered as belonging, and the number age and sex of the persons allowed to dwell in the boat, and such other particulars as may be provided by regulations under this Act, or may seem fit to the registration authority, and the master shall have the care of one of such certificates (*a*).

Every canal boat when registered shall be lettered marked and numbered in some conspicuous manner (as directed by the regulations made under this Act), and such lettering marking and numbering shall include the word "registered" and the name of the place to which the boat is registered as belonging, and the registered number (*b*).

Any boat not lettered marked and numbered in conformity with this section, or having the letter mark or number altered defaced or obliterated, shall be deemed, for the purposes of this Act, to be an unregistered canal boat (*c*)

(*a*) This certificate is made void by structural alterations in the boat. See the Canal Boats Act, 1884, s. 1, *post*, p. 2485.

(*b*) The name of the school district referred to in s. 7, *post*, p. 2398, need not be painted on the boat.

(*c*) The boat must be lettered on both sides or on the stern, so as to be visible from both sides of the canal. See the Canal Boats Act, 1884, s. 7, *post*, p. 2486.

Power of sanitary authority for prevention of infectious disease in canal boats.

4. Where any sanitary authority within whose district a canal or any part of a canal is situate is informed by the master of a canal boat or otherwise that a person on a canal boat is suffering from an infectious disorder, the authority shall cause such steps to be taken as may by the certificate of their medical officer of health, or of any other legally qualified practitioner, appear requisite for preventing the said disorder from spreading, and for that purpose may exercise the power of removing a person suffering as aforesaid, and all other powers in relation to provisions against infection conferred by the Public Health Act, 1875 (*a*), and may also, if need be, detain the boat; but such boat shall not be detained a longer time than is necessary for cleansing and disinfecting the same.

38 & 39 Vict. c. 55.

(*a*) See the P. H. A., 1875, s. 124, *ante*, p. 244, extended to ships by the Public Health (Ships, etc.) Act, 1885, *ante*, p. 765. See also the provisions of the Infectious Disease Notification Act, 1889, s. 13 (*ante*, p. 845), extending to vessels, boats, etc.

Authorised person may enter boat, etc.

5. Where any person duly authorised by a registration or sanitary authority, or by a justice of the peace, has reasonable cause to suppose, either that there is any contravention of this Act on board a canal boat, or that there is on board a canal boat any person suffering from an infectious disorder, he may, on producing (if demanded) either a copy of his authorisation, purporting to be certified by the clerk or a member of the sanitary authority, or some other sufficient evidence of his being authorised as aforesaid, enter by day (*a*) such canal boat and examine the same and every part thereof, in order to ascertain whether on board such boat there is any contravention of this Act, or a person suffering from an infectious disorder, and may, if need be, detain the boat for the purpose, but for no longer time than is necessary.

The master of the boat shall, if required by such person, produce to him the certificate of registry (if any) of the boat, and permit him to examine and copy the same, and shall furnish him with such assistance and means as such person may require for the purpose of his entry and examination of and departure from the boat in pursuance of this section.

A refusal to comply with the requisition of such person under this section shall be deemed to be an obstruction of such person.

If such person is obstructed in the performance of his duty under this Act in the case of any boat, the person so obstructing shall be liable to a fine not exceeding forty shillings.

(*a*) *I.e.*, between 6 a.m. and 9 p.m. (47 & 48 Vict. c. 75, s. 9, *post*, p. 2487).

Education of children.

6 (*a*). *A child in a canal boat registered in pursuance of this Act, and his parent, shall for the purposes of the Elementary Education Acts, 1870, 1873, and 1876, be deemed, subject as hereinafter mentioned, to be resident in the*

33 & 34 Vict. c. 75.

Section 6.

place to which the boat is registered as belonging, and shall be subject accordingly to any byelaw in force under the said Acts, in that place.

36 & 37 Vict. c. 86. 39 & 40 Vict. c. 79.

Provided, that if the parent satisfies the school board or school attendance committee having authority in that place, that the child is actually attending school, or is under efficient instruction in accordance with the said Acts, in some other school district, the said board or committee shall grant him without charge a certificate to that effect, and thereupon he and his child shall be deemed for the purposes aforesaid to be resident in the school district in which the child is so attending school, or under efficient instruction, and shall be subject to any byelaw in force therein.

The said certificate may on application by the parent be rescinded or varied by the school board or school attendance committee for the place to which the boat is registered as belonging, and may be rescinded without application by any such board or committee, if they are satisfied, after due notice to the parent, that his child is not properly attending school or under efficient instruction in the school district mentioned in the certificate.

(*a*) It has been thought advisable to reprint this section which is now repealed by s. 172 and Sched. VII. to the Education Act, 1921, and re-enacted by s. 50 of that Act.

Registration authority.

7. For the purpose of the registration of canal boats the registration authority shall be such one or more of the sanitary authorities having districts abutting on a canal as may from time to time be prescribed by regulation of the Local Government Board (*a*).

A canal boat shall be registered with some registration authority having a district abutting on the canal on which such boat is accustomed or intended to ply (*b*).

33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86. 39 & 40 Vict. c. 79.

With a view of determining the place to which a canal boat belongs, for the purpose of the Elementary Education Acts, 1870, 1873, and 1876, the registration authority shall register any canal boat in respect of which an application is made for registration as belonging to some place which is either a school district or is part of a school district, and is situate wholly or partly within the jurisdiction of the registration authority with which it is registered.

(*a*) Now the M. of H. See note (*a*) to s. 2, *ante*, p. 2396.
(*b*) This gives the owner the choice of the place of registration.

Expenses of sanitary authority.

8. The expenses incurred in the execution of this Act by a local authority shall be defrayed as follows:

(1) When they are incurred by an urban sanitary authority, a rural sanitary authority, or a port sanitary authority, they shall be defrayed out of the fund or rate out of which the expenses of such authority, as a sanitary authority under the Public Health Act, 1875 (*a*), are defrayed: Provided, that when they are incurred by a rural sanitary authority they shall be deemed to be general expenses (*b*); and

38 & 39 Vict. c. 55.

(2) When they are incurred by a vestry or district board in the metropolis they shall be defrayed as expenses incurred by such vestry or board in the execution of the Metropolis Management Act, 1855, and the Acts amending the same.

18 & 19 Vict. c. 120.

(*a*) That is, out of the general rate fund. See s. 207 of the P. H. A., 1875, *ante*, p. 495, and the R. and V. Act, 1925, *ante*, p. 1633.
(*b*) See *ante*, p. 514. As to the duty of the local authority to enforce the Act and regulations under it, see the Canal Boats Act, 1884, s. 3, *post*, p. 2485.

Regulations to be laid before Parliament.

9. An order of the Local Government Board (*a*) making revoking or varying any regulation in pursuance of this Act shall not come into force until it has lain in a complete form as settled and approved by the Board for forty days before both Houses of Parliament during the session of Parliament.

Section 9.

The Local Government Board (*a*) shall take steps for enabling all persons interested in any regulations made by that Board in pursuance of this Act to obtain copies thereof at such places in the neighbourhood of canals as the Local Government Board (*a*) may prescribe, on payment of such sum not exceeding sixpence as may be prescribed by that Board (*b*).

(*a*) Now the M. of H. See (*a*) to s. 2, *ante*, p. 2396.

(*b*) See the regulations of the L. G. B., dated September, 1878, and November, 1879, prescribing places and fixing prices for sale of regulations (Glen's Local Government Orders, pp. 473 and 478), and further regulations dated July, 1887.

Illegal detention of certificate of registry.

10. If the master of any canal boat illegally detains the certificate of registry of such boat, he may, on summary conviction before two justices, be directed by order of such justices to deliver up such certificate, and shall, in addition thereto, be liable to a fine not exceeding forty shillings, and the justices may direct any part of such fine to be paid to the person injured by the detention of such certificate.

Application of fees under this Act.

11. All fees paid in respect of registration under this Act shall be carried to the fund or rate out of which the expenses incurred in the execution of this Act by the authority making such registration are by this Act declared to be payable (*a*).

(*a*) See s. 8, *ante*, p. 2398.

Power of canal company, etc. to establish schools.

12. Any company or association, corporate or unincorporate, being the owners of any canal boats, or being the owners lessees or undertakers of any canal, may, with the assent of a special resolution of their members, and notwithstanding any Act of Parliament, charter, or document regulating the funds of the company or association, appropriate any portion of their funds to the establishment and maintenance, or establishment or maintenance, of a school or schools wherein the children of the persons employed in canal boats may be lodged maintained and educated, or educated only; with this restriction, that the children shall not be maintained gratuitously, but the lodging or education may be wholly or partially gratuitous.

A "special resolution" shall for the purposes of this Act mean a resolution passed in manner provided by the fifty-first section of the Companies Act, 1862 (*a*).

25 & 26 Vict. c. 89.

(*a*) See now s. 117 of the Companies Act, 1929.

Recovery of penalties.

13. Offences under this Act may be prosecuted, and fines under this Act may be recovered on summary conviction before two justices having jurisdiction, either in the place to which the boat in respect of which the offence was committed is registered as belonging, or in the place where the offence is committed, or in the place where the alleged offender for the time being is, in manner provided by the Summary Jurisdiction Act, 1848 (*a*).

11 & 12 Vict. c. 43, etc.

(*a*) *Sic* in the second edition of the Statutes Revised, but it ought to be "the Summary Jurisdiction (England) Acts," because in the original statute not only is the Act of 1848 referred to by its long title, but also "the Acts amending the same." See the Interpretation Act, 1889, s. 13 (7). Fines are to be paid to the registration or sanitary authority. See the Canal Boats Act, 1884, s. 8, *post*, p. 2487.

Definitions.

14. In this Act, unless the context otherwise requires—

The expression "sanitary authority" means an urban sanitary authority, a rural sanitary authority, or port sanitary authority: Provided, that in the case of the parishes mentioned in Schedule A. and the districts mentioned in Schedule B. to the Metropolis Management Act, 1855, so far as they are not within the jurisdiction of a port sanitary authority, the vestry of any such parish and the district board of any such district elected under the Metropolis Management Act, 1855, and the Acts amending the same, shall be deemed to be sanitary authorities, and

18 & 19 Vict. c. 120.

Section 14.

38 & 39 Vict. c. 55.

where other sanitary authorities are by this Act empowered to exercise powers conferred by the Public Health Act, 1875, may exercise similar powers conferred by any Act of Parliament extending to such parishes or districts:

The expression "parent" includes guardian, and every person who is liable to maintain or has the actual custody of any child (*a*) *:*

38 & 39 Vict. c. 55.

The expression "urban sanitary authority" and "rural sanitary authority" and "port sanitary authority" have the same meaning as in the Public Health Act, 1875 (*b*):

The expression "canal" includes any river, inland navigation, lake, or water being within the body of a county, whether it is or not within the ebb and flow of the tide:

17 & 18 Vict. c. 104.

The expression "canal boat" means any vessel, however propelled, which is used for the conveyance of goods along a canal as above defined, and which is not a ship duly registered under the Merchant Shipping Act, 1854, and the Acts amending the same (*c*):

The expression "owner" includes a person who, though only the hirer of a canal boat, appoints the master and other persons working such boat.

The expression "master" in relation to a canal boat means the person having for the time being command or charge of the boat.

(*a*) This definition is now repealed by s. 172 and Sched. VII., Education Act, 1921, and re-enacted by s. 170 (12) of that Act.

(*b*) *Ante*, pp. 39, 623.

(*c*) This definition is now to extend to ships, which are within the definition even though registered, other than sea-going ships and "Thames sailing barges." See the Canal Boats Order, 1922, in App. II., *post*, p. 3096, made under s. 10 of the Canal Boats Act, 1884, *post*, p. 2487.

15. [*Commencement of Act.*] (*a*)

(*a*) Repealed by the S. L. R. A., 1894.

Extent.

16. This Act shall not extend to Scotland or Ireland.

Short title.

17. This Act may be cited as "The Canal Boats Act, 1877."

THE LOCAL TAXATION RETURNS ACT, 1877.

(40 & 41 VICT. c. 66) (*a*).

An Act to amend the Law with respect to the Annual Returns of Local Taxation in England, and for other purposes relating to such taxation.

[14th August, 1877.]

Date for annual return of local taxation.

1. The annual return required by law to be made of any receipts or expenditure of a local authority, or of any rates taxes tolls or dues, shall be made for the financial year ending on the twenty-fifth day of March, or on such other day as the Local Government Board (*b*) may from time to time prescribe, upon the application of any particular authority in respect of their receipts and expenditure, or of any rates taxes tolls or dues levied by them, or in respect of the receipts and expenditure and of the rates taxes tolls or dues levied by any class of authorities (*c*)

Every such return shall be sent to the Local Government Board (*b*) and not to one of her Majesty's principal Secretaries of State, and shall be so sent within one month after the audit of the receipts and expenditure to which the return relates is completed, or if the audit is not completed within six months after the end of the financial year for which the return is to be made, then on the expiration of such six months, or if there is no audit, then within one month after the end of the said financial year.

For the purpose of any such return the date to which the accounts of any local authority are required by law to be made up, and the date at which such accounts are required by law to be audited, and auditors are required to be elected or appointed, may be altered by the local authority, with the approval of the Local Government Board (*b*): Provided, that nothing in this section shall prevent any accounts being made up and audited at shorter periods than twelve months, so that one of such shorter periods ends on the last day of the financial year for which the return of such accounts is to be made.

(*a*) The preamble to this Act was repealed by the S. L. R. A., 1894. See also s. 4 of that Act as to the omission of the clause of enactment. The marginal notes are as printed in the second edition of the Statutes Revised. See also on the subject of this Act, the Local Taxation Returns Act, 1860, *ante*, p. 2257. This Act is repealed by the Municipal Corporations Act, 1882, in so far as it relates to the receipts and expenditure of municipal corporations. As to returns under that Act, see 45 & 46 Vict. c. 50, s. 28.

(*b*) The powers of the L. G. B. have now been transferred to the M. of H. See 9 & 10 Geo. 5, c. 21, and orders made thereunder.

(*c*) This return is dispensed with where the accounts are audited by a district auditor, and a duplicate of the financial statement is sent to the Ministry of Health under the District Auditors Act, 1879, s. 3.

Obligation of clerk of local authority to send return.

2. Every return to which this Act applies shall be made by the clerk of the local authority, or where no clerk is appointed or acting, by the treasurer or other officer keeping the accounts of the receipts and expenditure, rates, taxes, tolls, or dues, to which the return relates, and any such clerk treasurer or other officer who makes default in making any such return shall be liable to a penalty not exceeding twenty pounds for each offence, to be recovered by action on behalf of her Majesty in the High Court of Justice (*a*).

(*a*) See the Local Taxation Returns Act, 1860, s. 4, *ante*, p. 2257.

Definition of "local authority."

3. The expression "local authority" in this Act means any justices, municipal or other corporation, board, . . . sanitary authority, vestry, commissioners, inspectors, trustees, or other body of persons required by law to make to one of her Majesty's principal Secretaries of State, or to the Local Government Board (*a*), a return of their receipts and expenditure, or of any rates, taxes, tolls, or dues levied by them or under their direction.

(*a*) See note (*b*) to s. 1, *supra*.

Change of date of accounts and audits.

4. . . . (*a*) the Local Government Board (*b*) shall make such provision as may seem to them necessary for any change of the date of the accounts and audit of the accounts of any local authority which may be rendered necessary by the provisions of this Act, so as to cause as little inconvenience as possible to the local authority.

(*a*) The provision of this section as to the first return was repealed by the S. L. R. A., 1883.

(*b*) See note (*b*) to s. 1, *supra*.

Short title.

5. This Act may be cited as "The Local Taxation Returns Act, 1877." The Local Taxation Returns Act, 1860, and this Act may be cited as "The Local Taxation Returns Acts, 1860 and 1877."

THE BATHS AND WASHHOUSES ACT, 1878.

(41 & 42 VICT. C. 14) (*a*).

An Act to amend the Law relating to Public Baths and Washhouses.
[27th May, 1878.]

Short title.

1. This Act may be cited for all purposes as "The Baths and Washhouses Act, 1878."

"Covered swimming bath."

The words "covered swimming bath" in this Act shall mean a swimming bath protected by a roof or other covering from the weather.

(*a*) See the Baths and Washhouses Acts, 1846, *ante*, p. 2143, and 1847, *ante*, p. 2213; also 1882, *post*, p. 2413, and 1899, *post*, p. 2601, and the P. H. A., 1925, Pt. IX., *ante*, p. 1627. The preamble to this Act was repealed by the S. L. R. A., 1894. See also s. 4 of that Act as to the omission of the clause of enactment.

Construction of Act.
38 & 39 Vict. c. 66.
38 & 39 Vict. c. 55.

2. This Act and the recited Acts, as amended by the Statute Law Revision Act, 1875, and the Public Health Act, 1875, and by this Act, shall be construed and carried into execution as one Act; and the words "the council and the commissioners" when used in this Act shall include the urban authority mentioned in the tenth section of the Public Health Act, 1875 (*a*).

(*a*) *Ante*, p. 44.

Covered swimming baths authorised.

3. All the provisions of the recited Acts respectively shall be construed to extend and to have extended from the passing of such Acts respectively to covered swimming baths as well as to baths washhouses and open bathing places.

As to charges for swimming baths.

4. The council and the commissioners respectively may from time to time provide covered swimming baths, *and make such reasonable charges for the use thereof as they shall think fit, not exceeding the charges mentioned in the Schedule annexed to this Act* (*a*).

(*a*) Local authorities may now fix a scale of charges under s. 85 of the P. H. A., 1925, *ante*, p. 1627, and where such a scale has been authorised the words in italics are repealed by s. 9 and Sched. V., Pt. I., of that Act.

5. [*Powers to close swimming baths for a limited period* . . .] (*a*).

(*a*) These sections were repealed by s. 9 and Sched. V., Pt. II., of the P. H. A., 1925. As to the closing of swimming baths and the purposes to which they can be put while closed, see s. 87, *ibid.*, *ante*, p. 1628.

6. [*Powers to make bye-laws* . . .] (*a*).

(*a*) See note (*a*) to s. 5, *supra*.

7. [*Powers to appoint officers* . . .] (*a*).

(*a*) See note (*a*) to s. 5, *supra*.

8. [*Powers to make charges for gymnasium, etc.* . . .] (*a*).

(*a*) See note (*a*) to s. 5, *supra*.

Powers of borrowing, etc. extended to this Act.

9. The provisions in the twenty-first, twenty-second, and twenty-third sections of the principal Act (*a*) authorising the borrowing and advancement of money for the purposes of that Act, shall be taken to authorise the borrowing and advancement of money in like manner for the purposes of this Act; and the approval of the Local Government Board (*b*) shall be substituted for that of the Treasury in all cases where money is borrowed for the purposes of the principal Act or this Act.

(*a*) See these sections, *ante*, pp. 2147, 2148.
(*b*) The L. G. B. has now been superseded by the Ministry of Health. See 9 & 10 Geo. 5, c. 21.

Power to remove offenders.

Baths, etc. to be considered public and open places.

10. The council and the commissioners respectively, and their respective servants and agents, may remove any person offending against any of the byelaws made under this Act and the recited Acts, or any of them; and any bath or washhouse, or open bathing place, or covered swimming bath, established under this Act and the recited Acts, or any of them, shall be taken to be a public and open place, so as to make offences against decency therein criminal offences.

Power to refuse admittance to baths, etc. to offenders.

11. The council and the commissioners respectively, and their respective officers and servants, may refuse admittance to any bath, washhouse, open bathing place, or covered swimming bath, or any of them, to any person (1) who shall have been convicted of wilfully disobeying any of the byelaws in such bath, washhouse, open bathing place, or covered swimming bath; (2) who shall have been convicted of any offence against public decency in any of such baths, washhouses, open bathing places, or covered swimming baths as aforesaid (*a*).

(*a*) Section 12 relates only to the metropolis, and applies the Superannuation (Metropolis) Act, 1866.

* * * * * *

Expenses of Act and application of income.

13. The expense of carrying this Act into execution shall be defrayed, and the income arising from the use in any manner of any covered swimming bath established under the provisions of this Act and the recited Acts, or any of them, shall be applied, in the same manner as that in which the expenses of the principal Act are thereby directed to be defrayed, and the income arising from baths and washhouses and open bathing places is thereby directed to be applied.

Increase of charge. 10 & 11 Vict. c. 61.

14. *The charge of one halfpenny, fixed by the Baths and Washhouses Act,* 1847, *section seven* (*a*), *and Part Five of the Schedule to that Act, shall be increased to one penny* (*b*).

(*a*) *Ante*, p. 2214.

(*b*) The words in italics are repealed in any district as from the date on which a scale of charges under s. 85 of the P. H. A., 1925 (*ante*, p. 1627), is authorised (s. 9 and Sched. V., Pt. I., *ibid.*).

THE SCHEDULE ABOVE REFERRED TO.

[Sect. 4.]

CHARGES FOR COVERED SWIMMING BATHS.

1*st Class.—Any sum not exceeding eightpence for each person.*
2*nd Class.—Any sum not exceeding fourpence for each person.*
3*rd Class.—Any sum not exceeding twopence for each person* (*a*).

(*a*) See note (*b*) to s. 14, *supra*.

THE PUBLIC WORKS LOANS ACT, 1878.

(41 & 42 VICT. c. 18) (*a*).

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and by the Commissioners of Public Works in Ireland, and to authorise the former Commissioners to compound and cancel certain Loans and Interest, and to amend the Public Works Loans Act, 1875.
[27th May, 1878.]

Short title.

1. This Act may be cited as "The Public Works Loans Act, 1878.

(*a*) See the Public Works Loans Act, 1875, *ante*, p. 2357. The preamble to this Act and the recital to s. 4 have been repealed by the S. L. R. A., 1894. See also s. 4 of that Act as to the omission of the clause of enactment.

PART I.

PUBLIC WORKS LOAN COMMISSIONERS.

2. [*Grant for loans during period ending* 30*th June*, 1879] (*a*).

(*a*) This section was repealed by the S. L. R. A., 1883.

3. [*Composition of debt due from the Epping Rural Sanitary Authority*] (*a*).

(*a*) This section is omitted as not of general interest.

Examination into proper application of loan advanced on rates. 38 & 39 Vict. c. 89, s. 36.

4. . . . Where upon any examination made in pursuance of section thirty-six of the Public Works Loans Act, 1875, with reference to a loan advanced by the Public Works Loan Commissioners for any purpose on the security of a rate, it appears to the Local Government Board that any sum, being the whole or part of the money raised by the loan, has not been applied for the said purpose, the Local Government Board may order that sum to be, within the time named in the order, applied either for the said purpose or towards the repayment to the Public Works Loan Commissioners of the principal of the loan, or partly in one of such ways and partly in the other, and further, if it appears to them that the sum, or any part thereof, has been applied for some purpose other than that for which it was advanced, may by the same or any other order direct a sum equal to the amount so misapplied to be raised within the time and out of the fund or rate named in the order and to be applied as directed by the above-mentioned order (*a*).

An order made by the Local Government Board in pursuance of this section may be enforced by writ of mandamus.

(*a*) The unapplied balance may now be applied to any purpose to which moneys borrowed on the security of the rate are properly applicable. See the Public Works Loans Act, 1881, s. 9, *post*, p. 2409. The L. G. B. has now been superseded by the Ministry of Health.

5. [*Cancellation of debt due in respect of Wigan church*] (*a*).

(*a*) Section 5 was repealed by the S. L. R. A., 1883.

Repeal of obligation of Public Works Loan Commissioners to take securities under 38 & 39 Vict. c. 83. 38 & 39 Vict. c. 89.

6. So much of any Act as requires the Public Works Loan Commissioners to take in respect of any loan advanced by them under that Act in preference to any other securities, all or such one or more of the securities issuable under the Local Loans Act, 1875, as they may prefer, is hereby repealed, and the security for any such loan may be given and taken under and pursuant to the Public Works Loans Act, 1875 (*a*).

(*a*) Part II. related to Ireland only, and was repealed by the S. L. R. A., 1883.

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THE DISTRICT AUDITORS ACT, 1879.

(42 & 43 VICT. c. 6) (*a*).

An Act to amend the Law with respect to District Auditors.

[28th March, 1879.]

Short title.

1. This Act may be cited as "The District Auditors Act, 1879."

(*a*) See the P. H. A., 1875, s. 247, *ante*, p. 540; also the Audit (Local Authorities, etc.) Act, 1922, and the Audit (Local Authorities) Act, 1927, *ante*, pp. 1316 and 1818. The preamble of this Act reciting s. 24 of the Poor Law Amendment Act, 1868, was repealed by the S. L. R. A., 1894. As to the omission of the clause of enactment, see s. 4 of the same Act.

Section 2.

Payment of district auditors.

2. (*a*) The whole of the salaries or remuneration and of the expenses of district auditors, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament; and for the purpose of contributing to the amount required for the payment of such salaries, remuneration, and expenses, there shall be charged on every local authority whose accounts are audited by a district auditor a stamp duty for the use of her Majesty, according to the scale contained in the First Schedule to this Act (*b*), and such duty shall be levied by a stamp on the certificate of the auditor hereinafter mentioned.

(*a*) Words at the commencement of this section were repealed by the S. L. R. A., 1894.

(*b*) See note (*a*) to this Schedule at p. 2407, *post*.

Financial statement with stamped certificate of district auditor. 29 & 30 Vict. c. 113, s. 6.

3. Where the accounts of the receipts and expenditure of a local authority are audited by a district auditor, the local authority shall prepare and submit to the district auditor at every audit (other than an extraordinary audit (*a*) held in pursuance of section six of the Poor Law Amendment Act, 1866) a financial statement in duplicate in the prescribed form and containing the prescribed particulars (*b*); one of such duplicates shall have the stamp charged under this Act affixed thereon, and the auditor at the conclusion of the audit shall cancel that stamp, and certify on each duplicate, in the prescribed form, the amount in words at length of the expenditure so audited and allowed, and further, that the regulations with respect to such statement have been duly complied with, and that he has ascertained by the audit the correctness of the statement.

He shall forthwith send the duplicate so stamped and certified by him to the Local Government Board (*c*); and in such case a return of the receipts or expenditure comprised in such statement need not, unless the Local Government Board so require, be sent to the Board in pursuance of the Local Taxation Returns Acts, 1860 and 1877.

23 & 24 Vict. c. 51. 40 & 41 Vict. c. 66.

(*a*) By the Audit (Local Authorities, etc.) Act, 1922, s. 1, *ante*, p. 1316, the Minister of Health is enabled to direct an extraordinary audit. The submission of a financial statement is unnecessary in such cases. Section 6 of the Poor Law Amendment Act, 1866, was repealed by the Poor Law Act, 1927. The provisions of the 1922 Act apply to all extraordinary audits by district auditors.

(*b*) The Order of 1921 now regulating the form of the financial statements of sanitary authorities is set out in App. II., *post*, p. 3036.

(*c*) The L. G. B. has now been superseded by the Minister of Health.

Appointment and districts of district auditor.

4. The Local Government Board (*a*) may from time to time appoint such number of district auditors as they may, with the sanction of the Treasury, think necessary for the performance of the duties of auditing the accounts which are for the time being by law subject to be audited by district auditors, and may from time to time remove such auditors.

The Board may from time to time assign to district auditors their duties, and the districts in which such auditors respectively are to act, and may from time to time change wholly or in part such duties or districts; and every district so assigned to a district auditor, whether originally or upon any change, shall be deemed to be an audit district within the meaning of any enactment relating to district auditors or their districts, and the auditor to whom any district is assigned shall be deemed to be the district auditor for that district.

The Board may also, with the consent of the Treasury, appoint from time to time a person or persons, either temporarily or otherwise, to assist a district auditor in the performance of his duties, and any person so appointed shall, subject to any exceptions made by the terms of his appointment, have the same powers and duties and be subject to the same obligations as the district auditor whom he is appointed to assist.

The Board, with the like consent, may assign to a person so appointed such salary or remuneration and such sum for his expenses as may seem fit, and such salary, remuneration, and expenses shall be paid out of moneys provided by Parliament.

(*a*) The L. G. B. has now been superseded by the Minister of Health.

Regulations as to audit.

5. Where any accounts of the receipts and expenditure of a local authority are subject by law to be audited by a district auditor, the Local Government Board (*a*) may from time to time by Order make, and when made revoke and vary, such regulations as seem to the Board necessary or proper respecting the audit of such accounts, including the form of keeping the accounts of the local authority and their officers, the day or days to which the accounts are to be made up, the time within which they are to be examined by the local authority, the mode in which, if it is so prescribed, they are to be certified by the local authority or any officer of that authority, the mode of publishing the time and place of holding the audit, the persons by whom such accounts are to be produced for audit, and the mode of conducting the audit, and an Order under this section shall be deemed to be an Order within the meaning of section ninety-eight of the Poor Law Amendment Act, 1834 (*b*).

4 & 5 Will. 4, c. 76.

(*a*) The L. G. B. has now been superseded by the Minister of Health.
(*b*) For these Orders reference should be made to App. II., *post*, pp. 3034 *et seq.*

Stamp duties under Inland Revenue.

6. The duties charged under this Act shall be deemed to be stamp duties under the management of the Commissioners of Inland Revenue, and all the Acts relating to stamp duties, particularly those relating to forgery, fraudulent dies, and other offences in connection with stamp duties, shall apply accordingly; and such duties may, if the commissioners so direct, be denoted by adhesive stamps, to be cancelled by the auditor as provided by this Act.

Failure to submit financial statement.

7. If a local authority fail to comply with the provisions of this Act with respect to a financial statement, such local authority, or if a clerk to the local authority is appointed, that clerk, and if no clerk is appointed, but there is a treasurer or other officer keeping the accounts which should be comprised in such financial statement, that treasurer or other officer, shall be liable to a fine not exceeding twenty pounds for each offence, to be recovered by action on behalf of her Majesty in the High Court (*a*).

(*a*) Probably only by the Crown (*Bradlaugh* v. *Clarke* (1883), 8 App. Cas. 354; 47 J. P. 405).

Definitions.

8. In this Act,—

The expression "local rate" means the poor rate, the general district rate (*a*), and every rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of a poundage assessment of the value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

The expression "local authority" means any person or body of persons who receive and expend any local rate, but does not include overseers of the poor.

The expression "prescribed" means prescribed from time to time by the Local Government Board (*b*).

(*a*) The poor rate and general district rate are now both merged in the "general rate," see the R. and V. Act, 1925, *ante*, p. 1633.

(*b*) The remainder of this section, and ss. 9, 10, and parts of 11 and 12 and the Second Schedule, were repealed by the S. L. R. A., 1894. The L. G. B. has now been superseded by the Minister of Health.

* * * * * *

11. . . .

(2) Any auditor appointed in pursuance of any enactment hereby repealed shall (save as may be prescribed) have the same powers and duties and be subject to the same obligations as if such enactment had not been repealed.

Auditors appointed under repealed Act.

12 Nothing in this Act shall prevent a district auditor from recovering . . . any expenses which he may incur, in any proceedings which he is authorised or required to take or defend under the statutes in that behalf (*a*).

Saving of certain fees and expenses.

(*a*) See note (*a*) to s. 1, *ante*, p. 2404.

FIRST SCHEDULE (*a*).

SCALE OF STAMP DUTIES PAYABLE BY LOCAL AUTHORITIES.

(*a*) The provisions of this Act were applied to county councils by the L. G. A., 1888, s. 71 (3), and this schedule was repealed by s. 61 of the Finance Act, 1921. The scale was replaced by a scale prescribed by the Audit Stamp Duty (Local Authorities) Order, 1921. See App. II., *post*, p. 3034.

THE PUBLIC WORKS LOANS ACT, 1879.

(42 & 43 VICT. c. 77) (*a*).

An Act to amend the Acts relating to the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland, and to grant money for the purpose of Loans by the said Commissioners; and for other purposes in relation thereto. [15th August, 1879.]

1. This Act may be cited as "The Public Works Loans Act, 1879."

Short title.

(*a*) See the Public Works Loans Act, 1875, *ante*, p. 2357. The preamble to this Act was repealed by the S. L. R. A., 1894. As to the omission of the clause of enactment, see s. 4 of that Act.

PART I.

AMENDMENT OF ACTS.

2. Where a loan is granted by the Public Works Loan Commissioners, or by the Commissioners of Public Works in Ireland, and the rate of interest for such loan, fixed by the special Act which authorises the Commissioners to grant the loan, is a special rate less than five per cent., such loan shall, notwithstanding anything in the special Act, bear interest at a rate not less than the rate in the special Act, and such other rate as may be necessary, in the judgment of the Treasury, in order to enable the loans to be made without loss to the Exchequer (*a*).

Minimum rate of interest for loans.

(*a*) In the application of this Act to loans granted after June 28th, 1892, the above section is to have effect as if 4 per cent. were therein substituted for 5 per cent. See the Public Works Loans Act, 1892, s. 2, *post*, p. 2551.

3. [*Restrictions on amount of loan to one borrower*] (*a*).

(*a*) This section is repealed by the Public Works Loans Act, 1897, ss. 3, 12 (4), and Sched. II.

4. Nothing in this Act shall apply to any loan granted before the passing of this Act, nor to any instalments subsequently advanced in respect of such loan . . . (*a*).

Act not to apply to old loans.

Section 4.

Provided, that where though a loan has not been actually granted before the passing of this Act, negotiations for the same have proceeded so far as to make it in the opinion of the Treasury inequitable for such loan to be subject to the provisions of this Act or any of them, such loan shall, for the purposes of those provisions, be deemed to be a loan granted before the passing of this Act.

(*a*) The remainder of this paragraph relating to local matters or Irish matters only is here omitted.

5. [*Power to lend to Peabody Trustees*] (*a*).

(*a*) This section is now repealed by the S. L. R. A., 1894.

6. [*Power to lend to labourers' dwellings companies*] (*a*).

(*a*) This section was repealed by the Housing of the Working Classes Act, 1890, s. 102. See now ss. 89 and 90 of the Housing Act, 1925, *ante*, p. 1454.

7. [*Regulations as to advances by National Debt Commissioners to the Public Works Loan Commissioners*] (*a*).

(*a*) These sections were repealed by the National Debt and Local Loans Act, 1887, as from the date when an Act passed in the year 1887, authorising the advance of money for local loans (the Public Works Loans Act, 1887), came into operation, and without prejudice to any charge on the Consolidated Fund of any advance until the security for such advance should be exchanged in pursuance of the repealing Act. Section 9 had merely a local application, and is now repealed by the S. L. R. A., 1894. Section 10 (relating to the provision of money for the purpose of loans), s. 11 (relating to Ireland only), and the Schedule (containing certain repealed enactments), are also repealed by the same Act.

8. [*Application of* 38 *&* 39 *Vict. c.* 89, *to money advanced by National Debt Commissioner*] (*a*).

(*a*) See note (*a*) to s. 7, *supra*.

* * * * * *

THE PUBLIC WORKS LOANS ACT, 1881.

(44 & 45 VICT. c. 38) (*a*).

An Act to grant money for the purposes of Loans by the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland; and for other purposes relating to Loans by those Commissioners.

[22nd August, 1881.]

Short title.

1. This Act may be cited as "The Public Works Loans Act, 1881."

(*a*) See the Public Works Loans Act, 1875, *ante*, p. 2357. The preamble to this Act was repealed by the S. L. R. A., 1894. See also s. 4 of that Act as to the omission of the clause of enactment.

PART I.

Grants of Money for Public Works Loan Commissioners during the period ending 30th June, 1882.

PART II.

Grant of Money for Public Works Commissioners, Ireland, during the period ending 30th June, 1882.

PART III.

Remission, etc. of Loans in various cases.

* * * * * *

AMENDMENT OF ACTS.

Amendment of 38 & 39 Vict. c. 89, s. 22, as to rate of interest for loan.

7. Where the Public Works Loan Commissioners have, either before or after the passing of this Act, in pursuance of the Public Works Loans Act, 1875 (*a*), or of any enactment repealed by that Act, taken possession of any mortgaged property, and after the passing of this Act advance any sum for the completion, repair, improvement or security of that property, the rate of interest on such sum shall, notwithstanding anything in section twenty-two of the Public Works Loans Act, 1875, or any like enactment repealed by that Act, be not less than five per cent. per annum.

(*a*) See s. 22, *ante*, p. 2363.

Expenses of ascertaining (under 38 & 39 Vict. c. 89, s. 36) that loans advanced by the Public Works Loan Commissioners have been properly applied.

8. The Local Government Board (*a*) may make orders as to the expenses incurred by them or by any officer appointed by them in making or conducting any examination in pursuance of section thirty-six (*b*) of the Public Works Loans Act, 1875, for the purpose of ascertaining that any loan or part of a loan advanced by the Public Works Loan Commissioners either before or after the passing of this Act, on the security of a rate, has been applied to the purpose for which the same was advanced.

Any such order may contain directions as to the parties by whom, and the rates out of which such expenses shall be borne, and on the application of the Local Government Board may be made a rule of the High Court of Justice in England, or of High Court of Session in either division of the Inner House thereof in Scotland.

(*a*) The L. G. B. has now been superseded by the Ministry of Health.
(*b*) See the section, *ante*, p. 2368.

Application of surplus balances of loans made by the Public Works Loan Commissioners.

9. The unapplied balance of any loan advanced by the Public Works Loan Commissioners, either before or after the passing of this Act, on the security of a rate, may, with the consent of the said commissioners, and of the central authority or department, if any, with whose sanction or consent such loan was authorised to be raised, be applied to any purpose to which moneys borrowed on the security of such rate are properly applicable; and in construing section thirty-six (*a*) of the Public Works Loans Act, 1875, and section four (*b*) of the Public Works Loans Act, 1878, the purpose to which any such unapplied balance as aforesaid is so applied, shall be deemed to be the purpose for which that portion of the loan was advanced (*c*).

41 Vict. c. 18.

(*a*) See the section, *ante*, p. 2368.
(*b*) See this section, *ante*, p. 2404.
(*c*) It will be observed that the present section applies only to unapplied balances of loans advanced by the Public Works Loan Commissioners. If, therefore, a loan sanction issued by the L. G. B. or Ministry of Health has been only partially acted upon, the section will not facilitate an advance of the balance by the Commissioners for the purposes of works not at first contemplated.

Section 10 relates to local matters only; and the remaining sections of the Act apply only to Ireland.

* * * * * *

Section 1.

THE COMMONABLE RIGHTS COMPENSATION ACT, 1882.

(45 & 46 VICT. c. 15) (*a*).

An Act to provide for the better application of moneys paid by way of Compensation for the compulsory acquisition of Common Lands and extinguishment of Rights of Common. [19th June, 1882.]

Short title.

1. This Act may be cited as the Commonable Rights Compensation Act, 1882.

Application of compensation money for common lands.

2.—(1) With respect to any money which has been or hereafter may be paid by any railway or other public company or corporate body or otherwise under the provisions of the Lands Clauses Act (*a*) and any Act incorporated therewith, or of any other Act of Parliament to a committee of commoners (*b*) as compensation for the extinguishment of commonable or other rights or for lands being common lands or in the nature thereof the right to the soil of which may belong to the commoners, the committee (or a majority in number thereof) or, after the expiration of twelve months from the payment of such money to the committee, any three of the persons claiming to be interested in such money may make application in writing to the Commissioners (*c*) to call a meeting of the persons interested in such money to consider the application thereof, and the Commissioners shall call a meeting accordingly, and at such meeting the majority in number and the majority in respect of interest of the persons present may decide by resolution that such money shall be applied and laid out in one or more of the following ways:

(a) In the improvement of the remainder of the common land in respect of a portion of which such money has been paid;

8 & 9 Vict. c. 118, etc.

(b) In defraying the expense of any proceedings under the Metropolitan Commons Acts or under the Inclosure Acts, 1845 to 1878, with reference to a scheme for the local management, or a Provisional Order for the regulation, of such common land, or of any application to Parliament for a private Bill or otherwise for the preservation and management of such common land as an open space;

(c) In defraying the expense of any legal proceedings for the protection of such common land, or the commoners' rights over the same;

(d) In the purchase of additional land to be used as common land;

(e) In the purchase of land to be used as a recreation ground for the neighbourhood (*d*);

and any such resolution shall bind the minority and all absent parties, and the Commissioners (*c*) shall make an order under their seal for the payment to them of any expenses incurred by them in relation to the matter, and (subject to such payment) for the application of the money according to such resolution, and the committee or the persons in whose names such money stands or is invested, or the survivors or survivor in account of such persons or the legal personal representative of such survivor, shall, upon service of any such order of the Commissioners (*c*) as aforesaid upon them or any of them or any person on their behalf as the Commissioners (*c*) may direct, pay and apply the said money or realise any security in which the same is invested, and pay and apply the proceeds thereof in manner directed by the said order.

(*a*) This Act is included in this Appendix by reason of the provision which it contains in s. 2 (5), vesting recreation grounds in urban sanitary authorities when these are purchased out of moneys paid for the extinction of commonable rights under the Lands Clauses Consolidation Act, 1845, and special Acts which authorise the taking or interfering with common lands. The preamble is repealed by the S. L. R. A., 1898.

Section 2.

(2) Any land so purchased as aforesaid for use as common land shall be conveyed to and vest in trustees upon trusts for the persons interested, such trustees to be appointed, and such trusts, and the powers and duties of the trustees, and provisions for the appointment of new trustees from time to time to be declared and provided by an order under the seal of the Commissioners (*c*), pursuant to resolutions to be passed at a special meeting of the persons interested, convened by the said Commissioners (*c*) by such majorities as aforesaid.

(3) Every appointment of a new trustee or of new trustees, in pursuance of this Act, shall be subject to confirmation by the Commissioners (*c*) under their seal, and upon such confirmation the land shall vest in the remaining and the newly-appointed trustees without any conveyance.

(4) The Commissioners (*c*) shall publish such notice of any meeting held under this Act, and frame such rules and give such directions for the conduct of such meetings and the service of orders made by them under this Act as they may deem fit, and may, if they think fit, direct an assistant commissioner appointed by them to preside at any such meeting, and any such meeting may be adjourned from time to time.

(5) Any land so purchased as aforesaid for use as recreation ground shall be conveyed to and vest in the local authority as specified in the Schedule to this Act (*e*) for the district within which such land is situate, and shall be held and managed by such local authority, subject to and in accordance with the provisions relating to recreation grounds respectively contained in the Inclosure Acts, 1845 to 1878 (*f*).

(*a*) See ss. 99—107 inclusive of the Lands Clauses Consolidation Act, 1845, *ante*, pp. 2124—2126.

(*b*) As to this Committee, see the Lands Clauses Consolidation Act, 1845, s. 103, *ante*, p. 2125, and the case of *Salmon* v. *Edwards*, [1910] 1 Ch. 552; 74 J. P. 177, there set out. Before 1802 the occupiers of certain cottages were accustomed to cut turf on large tracts of commonable and waste lands of a manor. In that year an Inclosure Act was passed by which commissioners were empowered to allot lands in severalty to the lord and other persons interested, and to allot to the lord in trust for the occupiers of the cottages portions of the waste for a turf common, to be managed as the lord and the churchwardens and overseers should order, and not to be depastured. The commissioners by their award, made in 1806, allotted to the lord of the manor, in trust for the occupiers for the time being of the cottages, 425 acres of waste for a turf common for the use of the cottagers. The commissioners also allotted to the lord and other persons interested portions of the enclosed lands in severalty in lieu of their rights and interests. A railway company took for the purposes of their undertaking part of the land allotted as a turf common, and the purchase money was paid into court. On a petition by the freeholder of the cottages for the distribution of the fund, it was held that the owners of the cottages had no claim on the fund; and that the lord of the manor was entitled to such part of the fund as represented the value of the soil in the land taken by the company. It was also held that the remainder of the fund was to be held as a charitable trust for the benefit of the occupiers of the cottages (*Att.-Gen.* v. *Meyrick; In re Christchurch Inclosure Act*, [1893] A. C. 1; 57 J. P. 212). See this case commented on in *Simcoe* v. *Pethick*, [1898] 2 Q. B. 555. Where the relative values of commonable rights could not be strictly ascertained by reason of the land being built over, a fund was ordered to be divided equally among the commoners (*Weatherley* v. *Layton*, [1892] W. N., p. 165).

(*c*) See note (*a*) to s. 1 of the Commons Act, 1876, *ante*, p. 2375.

(*d*) It is only in this case that the urban district council have any interest. See sub-s. (5).

(*e*) In urban districts this local authority is the urban district council. See the Schedule *post*, p. 2412.

(*f*) 8 & 9 Vict. c. 118, ss. 34, 72—74, 92; 9 & 10 Vict. c. 70, s. 4; 15 & 16 Vict. c. 79, s. 14; 20 & 21 Vict. c. 31, ss. 12, 13; 42 & 43 Vict. c. 37. See also the Commons Act, 1876, *ante*, p. 2375, especially ss. 7, 12, 22—29.

Application of compensation money for recreation

3. Any moneys heretofore paid or hereafter to be paid by any railway or other public company or body corporate or otherwise under the provisions of the Lands Clauses Act, 1845, and any Act incorporated therewith, or of grounds and field gardens.

42 & 43 Vict. c. 37.

any other Act of Parliament, to any local authority as specified in the Schedule to this Act, or to the churchwardens and overseers of a parish (*a*) in respect of any recreation ground or allotment for field gardens taken under the powers of any such Act or Acts of Parliament shall be applied in manner provided by the Inclosure Acts, 1845 to 1878, as amended by the Commons Act, 1879, with respect to the surplus rents arising from recreation grounds and field gardens respectively (*b*).

(*a*) Overseers were abolished by s. 62 of the R. and V. Act, 1925. As to property formerly held by them, see now the Overseers Order, 1927 (S. R. & O., 1927, No. 55), in App. II. at p. 3680, *post*.

(*b*) See the Acts enumerated in note (*f*) to s. 2, *ante*, p. 2411.

Provision for cases where money paid by way of compensation has already been applied in the manner authorised by this Act.

4. In any case where money paid by way of compensation as aforesaid has, before the passing of this Act, been applied in any one or more of the ways authorised by this Act, a resolution may be passed, at any meeting of the persons interested, called by the Commissioners in manner provided by this Act (*a*), by such majorities as aforesaid approving of such application, and such application shall, upon the allowance of such resolution by the Commissioners under their seal, be deemed to have been lawfully made under the provisions of this Act; and the committee or other persons by whom such money has been so applied shall thereupon be discharged from all liability in respect of such money so applied. And the provisions in this Act contained with respect to the declaration of trusts, and the powers and duties of trustees, and the appointment of new trustees, from time to time, shall apply in every case in which such money has, before the passing of this Act, been laid out in the purchase of land.

(*a*) The Act does not provide any method of calling a meeting. See s. 2, *ante*, p. 2410.

Deposit of orders.

5. Copies of all orders made by the Commissioners under this Act shall be deposited and kept in like manner as copies of an award are by the Inclosure Act, 1845, directed to be deposited and kept (*a*).

(*a*) See 8 & 9 Vict. c. 118, s. 146; 15 & 16 Vict. c. 79, s. 27.

Exception of the New Forest.

6. This Act shall not extend to the New Forest (*a*).

(*a*) See 8 & 9 Vict. c. 118, s. 13.

SCHEDULE.

Situation of Land.	Local Authority.
Within the metropolis – – – –	The Metropolitan Board of Works (*a*).
Not within the metropolis, but within the district of an urban sanitary authority, as defined by the Public Health Act, 1875, or any Act amending the same.	The urban sanitary authority.
Elsewhere than within the metropolis or the district of an urban sanitary authority as above defined.	The churchwardens and overseers of the parish (*b*).

(*a*) Now the L. C. C.

(*b*) See note (*a*) to s. 3, *supra*.

THE BATHS AND WASHHOUSES ACT, 1882.

(45 & 46 VICT. c. 30) (*a*).

An Act to amend the Baths and Washhouses Acts. [24th July, 1882.]

1. This Act may be cited for all purposes as "The Baths and Washhouses Act, 1882," and shall be read as one with the Act of the ninth and tenth years of the reign of her present Majesty, chapter seventy-four, in this Act called "the principal Act." Short title.

(*a*) See the Baths and Washhouses Acts, 1846, *ante*, p. 2143 ; 1847, *ante*, p. 2213 ; 1878, *ante*, p. 2402 ; 1899, *post*, p. 2601 ; and the P. H. A., 1925, Pt. IX., *ante*, p. 1627. The preamble to this Act is repealed by the S. L. R. A., 1898. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

2. Section twenty-seven of the principal Act (*a*) shall be amended by the addition of the words "or in the immediate neighbourhood of such borough or parish" to the words "in any such borough or parish" wherever such last-mentioned words occur in the said section. Amendment of 9 & 10 Vict. c. 74, s. 27.

(*a*) *Ante*, p. 2150.

3. The power conferred by section twenty-four of the principal Act to purchase or rent lands for the purposes of that Act shall extend to lands in the immediate neighbourhood of such borough or parish as is therein referred to. Amendment of 9 & 10 Vict. c. 74, s. 24.

THE MUNICIPAL CORPORATIONS ACT, 1882.

(45 & 46 VICT. c. 50) (*a*).

An Act for consolidating, with amendments, enactments relating to Municipal Corporations in England and Wales. [18th August, 1882.]

(*a*) Many provisions of this Act have been applied with adaptations by the L. G. A., 1894, *ante*, p. 961, to the district councils of urban districts not being boroughs to which this Act of itself applies, and to rural district councils. Certain portions have also a close connection with some of the enactments set out in the body of this Work so far as those enactments apply to the councils of boroughs to which this Act applies in respect of their functions as sanitary authorities. All these portions of the Act have been more or less fully referred to in the notes to those enactments, including the L. G. A., 1894. It seems, therefore, unnecessary, and would also for want of space be almost impossible, to set out in full all parts of this Act having a bearing upon the subject of this Work. Accordingly only such parts are herein set out as have not already been sufficiently referred to.

For purposes of convenience a list is here subjoined of the sections already sufficiently referred to as above stated:

Sections 25—27, *ante*, p. 539, note (*a*) to s. 246 of the P. H. A., 1875 ; ss. 34, 35, *ante*, p. 1014, note (*b*) ; s. 37, *ante*, p. 1014, note (*d*) ; s. 40, *ante*, p. 1014, note (*e*) ; s. 56, *ante*, p. 1015, note (*f*) ; s. 62, *ante*, p. 539, note (*a*) to s. 246 of the P. H. A., 1875 ; ss. 74, 75, *ante*, p. 1013, notes to s. 48 (3) of the L. G. A., 1894.

The preamble to this Act and s. 4 are repealed by the S. L. R. A., 1898. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

PART I.

PRELIMINARY.

1. This Act may be cited as the Municipal Corporations Act, 1882. Short title.

2. This Act is divided into Parts, as follows: Division of Act into Part.

Part I.—Preliminary.
Part II.—Constitution and government of borough.

Part III.—Preparations for and procedure at elections.
Part IV.—Corrupt practices and election petitions.
Part V.—Corporate property and liabilities.
Part VI.—Charitable and other trusts and powers.
Part VII.—Borough fund: borough rate: county rate.
Part VIII.—Administration of justice.
Part IX.—Police.
Part X.—Freemen.
Part XI.—Grant of charters.
Part XII.—Legal proceedings.
Part XIII.—General.

Extent.

3. This Act shall not extend to Scotland or Ireland.

4. [*Commencement*, 31*st December*, 1882.]

5. [*Repeals.*]

Application.

6. This Act shall apply to every city and town to which the Municipal Corporations Act, 1835, applies at the commencement of this Act, and to any town, district, or place whereof the inhabitants are incorporated after the commencement of this Act, and whereto the provisions of the Municipal Corporations Acts are under this Act extended by charter, but to no other place.

Interpretation and construction.

7.—(1) In this Act—

"Municipal corporation" means the body corporate constituted by the incorporation of the inhabitants of a borough:

"Municipal Corporations Act, 1835," means the recited Act of King William the Fourth, the date of the passing whereof is the ninth of September one thousand eight hundred and thirty-five:

"Municipal Corporations Acts" means this Act and any Act to be passed amending this Act:

"Burgess" includes citizen:

"Corporate seal" means the common seal of a municipal corporation:

"Corporate office" means the office of mayor, alderman, councillor, elective auditor . . . (*a*):

"Corporate land" means land belonging to or held in trust for a municipal corporation:

"Municipal election" means an election to a corporate office:

"Parliamentary borough" means any borough, city, county of a city, county of a town, place, or combination of places, returning a member to serve in Parliament, and not being a county at large, or a riding, parts, or division of a county at large:

"Parliamentary election" means an election of a member to serve in Parliament:

"Parish" means any place for which a separate poor rate is or can be made (*b*):

"Overseers" means overseers of the poor of a parish, township, or place, and includes all persons who execute the duties of overseers (*c*):

"County" does not include a county of a city or county of a town, but includes a riding, parts, division, or liberty of a county:

"Trustees" means trustees, commissioners, or directors, or the persons charged with the execution of a trust or public duty, however designated:

. . . . . .

Section 7.

"Justice" means one of her Majesty's justices of the peace:

"Borough civil court" means an inferior court of record for the trial of civil actions which by charter, custom, or otherwise, is or ought to be holden in a borough, but does not include a county court:

"Schedule" means Schedule to this Act, and "Part" means Part of this Act:

. . . . . .

(2) Words in this Act referring to a borough, municipal corporation, authority, officer, or office, shall be construed distributively as referring to each borough, corporation, authority, officer, or office to which or to whom the provision is applicable.

(3) Words in this Act referring to a parish shall be construed, unless a contrary intention appears, as referring to every parish situate wholly or in part in a borough.

(4) The Schedules shall be read and have effect as if they were part of this Act.

(*a*) Revising assessors, who were also here originally included, were abolished by 51 & 52 Vict. c. 10, s. 4.

(*b*) See now the definition of parish in the R. and V. Act, 1925, s. 68 (4), *ante*, p. 1752, which applies to all Acts unless the contrary intention appears.

(*c*) Overseers were abolished by the R. and V. Act, 1925, s. 62. As to the distribution of their powers and duties, see the Overseers Order, 1927, in App. II. at p. 3680, *post*.

PART II.

CONSTITUTION AND GOVERNMENT OF BOROUGH (*a*).

(*a*) By s. 15 of the Interpretation Act, 1889, the expression "borough" when used in relation to local government means any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city, and any reference to the powers, duties, liabilities, or property of a borough shall be construed as a reference to the powers, duties, liabilities, or property of the mayor, aldermen, and burgesses of the borough acting by the council.

* * * * * *

12. (*a*)—(1) A person shall be disqualified for being elected and for being a councillor, if and while he—

(a) Is an elective auditor *or a revising assessor* or holds any office or place of profit other than that of Mayor or Sheriff in the gift or disposal of the Council (*b*); or

(b) . . . (*c*).

(c) Has directly or indirectly, by himself or partner any share or interest in any contract or employment with, by or on behalf of the council (*d*).

(2) (*e*) But a person shall not be so disqualified or deemed to have any share or interest in such a contract or employment by reason only of his having any share or interest in—

(a) Any lease sale or purchase of land or any agreement for the same; or

(b) Any agreement for the loan of money or any security for the payment of money only; or

(c) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted; or

(d) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough; or

(e) Any railway company or company incorporated by Act of Parliament or royal charter or under the Companies Act, 1862 (or any society registered under the Provident Societies Acts, 1893 and 1895).

Note to Section 12.

(a) This section is printed here because disqualifications attaching to the office of borough councillor now also attach to the office of rural district councillor, see L. G. A., 1894, s. 46 (5), and notes thereto, at p. 1009, *ante*.

(b) See note (g) to the similar provision in L. G. A., 1894, s. 46 (1) (d), *ante*, p. 1004.

(c) This paragraph was repealed by the Ministers of Religion (Removal of Disqualifications) Act, 1925, 15 & 16 Geo. 5, c. 54.

(d) See the note (h) to the corresponding provision in L. G. A., 1894, s. 46 (1) (e), *ante*, p. 1004.

(e) See the corresponding provision in s. 46 (2) of the L. G. A., 1894, and notes thereto, at p. 1007, *ante*.

* * * * * *

Byelaws (a).

Power of council to make byelaws.

23.—(1) The council may, from time to time, make such byelaws as to them seem meet for the good rule and government of the borough (*b*), and for prevention and suppression of nuisances not already punishable in a summary manner by virtue of any Act in force throughout the borough, and may thereby appoint such fines, not exceeding in any case five pounds, as they deem necessary for the prevention and suppression of offences against the same.

(2) Such a byelaw shall not be made unless at least two-thirds of the whole number of the council are present.

(3) Such a byelaw shall not come into force until the expiration of forty days after a copy thereof has been fixed on the town hall.

(4) Such a byelaw shall not come into force until the expiration of forty days after a copy thereof, sealed with the corporate seal, has been sent to the Secretary of State; and if within those forty days the Queen, with the advice of her Privy Council, disallows the byelaw or part thereof, the byelaw or part disallowed shall not come into force; but it shall be lawful for the Queen, at any time within those forty days, to enlarge the time within which the byelaw shall not come into force, and in that case the byelaw shall not come into force until after the expiration of that enlarged time.

(5) Any offence against such a byelaw may be prosecuted summarily (*c*).

38 & 39 Vict. c. 55.

(6) Nothing in this section shall interfere with the operation of section one hundred and eighty-seven of the Public Health Act, 1875 (*d*); and that section shall have effect as if this section were therein referred to, instead of section ninety of the Municipal Corporations Act, 1835; but nothing in the Public Health Act, 1875, shall be construed as having restricted the meaning or scope of the Municipal Corporations Act, 1835, or as restricting the meaning or scope of this section, with respect to prevention or suppression of nuisances.

(a) See ss. 182—188 inclusive of the P. H. A., 1875, *ante*, p. 453. See also s. 341 of that Act, *ante*, p. 669.

(b) See particularly ss. 47, 50, 171 of the P. H. A., 1875, *ante*, pp. 123, 126, 411.

(c) But the council cannot summon offenders before them to answer complaints of offences against the byelaws (*Wiseman* v. *Manchester Corporation* (1887), 3 T. L. R. 12).

(d) See this section, *ante*, p. 469.

Evidence of byelaws.

24. The production of a written copy of a byelaw made by the council under this Act, or under any former or present or future general or local Act of Parliament, if authenticated by the corporate seal shall, until the contrary is proved, be sufficient evidence of the due making and existence of the byelaw, and, if it is so stated in the copy, of the byelaw having been approved and confirmed by the authority whose approval or confirmation is required to the making or before the enforcing of the byelaw (*a*).

(a) See s. 186 of the P. H. A., 1875, *ante*, p. 468, and *Drew* v. *Harlow*, *ante*, p. 468. Upon a proceeding before a court of summary jurisdiction to recover a penalty for a breach of a byelaw under this section, the production of a written copy of the byelaw authenticated by the corporate seal is sufficient evidence until the contrary is proved, not merely that the byelaw has been duly made, but also that all conditions precedent to its becoming a valid operative byelaw, such as the fixing of a copy of the byelaw for forty days on the town hall before it can come into force, having been complied with (*Robinson* v. *Gregory*, [1905] 1 K. B. 534; 69 J. P. 161). A copy of the byelaws of a county council having a copy of the corporate seal of the council printed upon it is not sufficient evidence of the byelaws, which must be proved by production of a copy sealed with the corporate seal of the council (*Timothy* v. *Fenn* (1910), 74 J. P. 123; 102 L. T. 283).

* * * * * *

39. (*a*)—(1) If the mayor, or an alderman or councillor— Avoidance of office by bankruptcy or absence.

(a) Is declared bankrupt or compounds by deed with his creditors or makes an arrangement or composition with his creditors under the Bankruptcy Act, 1869, by deed or otherwise (*b*); or

(b) Is (except in case of illness) continuously absent from the borough, being mayor, for more than two months, or, being alderman or councillor, for more six months (*c*);

he shall thereupon immediately become disqualified and shall cease to hold office.

(2) In any such event the council shall forthwith declare the office to be vacant and signify the same by notice signed by three members of the council and countersigned by the town clerk and fixed on the town hall and the office shall thereupon become vacant.

(3) Where a person becomes so disqualified by being declared bankrupt or compounding or making an arrangement with or composition as aforesaid, the disqualification as regards subsequent elections, shall, in the case of bankruptcy, cease on his obtaining his order of discharge and shall in the case of a compounding or composition as aforesaid cease on payments of his debts in full and shall in the case of arrangement as aforesaid cease on his obtaining his certificate of discharge (*d*).

(4) Where a person becomes so disqualified by absence he shall be liable to the same fine as for non-acceptance of the office recoverable summarily but the disqualification shall as regards subsequent elections cease on his return (*e*).

(*a*) This section is printed here because disqualifications attaching to the office of borough councillor now also attach to the office of rural district councillor, see L. G. A., 1894, s. 46 (5), and notes thereto, at p. 1009, *ante*.

(*b*) See note (*f*) to s. 46 (1) of the L. G. A., 1894, *ante*, p. 1003.

(*c*) See the note to s. 46 (5) of the L. G. A., 1894, *ante*, p. 1009, and *cf.* s. 46 (6), *ibid.* and notes thereto, at p. 1010, *ante*.

(*d*) As to the cessation of disqualification under this sub-section, see *Hardwick* v. *Brown* (1873), L. R. 8 C. P. 406; *Flutcher* v. *Saunders* (1885), 49 J. P. 424; and *Ex parte Atherton* (1886), 2 T. L. R. 631.

(*e*) The provision of this sub-section as to the cessation of disqualification will alone apply to a rural district councillor.

PART IV. (*a*).

CORRUPT PRACTICES AND ELECTION PETITIONS.

Corrupt Practices.

77. In this Part— Definitions.

"Bribery," "treating," "undue influence," and "personation" include respectively anything done before, at, after, or with respect to a municipal election, which if done before, at, after, or with respect to a parliamentary election would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections (*b*):

. . . . . .

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"Candidate" means a person elected, or having been nominated (*c*), or having declared himself a candidate for election, to a corporate office:

. . . . . .

"Voter" means a burgess or a person who votes or claims to vote at a municipal election:

"Election court" means a court constituted under this Part for the trial of an election petition:

"Municipal election petition" or "election petition" means a petition under this Part complaining of an undue municipal election.

31 & 32 Vict. c. 125.

"Parliamentary election petition" means a petition under the Parliamentary Elections Act, 1868:

"Prescribed" means prescribed by general rules made under this Part:

"Borough" and "election" when used with reference to a petition mean the borough and election to which the petition relates (*d*).

(*a*) It is necessary to include this Part in the present Work, as by s. 48 (3) of the L. G. A., 1894, *ante*, p. 1012, it now applies to elections of urban district councillors for districts not being boroughs and of rural district councillors. The rules made under this Act are set out in App. II., *post*, p. 3184.

(*b*) See the definition of these offences, in the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, Sched. III., *post*, p. 2480.

(*c*) Although in fact disqualified for election (*Harford* v. *Lynskey*, [1899] 1 Q. B. 852; 63 J. P. 263). A person for whom a vote is given in an election of aldermen is not thereby "nominated" (*Cambridge C. C. Election Petition, Fordham* v. *Webber*, [1925] 2 K. B. 740; 89 J. P. 181).

(*d*) For the application of these definitions to elections of urban district councillors for districts not being boroughs and of rural district councillors, see the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 36, *post*, p. 2478, and the L. G. A., 1894, s. 48 (3), *ante*, p. 1012.

* * * * * *

Avoidance of election for general corruption.

81. A municipal election shall be wholly avoided by such general corruption, bribery, treating, or intimidation at the election as would by the common law of Parliament avoid a parliamentary election.

* * * * * *

Striking off votes.

85. The votes of persons in respect of whom any corrupt practice is proved to have been committed at a municipal election shall be struck off on a scrutiny (*a*).

(*a*) As to the striking off of the votes of persons guilty of illegal practices or payments see the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 22, *post*, p. 2471.

Personation.

86. The enactments for the time being in force for the detection of personation and for the apprehension of persons charged with personation at a parliamentary election shall apply in the case of a municipal election (*a*).

(*a*) See ss. 85—89 of the Parliamentary Registration Act, 1843, and s. 24 of the Ballot Act, 1872.

Election Petitions.

Power to question municipal election by petition.

87.—(1) A municipal election may be questioned by an election petition on the ground—

(a) That the election was as to the borough or ward wholly avoided by general bribery (*a*), treating (*b*), undue influence, or personation; or

(b) That the election was avoided by corrupt practices or offences against this Part committed at the election; or

(c) That the person whose election is questioned was at the time of the election disqualified (*c*); or

(d) That he was not duly elected by a majority of lawful votes (*d*).

(2) A municipal election shall not be questioned on any of those grounds except by an election petition (*e*).

(*a*) A single case of bribery avoids an election (*Norwich Election Petition* (1886), 54 L. T. 625). To offer a voter his travelling expenses if he will come and vote for a particular candidate is bribery (*Packard* v. *Collings* (1886), 54 L. T. 619).

(*b*) "Treating" is not the entertainment of equals by equals, but of an inferior by a superior with the object of securing the goodwill of the inferior (*Norwich Election Petition*, *supra*).

(*c*) At an election of councillors in a borough the returning officer does not decide upon the qualification of the candidate; that can only be done by petition under this section (*Pritchard* v. *Bangor Corporation* (1888), 13 App. Cas. 241; 52 J. P. 564). The disqualification here mentioned is one which existed at the time of the election. If a person becomes disqualified after election the proper remedy is by *quo warranto* (*Howes* v. *Turner* (1876), 1 C. P. D. 670; 40 J. P. 680. See also *R.* v. *Beer*, *infra*).

(*d*) An election may also be questioned for illegal practices. See the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 25, *post*, p. 2472. A petition may be presented under this section against some only of the persons returned, though the ground of the petition is one affecting the validity of the election as a whole; and the court can in such petition declare the persons so petitioned against not to have been duly elected (*Line* v. *Warren* (1884), 14 Q. B. D. 548; 49 J. P. 516).

A petition presented under sub-s. (1) (d) involves a scrutiny. Where a returning officer improperly allowed an objection to a nomination, it was held that a petition would lie under this head, for if the nomination had not been rejected, the votes might have been differently given (*Budge* v. *Andrews* (1877), 3 C. P. D. 510). And a writ of prohibition or *mandamus* does not lie for the purpose of determining whether a returning officer has wrongly and illegally rejected the nomination paper of a candidate for a municipal election. The proper mode of determining this question is by petition (*R.* (*O'Lehane*) v. *Dublin Town Clerk* (1909), 43 Ir. L. T. 169). If an elector having notice or knowledge of the disqualification of a candidate wilfully votes for him, his vote is thrown away, but knowledge of the fact which creates a legal disqualification does not involve knowledge that the candidate is legally disqualified. In the case of *Beresford-Hope* v. *Lady Sandhurst* (1889), 23 Q. B. D. 79; 53 J. P. 805, it was held that votes given for a woman at a county council election prior to the passing of the Sex Disqualification (Removal) Act, 1919, 9 & 10 Geo. 5, c. 71, were thrown away. Votes given in favour of a candidate before the voters have notice of any facts disqualifying him for election cannot be treated by the returning officer as thrown away, and unless notice of disqualification has been given the candidate who obtains the minority cannot on petition claim the seat (*Hobbs* v. *Morey*, [1904] 1 K. B. 74; 68 J. P. 132). In *Boyce* v. *White* (1905), 92 L. T. 240; 53 W. R. 430, the petitioner and respondent were the only candidates for the office of town councillor. Both were nominated, but the respondent at the time of his nomination was absent from the United Kingdom, and no written consent by him to such nomination given one month before such nomination was ever produced. The petitioner was not aware of this fact till the day of the poll, when it was too late to print and circulate in the constituency a notice of the objection to the respondent's nomination. The respondent was declared elected. On petition it was held that the court could only declare the election void and not that the petitioner was elected.

(*e*) Where this section applies there is no remedy by *quo warranto* (*R.* v. *Morton*, [1892] 1 Q. B. 39; 56 J. P. 105; and see *R.* v. *Miles*; *Ex parte Cole* (1895), 64 L. J. Q. B. 420; 59 J. P. 407). But a bankrupt although disqualified by s. 32 of the Bankruptcy Act, 1883, may, notwithstanding the text, still be ousted from holding or exercising office by means of a *quo warranto* (*R.* v. *Beer*, [1903] 2 K. B. 693; 67 J. P. 326). There must be the clearest evidence against a relator of *animus* on his part or acquiescence in a member acting while disqualified to make such objections good ground for the exercise of the discretion of the court in refusing to grant a writ of *quo warranto* to such a relator (*R.* (*McCowen*) v. *Kelleher* (1909), 43 Ir. L. T. 270).

Presentation of petition.

88.—(1) An election petition may be presented either by four or more persons who voted or had a right to vote at the election or by a person alleging himself to have been a candidate at the election (*a*).

(2) Any person whose election is questioned by the petition, and any returning officer of whose conduct a petition complains, may be made a respondent to the petition (*b*).

(3) The petition shall be in the prescribed form and shall be signed by the petitioner, and shall be presented in the prescribed manner to the High Court in the Queen's Bench Division, and the prescribed officer (*c*) shall send a copy thereof to the town clerk, who shall forthwith publish it in the borough.

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(4) It shall be presented within twenty-one days after the day on which the election was held (*d*), except that if it complains of the election on the ground of corrupt practices (*e*), and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account or with his privity, in pursuance or furtherance of such corrupt practices, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.

(*a*) If duly nominated a person may petition although in fact disqualified for election and nomination (*Harford* v. *Lynskey*, *ante*, p. 2418).

(*b*) An unsuccessful candidate at an election cannot be made a respondent to a petition, although he coalesced for the purposes of the election with two successful candidates, so as to be responsible equally with them for any acts done by any of the three in furtherance of the common purpose (*Lovering* v. *Dawson* (1875), L. R. 10 C. P. 726).

At a municipal election A. and B. were candidates for the office of councillor. A. obtained a majority of votes over B., and was declared elected, but refused to serve B. thereupon claimed to have been elected, and having made the necessary declaration acted on several occasions as councillor. A petition was presented against both A. and B., and both of them gave notice of their intention not to oppose the petition. No notice of A.'s disqualification was given to the electors. On an application by B. to the court that his name might be struck out of the petition, the court refused the application, holding that he was properly made a respondent (*Yates* v. *Leach* (1874), L. R. 9 C. P. 605). As to making the returning officer a respondent, see *Harmon* v. *Park* (1880), 6 Q. B. D. 323; 45 J. P. 436; *Wilson* v. *Ingham* (1895), 64 L. J. Q. B. 775; 59 J. P. 614; *Cirencester* Day's El. Cas. 3.

(*c*) Prescribed here means prescribed by general rules made under this Part (ss. 77, 100); and see the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 34, *post*, p. 2477.

(*d*) The *premature* presentation of a petition does not nullify the petition, but is an irregularity which is capable of being waived by the person raising the objection (*Re Grangemellon Election Petition*, [1909] 2 I. R. 90).

(*e*) For the corresponding provision as to illegal practices, see the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 25, *post*, p. 2472. That section also provides that any election petition presented within the time limited by the Municipal Corporations Act, 1882, may, for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court, within the time within which a petition complaining of the election on the ground of that illegal practice can, under that section, be presented. The court cannot after the period of twenty-one days here mentioned allow an amendment which would practically amount to a new petition, as by adding a charge of treating (*Clark* v. *Lowley* (1883), 52 L. J. Q. B. 321; 47 J. P. 551).

Security for costs.

89.—(1) At the time of presenting an election petition or within three days afterwards, the petitioner shall give security for all costs, charges, and expenses which may become payable by him to any witness summoned on his behalf, or to any respondent (*a*).

(2) The security shall be to such amount, not exceeding five hundred pounds, as the High Court, or a judge thereof, on summons, directs, and shall be given in the prescribed manner (*b*), either by a deposit of money, or by recognizance entered into by not more than four sureties, or partly in one way and partly in the other.

(3) Within five days after the presentation of the petition the petitioner shall in the prescribed manner (*b*) serve on the respondent a notice of the presentation of the petition, and of the nature of the proposed security, and a copy of the petition.

(4) Within five days after service of the notice the respondent may object in writing to any recognizance on the ground that any surety is insufficient or is dead, or cannot be found or ascertained for want of a sufficient description in the recognizance, or that a person named in the recognizance has not duly acknowledged the same.

(5) An objection to a recognizance shall be decided in the prescribed manner (*c*).

(6) If the objection is allowed, the petitioner may, within a further prescribed time not exceeding five days, remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognizance of the matter, make the security sufficient.

(7) If no security is given, as prescribed, or any objection is allowed and is not removed, as aforesaid, no further proceedings shall be had on the petition.

(*a*) The provisions of this section requiring security are imperative and absolute and apply equally whether the petitioner has or has not been admitted to take proceedings as a poor person under Order XVI., r. 22, R. S. C. (*Everett* v. *Griffiths* (No. 2), [1923] 1 K. B. 130 ; 87 J. P. 49). As to appeal, see *Everett* v. *Griffiths* (No. 3), [1923] 1 K. B. 138 ; 87 J. P. 57.

(*b*) See note (*c*) to s. 88, *ante*, p. 2420, and r. 26 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184. Security need not be given for more than £500, although there are several respondents (*Pease* v. *Norwood* (1869), L. R. 4 C. P. 235). By r. 36, *ibid.*, the petitioner or his agent must file an affidavit of the time and manner of the service immediately after such service. The observance of these provisions as to service of the petition is a condition precedent to the trial of the petition (*Williams* v. *Tenby Corporation* (1879), 5 C. P. D. 135 ; 44 J. P. 348).

(*c*) See note (*c*) to s. 88, *ante*, p. 2420. See also rr. 27—35 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184.

Petition at issue.

90. On the expiration of the time limited for making objections, or, after objection made, on the objection being disallowed or removed, whichever last happens, the petition shall be at issue.

Municipal election list.

91.—(1) The prescribed officer (*a*) shall as soon as may be make a list, in this Act referred to as the municipal election list, of all petitions at issue, placing them in the order in which they were presented, and shall keep at his office a copy of this list, open to inspection in the prescribed manner (*b*).

(2) The petitions shall, as far as conveniently may be, be tried in the order in which they stand in the list.

(3) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purpose of this Part the petition shall be deemed to be a separate petition against each respondent (*c*).

(4) Where more petitions than one are presented relating to the same election, or to elections held at the same time for different wards of the same borough, they shall be bracketed together in the list as one petition, but shall, unless the High Court otherwise directs, stand in the list in the place where the last of them would have stood if it had been the only petition relating to that election.

(*a*) See note (*c*) to s. 88, *ante*, p. 2420. As to inspection, see r. 39 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184.

(*b*) See *Line* v. *Warren*, *ante*, p. 2419.

Constitution of election court.

92.—(1) An election petition shall be tried by an election court consisting of a barrister qualified and appointed as in this section provided, without a jury.

(2) A barrister shall not be qualified to constitute an election court if he is of less than fifteen years standing, or is a member of the Commons House of Parliament, or holds any office or place of profit under the Crown, other than that of recorder.

(3) A barrister shall not be qualified to constitute an election court for trial of an election petition relating to any borough for which he is recorder, or in which he resides, or which is included in a circuit of her Majesty's judges on which he practices as a barrister.

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(4) As soon as may be after a municipal election list is made out the prescribed officer shall send a copy thereof to each of the judges for the time being on the rota for the trial of parliamentary election petitions . . . (*a*).

(5) If a commissioner to whom the trial of a petition is assigned, dies, or declines or becomes incapable to act, the said judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.

(6) The election court shall for the purposes of the trial have the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any fine or order of committal by the court may on motion by the person aggrieved be discharged or varied by the High Court, or in vacation by a judge thereof, on such terms, if any, as the High Court or judge thinks fit (*b*).

(*a*) See the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 36 (2), *post*, p. 2478.

(*b*) The election court is a court of record. See *R.* v. *Maidenhead Corporation*, *post*, p. 2428. Orders under the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 28, *post*, p. 2474, cannot be varied under this sub-section. See sub-s. (7) of that section.

Trial of election petitions.

93.—(1) An election petition shall be tried in open court, and notice of the time and place of trial shall be given in the prescribed manner not less than seven days before the day of trial (*a*).

(2) The place of trial shall be within the borough (*b*), except that the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.

(3) The election court may in its discretion adjourn the trial from time to time (*c*), and from any one place to any other place within the borough or place where it is held.

(4) At the conclusion of the trial the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and shall forthwith certify in writing the determination to the High Court, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

(5) Where a charge is made in a petition of any corrupt practice or offence against this Part having been committed at the election the court shall, in addition to the certificate, and at the same time, report in writing to the High Court as follows:

(a) Whether any corrupt practice or offence against this Part has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt practice or offence;

(b) The names of all persons (if any) proved at the trial to have been guilty of any corrupt practice or offence against this Part;

(c) Whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the borough or in any ward thereof (*c*).

(6) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court.

(7) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct the same to be stated accordingly, and any such special case shall

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be heard before the High Court, and the decision of the High Court shall be final (*e*).

(8) If it appears to the election court on the trial of a petition that any question of law as to the admissibility of evidence, or otherwise, requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve any such question, as questions may be reserved by a judge on a trial at nisi prius (*f*).

(9) On the trial of a petition, unless the election court otherwise directs, any charge of a corrupt practice or offence against this Part may be gone into, and evidence in relation thereto received before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice or offence.

(10) On the trial of a petition complaining of an undue election and claiming the office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person (*g*).

(11) The trial of a petition shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.

(12) A copy of any certificate or report made to the High Court on the trial of a petition, and, in the case of a decision by the High Court on a special case, a statement of the decision, shall be sent by the High Court to the Secretary of State.

(13) A copy of any such certificate and a statement of any such decision shall also be certified by the High Court, under the hands of two or more judges thereof, to the town clerk of the borough.

(*a*) See rr. 40—43 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184.

(*b*) That is, the urban district not being a borough, or the rural district. Where the allegations of fact in a petition are not in dispute, but are specifically admitted by the respondent, so as to render it unnecessary at the trial to call witnesses from the district in which the election took place, the court may order the petition to be tried in London, on the ground that special circumstances exist which render it desirable that the petition should be tried elsewhere than in the county or division where the election took place (*Arch* v. *Bentinck* (1887), 18 Q. B. D. 548). The facts that a scrutiny is the only question to be tried, or that it would be less expensive to try elsewhere, are not "special circumstances" (*Lawson* v. *Master*, [1893] 1 Q. B. 245; 57 J. P. 806; see also *Collins* v. *Price* (1878), 4 C. P. D. 544).

(*c*) See, however, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 27, *post*, p. 2474.

A formal adjournment is not necessary. See r. 45 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184.

(*d*) The court must further report as to illegal practices in manner prescribed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 8 (2), *post*, p. 2463. As to the form of the report, see *Grant* v. *Pagham Overseers* (1877), 3 C. P. D. 80; 42 J. P. 88; and as to its exclusive effect, see cases cited in the note to 46 & 47 Vict. c. 51, s. 38, *post*, p. 2483.

(*e*) As to the mode of application, see r. 48 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184. Notwithstanding this sub-section, appeal, if leave be given, lies from a judgment of the King's Bench Division to the Court of Appeal (*Line* v. *Warren*, *ante*, p. 2419; and see *Beresford-Hope* v. *Lady Sandhurst*, *ante*, p. 2419) followed in *Everett* v. *Griffiths* (No. 3), [1923] 1 K. B. 138; 87 J. P. 57). If no leave be given no appeal lies (*Unwin* v. *MacMullen*, [1891] 1 Q. B. 694; 55 J. P. 582; *Shaw* v. *Reckitt*, [1893] 2 Q. B. 59; 57 J. P. 805; *Everett* v. *Griffiths* (No. 3), *supra*).

If leave to appeal be refused by the High Court, possibly it may be given by the Court of Appeal under Judicature Act, 1894, s. 1 (5).

(*f*) See *Stepney Election Petition* (1886), 4 O'M. & H. 36; *Thornbury* (1886), *ibid.* 68; *Isaacson* v. *Durant* (1887), 17 Q. B. D. 54; *Ackers* v. *Howard* (1886), 16 Q. B. D. 739; 50 J. P. 519; *Londonderry* (1886), 4 O'M. & H. 103; *Re Pembroke Election Petition*, [1908] 2 I. R. 433.

(*g*) In this case the respondent must deliver to the Master six days before the day appointed for trial, a list of the objections to the election upon which he intends to rely,

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and the Master is to allow inspection and office copies of such list to all parties concerned; and no evidence is to be given by the respondent of any objection not specified in the list, except by leave of the High Court. See r. 8 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184.

Witnesses.

94.—(1) Witnesses at the trial of an election petition shall be summoned and sworn in the same manner, as nearly as circumstances admit, as witnesses at a trial at nisi prius, and . . . (*a*).

(2) On the trial the election court may, by order in writing, require any person who appears to the court to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.

(3) The court may examine any person so required to attend or being in court although he is not called and examined by any party to the petition.

(4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent or either of them (*b*).

. . . . . .

(9) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions at the assizes, may be allowed to him by a certificate of the election court or of the prescribed officer, and if the witness was called and examined by the court, shall be deemed part of the expenses of providing a court, but otherwise shall be deemed costs of the petition.

(*a*) See also r. 54 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184. The concluding words of the sub-section were repealed by the Perjury Act, 1911.

(*b*) Sub-sections (5)—(8), inclusive, of this section were repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 38, *post*, p. 2479.

Withdrawal of petition.

95.—(1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner, and at the prescribed time and place (*a*).

(2) The application shall not be made until the prescribed notice of the intention to make it has been given in the borough.

(3) On the hearing of the application any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if it thinks fit, substitute him accordingly.

(4) If the proposed withdrawal is in the opinion of the court induced by any corrupt bargain or consideration, the court may by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and that to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.

(5) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

(6) Subject as aforesaid, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.

(7) If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent.

(8) Where there are more petitioners than one, an application to withdraw a petition shall not be made except with the consent of all the petitioners.

(*a*) See further as to the withdrawal of a petition, the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 26, *post*, p. 2473.

The form of notice of application to withdraw a petition is prescribed by r. 58 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184. The notice of

Note to Section 95.

application is to be left at the Master's office, and copies are to be served on the respondent and on the town clerk or clerk of the council, as the case may be, and published in the county or borough to which the petition relates. See rr. 59, 60, *ibid.*

The petitioners, who had presented a petition and subsequently found out their agent's report upon which the petition was based was untrustworthy, were allowed by the court to withdraw the petition, the Treasury having ascertained by special inquiry that there was no reliable evidence to support it, and having received from the petitioners copies of the reports and details of the subsequent inquiries. On a motion for leave to withdraw a petition, the court has a discretion as to the costs of the parties, and may order them to be paid by the petitioners on the higher scale, and taxed as between solicitor and client. They cannot give costs to the Public Prosecutor (*Pascoe* v. *Puleston* (*Devonport Election Petition*) (1886), 50 J. P. 135; 54 L. T. 733).

After a municipal election a petition was presented by an unsuccessful candidate, claiming that he was returned by a majority of lawful votes. The mayor, to save expense, induced the petitioner and the returned candidate to submit the question to the arbitration of the town clerk, who was to recount the votes. On the award being against the petitioner, he asked leave to withdraw the petition, and the court allowed him to do so on payment of the costs, the Public Prosecutor not opposing (*Mallam* v. *Bean* (1887), 51 J. P. 230; 3 T. L. R. 516). See also *Lichfield Election Petition* (1893), 9 T. L. R. 92; and *Halifax Election Petition* (1893), 9 T. L. R. 563.

Abatement of petition.

96.—(1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.

(2) The abatement of a petition shall not affect the liability of the petitioner or of any other person to the payment of costs previously incurred.

(3) On the abatement of a petition the prescribed notice thereof shall be given in the borough, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and at the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly (*a*).

(4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition (*b*).

(*a*) As to the notice, see rr. 63, 64 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184.

(*b*) See s. 89, *ante*, p. 2420.

Withdrawal and substitution of respondents.

97.—(1) If before the trial of an election petition a respondent other than a returning officer—

(a) Dies, resigns, or otherwise ceases to hold the office to which the petition relates; or

(b) Gives the prescribed notice that he does not intend to oppose the petition;

the prescribed notice thereof shall be given in the borough, and within the prescribed time after the notice is given any person who might have been a petitioner in respect of the election may apply to the election court or High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three (*a*).

(2) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings thereon.

(*a*) See rr. 64—67 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184, relating to the prescribed notice, time, etc. The returning officer may be a respondent if the petition complains of his conduct.

A respondent may cease to hold office through disqualification. The name of a respondent will not be struck out of a petition merely because he has given the prescribed notice under this section. See *Yates* v. *Leach*, *ante*, p. 2420.

Costs on election petitions.

98.—(1) All costs, charges, and expenses of and incidental to the presentation of an election petition, and the proceedings consequent thereon,

Section 98. except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and proportions as the election court determines; and in particular any costs, charges, or expenses which in the opinion of the court have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part of either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused, whether they are or not on the whole successful (*a*).

(2) The costs may be *taxed in the prescribed manner but according to the same principles as costs between solicitor and client in an action in the High Court, and may be* recovered as the costs of such an action, or as otherwise prescribed (*b*).

(3) If a petitioner neglects or refuses for three months after demand to pay to any person summoned as a witness on his behalf, or to the respondent, any sum certified to be due to him for his costs, charges, and expenses, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who has under this Act entered into a recognizance relating to the petition shall be held to have made default in the recognizance, and the prescribed officer shall thereon certify the recognizance to be forfeited, and it shall be dealt with as a forfeited recognizance relating to a parliamentary election petition (*c*).

(*a*) An overloaded petition will be visited with costs, even if it is successful (*Birkbeck* v. *Bullard* (1886), 54 L. T. 625). When a petition is wholly unfounded the court may order the petitioner to pay the costs of the Public Prosecutor (*Crossman* v. *Gent-Davis* (1886), 54 L. T. 628). In certain cases the parties may be ordered to pay the expenses of the election court. See s. 101, *post*, p. 2428.

The barrister appointed to try the petition has an absolute discretion over the costs. In a case where the petitioners had improperly made an unsuccessful candidate a respondent, it was held that they could not object that he was not a party to the petition so as to deprive the barrister of jurisdiction to make an order upon them for his costs (*Lovering* v. *Dawson* (1875), L. R. 10 C. P. 726).

As to the costs on withdrawal of a petition, see *Pascoe* v. *Puleston* (*Devonport Election Petition*), *ante*, p. 2425.

A mistake occurred in the counting of votes in a parish council election in which there were nineteen candidates of whom nine were declared to be duly elected. Two of the defeated presented a petition against the return of two of the successful candidates, and the returning officer and his deputy were joined as respondents to the petition. The petition was not opposed. By order, a recount was held and a special case stated for the decision of the High Court. The Court made a declaration that the petitioners were duly elected and ordered the deputy returning officer to pay £10 towards the cost of the petition and the subsequent proceedings (*Rainham Parish Council Election Petition* (1919), 83 J. P. 267).

(*b*) So much of this sub-section as relates to the principles of taxation is repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, Sched. II. See now s. 29 (3) of that Act, *post*, p. 2476. As to the mode of taxation and recovery of the cost, see r. 68 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184, and *Pare* v. *Hartshorn* (1875), 31 L. T. 486; 23 W. R. 138.

(*c*) The prescribed officer is the Master. See r. 1 of the rules made under s. 100, *post*, p. 2427, and set out in App. II., *post*, p. 3184. A forfeited recognizance relating to a parliamentary election petition is dealt with in manner provided by the Parliamentary Elections Act, 1868, s. 42.

Reception of and attendance on the election court.

99.—(1) The town clerk (*a*) shall provide proper accommodation for holding the election court; and any expenses incurred by him for the purposes of this section shall be paid out of the borough fund or borough rate.

(2) All chief and head constables, superintendents of police, head-boroughs, gaolers, constables, and bailiffs shall give their assistance to the election court in the execution of its duties, and if any gaoler or officer of a prison makes default in receiving or detaining a prisoner committed thereto in pursuance of this Part, he shall be liable to a fine not exceeding five pounds for every day during which the default continues.

(3) The election court may employ officers and clerks as prescribed.

(4) A shorthand writer (*b*) shall attend at the trial of an election petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial. He shall take down the evidence at length. A transcript of the notes of the evidence taken by him shall, if the election court so directs, accompany the certificate of the election court. His expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the court.

(*a*) That is, the clerk to the urban district council for a district not being a borough, or the clerk to the rural district council. See the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 36, *post*, p. 2478.

(*b*) See r. 52 of the rules made under s. 100, *infra*, and set out in App. II., *post*, p. 3184.

Rules of procedure and jurisdiction.

100.—(1) The judges for the time being on the rota for the trial of parliamentary election petitions may from time to time make, revoke, and alter general rules for the effectual execution of this Part, and of the intention and object thereof, and the regulation of the practice, procedure, and costs of municipal election petitions, and the trial thereof, and the certifying and reporting thereon (*a*).

(2) All such rules shall be laid before both Houses of Parliament within three weeks after they are made if Parliament is then sitting, and if not, within three weeks after the beginning of the then next session of Parliament, and shall, while in force, have effect as if enacted in this Act.

(3) Subject to the provisions of this Act, and of the rules made under it, the principles, practice, and rules for the time being observed in the case of parliamentary election petitions, and in particular the principles and rules with regard to agency and evidence, and to a scrutiny, and to the declaring any person elected in the room of any other person declared to have been not duly elected, shall be observed, as far as may be, in the case of a municipal election petition.

(4) The High Court shall, subject to this Act, have the same powers, jurisdiction, and authority with respect to a municipal election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction (*b*).

(5) The duties to be performed by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.

(6) The general rules in force at the commencement of this Act with respect to matters within this Part shall, until superseded by rules made under this section, and subject to any amendment thereof by rules so made, have effect, with the necessary modifications, as if made under this section.

(*a*) And see also 47 & 48 Vict. c. 70, s. 30, *post*, p. 2476. The rules now in force are set out in App. II., *post*, at pp. 3184 *et seq.*

(*b*) The High Court has no power to entertain an appeal against the decision of a commissioner appointed to inquire into alleged corrupt or illegal practices at an election except on points of law reserved for its decision by way of a case stated by the commissioner (*Ex parte Ayres* (1886), 54 L. T. 296). A petition against the election of members of a local board alleged undue influence by the respondents and their agents, and that corrupt and illegal practices extensively prevailed. The commissioner reported to the High Court that no corrupt practice had been proved against the respondents or otherwise, that illegal practices extensively prevailed, and that the respondents had been guilty of illegal practices; and he certified that the respondents had not been duly elected. On a motion for a new trial or a prohibition, on the ground that the commissioner had exceeded his jurisdiction, it was held that the report was not in excess of the jurisdiction. *Quære*, whether the court has jurisdiction to entertain an appeal from a commissioner. *Per* STEPHEN, J.: The jurisdiction, if any, ought only to be exercised under extraordinary circumstances, and when necessary that justice should be done (*Marsland* v. *Hickman* (*Goole Election Petition*) (1885), 2 T. L. R. 398). See also *Preece* v. *Harding*, *post*, p. 2483; *Shaw* v. *Reckitt*, *ante*, p. 2423; *Re Pembroke Election Petition*, [1908] 2 I. R. 433.

Expenses of election court.

101.—(1) The remuneration and allowances to be paid to a commissioner for his services in respect of the trial of an election petition, and to any officers, clerks, or shorthand writers employed under this Part, shall be fixed by a scale made and varied by the election judges on the rota for the trial of parliamentary election petitions, with the approval of the Treasury. The remuneration and allowances shall be paid in the first instance by the Treasury, and shall be repaid to the Treasury, on their certificate, out of the borough fund or borough rate (*a*).

(2) But the election court may in its discretion order that such remuneration and allowances, or the expenses incurred by a town clerk (*b*) for receiving the election court, shall be repaid, wholly or in part, to the Treasury or the town clerk, as the case may be, in the cases, by the persons, and in the manner following (namely):

(a) When in the opinion of the election court a petition is frivolous and vexatious by the petitioner;

(b) When in the opinion of the election court a respondent has been personally guilty of corrupt practices at the election, by that respondent.

(3) An order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs; but a deposit made or security given under this Part shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied (*c*).

(*a*) The expenses will be now paid out of the general rate or general rate fund in cases of petitions against the election of a member of a borough council or of an urban district council for a district not being a borough or of a rural district council (R. and V. Act, 1925). See the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 36, *post*, p. 2478.

(*b*) See note (*a*) to s. 99, *ante*, p. 2427.

(*c*) Upon the trial of a petition against the return of a borough councillor under the Municipal Elections (Corrupt Practices) Act, 1872, the barrister in delivering judgment said that he found the councillor guilty of personal bribery, and that all the costs of the inquiry were to be borne by him, and made an order in writing for the payment by the councillor of certain costs under s. 19 of that Act. The written order made no provision for the remuneration and allowances to the barrister and other persons under s. 22 (corresponding to the text). The Treasury paid the amount of such remuneration and allowances, and certified the payment to the borough treasurer, and required him to repay them the amount out of the borough fund. A rate was accordingly made and levied. The Treasury afterwards, on receiving from the barrister a letter that he had always intended to visit all the costs upon the councillor, and had said so in giving judgment, cancelled their certificate, and the borough corporation abandoned the rate and returned the sums levied to the ratepayers. Afterwards the Treasury, finding that the barrister had made no written order for the payment of remuneration and allowances, issued a fresh certificate requiring the borough treasurer to pay them the amount out of the borough fund or rates. These facts being found upon a return to a *mandamus* commanding the treasurer to repay the Treasury, it was held that no valid order had been made by the barrister for the payment of the remuneration and allowances by the councillor; that the election court was a court of record, and that neither the High Court nor the Court of Appeal on the return could amend the order so as to make it include such payment; that the act of the Treasury in certifying was not a judicial act, and that they had the power to make a second certificate, and were entitled to a peremptory *mandamus* compelling the treasurer to repay to them the amount of such remuneration and allowances out of the borough fund or rates, and compelling the corporation to order such amount to be levied by a borough rate (*R.* v. *Maidenhead Corporation* (1882), 9 Q. B. D. 494; 46 J. P. 724).

Acts done pending a petition not invalidated.

102. Where a candidate who has been elected to a corporate office is, by a certificate of an election court or a decision of the High Court, declared not to have been duly elected, acts done by him in execution of the office, before the time when the certificate or decision is certified to the town clerk, shall not be invalidated by reason of that declaration.

Provisions as to elections in the room of persons unseated on petition.

103. Where on an election petition the election of any person to a corporate office has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy (*a*); and for the purposes of the election any duties to be performed by a mayor, alderman, or other officer, shall, if he has been declared not elected, be performed by a deputy, or other person who might have acted for him if he had been incapacitated by illness.

(*a*) In the case of urban district councils for districts not being boroughs or of rural district councils there must be a new election. See the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, s. 36, *post*, p. 2478.

Prohibition of disclosure of vote.

104. A person who has voted at a municipal election by ballot shall not in any proceeding to question the election be required to state for whom he has voted.

PART V.

CORPORATE PROPERTY AND LIABILITIES.

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Working Men's Dwellings (*a*).

Working Men's Dwellings.

Sites for working men's dwellings.

111.—(1) If a municipal corporation determines to convert any corporate land into sites for working men's dwellings, and obtains the approval of the Treasury (*b*) for so doing, the corporation may, for that purpose, make grants or leases for terms of nine hundred and ninety-nine years, or any shorter term, of any parts of the corporate land (*c*).

(2) The corporation may make on the land any roads, drains, walls, fences, or other works requisite for converting the same into building land, at an expense not exceeding such sum as the Treasury (*b*) approve.

(3) The corporation may insert in any grant or lease of any part of the land (in this section referred to as the site) provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the building, and prohibiting the division of the site or building, and any addition to or alteration of the character of the building, without the consent of the corporation, and for the re-vesting of the site in the corporation, or its re-entry thereon, on breach of any provision in the grant or lease (*c*).

(4) Every such provision shall be valid in law to all intents, and binding on the parties.

(5) All costs and expenses incurred or authorised by a corporation in carrying into execution or otherwise in pursuance of this section, shall be paid out of the borough fund and borough rate (*d*), or by money borrowed by the corporation under this Part.

(6) In this section the term working men's dwellings means buildings suitable for the habitation of persons employed in manual labour and their families; but the use of part of a building for purposes of retail trade or other purposes, approved by the council, shall not prevent the building from being deemed a dwelling.

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(*a*) See the Housing Act, 1925, and particularly s. 134, *ante*, p. 1478.

(*b*) Now the M. of H. The L. G. B. superseded the Treasury (see the L. G. A., 1888, s. 72), and the L. G. B. has in turn been superseded by the Ministry of Health.

(*c*) See forms of grants, leases and transfers in the Eighth Schedule, Forms L., M., N., and O., pp. 2434–2436. It will be remembered that s. 146 of the Law of Property Act, 1925, affords relief against forfeiture in certain cases. As to notices under s. 14 of the Act of 1881 which is re-enacted in that section, see *Pannell* v. *City of London Brewery Co.*, [1900] 1 Ch. 496.

(*d*) Now the general rate fund and general rate, see the R. and V. Act, 1925, *ante*, p. 1633.

Borough Bridges.

Borough Bridges.

Maintenance of borough bridges.

119 (*a*).—(1) Every bridge which is either wholly or in part in a borough and which the borough and not the county wherein the borough is situate is legally bound to maintain or repair shall, as to the whole of the bridge if it is wholly in the borough, or as to such part only as is in the borough, be maintained, altered, widened, repaired, improved, or rebuilt under the sole management and control of the council (*b*).

(2) For that purpose the council shall have all the powers which the justices of a county have with respect to a county bridge (*c*), but the notices required in the case of a county bridge shall not be required in the case of a borough bridge.

(3) All expenses incurred for the purposes of this section shall be paid out of the borough fund or borough rate (*d*), or out of money borrowed on the security thereof.

(4) The council, with the consent of the Treasury (*e*), may from time to time borrow on that security such sums as they deem requisite for any of those purposes, and may mortgage the borough fund and borough rate (*d*) for the purpose of securing the repayment, with interest, of any money so borrowed (*f*).

(*a*) This section ceases to have effect as from April 1st, 1930, as respects any bridge which carries a county road (s. 29 (4), L. G. A., 1929, *ante*, p. 1885). As to what are county roads, see s. 29 (1), *ibid.*, and notes thereto at p. 1884, *ante.* Bridges carrying county roads are within the definition of "county roads" in that Act and are therefore maintainable by the county council unless "claimed" under s. 32, *ibid.*, *ante*, p. 1891.

(*b*) Such a bridge is a street within the definition contained in s. 4 of the P. H. A., 1875, *ante*, p. 16.

(*c*) Transferred to county councils by s. 3 (viii) of the L. G. A., 1888, and see the Highways and Bridges Act, 1891, *ante*, p. 916. See also note (*e*) on p. 288, *ante*.

(*d*) See note (*d*) to s. 111, *ante*, p. 2429.

(*e*) See note (*b*) to s. 111, *ante*, p. 2429.

(*f*) See forms of mortgage and transfer in the Eighth Schedule, Forms P. and Q., *post*, p. 2436.

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PART VI.

CHARITABLE AND OTHER TRUSTS AND POWERS.

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Local Acts.

Local Acts.

Transfer of powers of local authorities to municipal corporations.

136.—(1) The trustees appointed or acting by or under any local Act of Parliament for the time being in force, for paving, lighting, supplying with water or gas, cleansing, watching, regulating, or improving, a borough, or any part thereof, or for providing or maintaining a cemetery or market in or for a borough, or any part thereof, whether in any such case their powers under the local Act do or do not extend beyond the borough, may, if they think fit, at a meeting called for this purpose, transfer to the municipal corporation of the borough, with the consent of the council but not otherwise, all the rights, powers, estates, property, and liabilities for the time being vested in or imposed on the trustees under the local Act.

(2) The transfer shall be made in writing under the common seal of the trustees if they are a corporation, and if not, then by deed executed by the trustees, or by any two of them acting by their authority and on their behalf.

(3) On the transfer being made, the municipal corporation shall become and be the trustees for executing by the council the powers and provisions

of the local Act; and all the rights, powers, estates, and property vested in the transferring trustees shall vest in the corporation; and all the liabilities and obligations of the transferring trustees shall be transferred to and borne by the corporation, and the transferring trustees shall be discharged therefrom (*a*).

(*a*) See also ss. 10 and 310 of the P. H. A., 1875, *ante*, pp. 44, 653.

Power for council to extend local lighting Act.

137.—(1) Where at the passing of the Municipal Corporations Act, 1835, there was a local Act of Parliament for lighting part of a borough then incorporated, the council may, if they think fit, make an order that any specified part of the borough not within the provisions of any such local Act shall, after a day fixed in the order, be within those provisions; and after that day the part so specified shall be within those provisions, as far as relates to lighting, or to any rate authorised to be levied for lighting.

(2) But the part so specified shall be lighted in like manner as those parts of the borough which before the making of the order were within those provisions; and any rate raised for the purpose of defraying the expenses of lighting the part so specified shall not exceed the average expense in the pound of lighting the other parts of the borough (*a*).

(*a*) See ss. 161—163 of the P. H. A., 1875, *ante*, pp. 382—387.

Exercise of powers under local Acts.

5 & 6 Will. 4, c. 76.

138. Everything provided under any local Act of Parliament in force on the twentieth of August, one thousand eight hundred and thirty-six, to be done exclusively by a particular or limited number, class, or description of the members of any body corporate named in the Schedules to the Municipal Corporations Act, 1835, the continuance of which was not inconsistent with the provisions of that Act, and everything provided in any such local Act to be done by the justices, or by some particular class or description, or members of such body corporate, being justices, at a court of quarter sessions, which did not relate to the business of a court of criminal or civil judicature (*a*), if the same respectively has been lawfully continued to be done up to the commencement of this Act by the council, or a committee thereof, shall be continued thereafter to be done by the council at a quarterly meeting, or by any three of a committee of the council appointed at such a meeting.

(*a*) *E.g.*, the regulation of the fees of a local Court of Requests (*Palmer* v. *Powell* (1840), 6 M. & W. 627).

PART VII.

BOROUGH FUND: BOROUGH RATE: COUNTY RATE (*a*).

Borough Fund.

Borough Fund.

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Application of surplus of borough fund.

143.—(1) If the borough fund (*a*) is more than sufficient for the purposes to which it is applicable under this Act (*b*), or otherwise by law, the surplus thereof shall be applied under the direction of the council for the public benefit of the inhabitants and improvement of the borough (*c*).

(2) If the surplus arises from the rents and profits of the property of the municipal corporation, and not from a borough rate (*a*), and the borough is a sanitary district under the Public Health Act, 1875, then the municipal corporation, as the sanitary authority for the borough, may apply the surplus in payment of any expenses incurred by them as such sanitary authority, before or after the commencement of this Act, in improving the borough, or

Section 143. any part thereof, by drainage, enlargement of streets, or otherwise, under the Public Health Act, 1875, or any Act thereby repealed.

(*a*) As to the substitution of the general rate fund and general rate for the borough fund and borough rate, see the R. and V. Act, 1925, *ante*, p. 1633.

(*b*) That is, by s. 140, and the Fifth Schedule.

(*c*) *E.g.*, free passage over a footbridge (*Newcastle-upon-Tyne Corporation* v. *Att.-Gen.*, [1892] A. C. 568; 56 J. P. 836). But not contributions to a university college established within the borough (*Att.-Gen.* v. *Cardiff Corporation*, [1894] 2 Ch. 337).

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PART XIII.

GENERAL.

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Time.

Computation of time.

Time.

230.—(1) Where by this Act any limited time from or after any date or event is appointed or allowed for the doing of any act or the taking of any proceeding, then in the computation of that limited time the same shall be taken as exclusive of the day of that date or of the happening of that event, and as commencing at the beginning of the next following day; and the act or proceeding shall be done or taken at the latest on the last day of the limited time as so computed, unless the last day is a Sunday, Christmas Day, Good Friday, or Monday or Tuesday in Easter week, or a day appointed for public fast, humiliation, or thanksgiving, in which case any act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

(2) Where by this Act any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be one of the days in this section specified, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being one of the days in this section specified.

(3) Where by this Act any act or proceeding is directed or allowed to be done or taken within any time not exceeding seven days, the days in this section specified shall not be reckoned in the computation of such time.

Distance.

Measurement of distances.

Distance.

231. The distances mentioned in this Act shall be measured in a straight line on a horizontal plane, and may be determined by the map made under the survey commonly known as the Ordnance Survey (*a*).

(*a*) See the Interpretation Act, 1889, s. 34; and see *Wright* v. *Wallasey L. B.*, *ante*, p. 2217.

Notices.

Notices on town hall.

Notices.

232. Any notice or other document required by this Act to be fixed on the town hall shall be fixed in some conspicuous place on or near the outer door of the town hall, or, if there is no town hall, in some conspicuous place in the borough or ward to which the notice or document relates.

Inspection and copies.

Inspection of documents.

Inspection and Copies.

233.—(1) The minutes of proceedings of the council shall be open to the inspection of a burgess on payment of a fee of one shilling, and a burgess may make a copy thereof or take an extract therefrom (*a*).

(2) A burgess may make a copy of or take an extract from an order of the council for the payment of money.

(3) The treasurer's accounts shall be open to the inspection of the council, and a member of the council may make a copy thereof or take an extract therefrom.

(4) The abstract of the treasurer's account shall be open to the inspection of all the ratepayers of the borough, and copies thereof shall be delivered to a ratepayer on payment of a reasonable price for each copy.

(5) The freemen's roll shall be open to public inspection, and the town clerk shall deliver copies thereof to any person on payment of a reasonable price for each copy.

(6) A document directed by this Act to be open to inspection shall be so open at any reasonable time during the ordinary hours of business, and without payment, unless it is otherwise expressed.

(7) If a person having the custody of any document in this section mentioned,—

(a) Obstructs any person authorised to inspect the same in making such inspection thereof as in this section mentioned ; or

(b) Refuses to give copies or extracts to any person entitled to obtain the same under this section ;

he shall, on summary conviction, be liable to a fine not exceeding five pounds (*b*).

(*a*) A burgess is entitled to inspect the minutes of all acts of committees submitted to the council whether these acts are finally approved or not (*Williams* v. *Manchester Corporation* (1897), 45 W. R. 412. And see *Morris* v. *Clarke* (1911), 75 J. P. N. 281, and *R.* v. *Hampstead Borough Council, Ex parte Woodward*, in the next note).

(*b*) A town council is not entitled to pass a resolution directing their clerk not to show a document which has been read at a meeting of the council to one of the councillors who bonâ fide desires to see it, merely because he may make some use of the information he may obtain from the document in a manner antagonistic to the policy of the majority of the council (*R.* v. *Southwold Corporation, Ex parte Wrightson* (1907), 71 J. P. 351 ; 97 L. T. 431). Though a member of a borough council has primâ facie a common law right to inspect the documents of the council, yet the court will not grant a *mandamus* to enable him to obtain such inspection where he is inspired by the indirect motive of assisting a person who is engaged in litigation with the council (*R.* v. *Hampstead Borough Council, Ex parte Woodward* (1917), 33 T. L. R. 157).

* * * * * *

Forms.

Forms.

Forms in Schedule.

240. The forms in the Eighth Schedule or forms to the like effect, varied as circumstances require, may be used, and shall be sufficient in law.

* * * * * *

Substitution in former Acts.

Substitution in former Acts.

Provision for references in unrepealed enactments to 5 & 6 Will. 4, c. 76, etc.

242.—(1) In the several enactments described in Part I. of the Ninth Schedule, a reference to this Act shall be deemed to be substituted for a reference to the Municipal Corporations Act, 1835, and any Act amending it.

(2) In each of the enactments described in Part II. of the Ninth Schedule, there shall be substituted for the respective provisions of the Municipal Corporations Act, 1835, in that part mentioned in connection therewith, such provision of this Act as is also mentioned in connection therewith.

(3) Where any Act passed before this Act, and not specified in the First or in the Ninth Schedule, refers to the Municipal Corporations Act, 1835, or any Act amending it, or to boroughs or corporations subject to that Act or any Act amending it, the reference shall be deemed to be to this Act or to the corresponding provision of this Act, or to boroughs or corporations subject to this Act (as the case may require).

(4) All enactments to which this section relates shall, except as in this section provided, continue to operate as if this Act had not been passed.

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Sched. VIII.

THE EIGHTH SCHEDULE.

FORMS (*a*).

* * * * * *

PART III.

Forms relating to Working Men's Dwellings (*b*).

FORM L.

FORM OF GRANT BY CORPORATION.

The Municipal Corporations Act, 1882.
(Working Men's Dwellings.)

Borough of . Grant No. .

The mayor, aldermen, and burgesses of the borough of , by virtue and in pursuance of the above-mentioned Act, and in consideration of paid to them by *A. B.*, of , hereby grant to the said *A. B.* (herein referred to as the grantee), and his heirs, the site following (that is to say) [*insert description*], with the appurtenances, subject to the following conditions (that is to say):

1. The grantee shall build on the site one working man's or working men's dwelling (and no more) according to the plan and specification deposited in the office of the town clerk, numbered , and under the superintendence and to the satisfaction of the corporation.

2. The grantee, his heirs and assigns, shall always maintain and repair the building, and shall not sell or alienate the site or building in divisions or separate parts, and, in case of the taking down or destruction of the building, shall not rebuild it except in manner approved by the corporation.

3. The grantee, his heirs or assigns, shall not add to or alter the character of the building without the consent of the corporation.

4. If at any time the grantee, his heirs or assigns, fail to fully observe and perform any stipulation of this grant, the corporation may, if they think fit, declare that the site is re-vested in the corporation; and thereupon the same, with the dwelling and other buildings thereon, shall become and be vested in the corporation, as if this grant had not been made.

In witness whereof, etc., this day of, 187 .

(*Corporate Seal.*)

FORM M.

FORM OF TRANSFER OF GRANT.

The Municipal Corporations Act, 1882.
(Working Men's Dwellings.)

Borough of . Transfer No. . (Grant No. .)

A. B. of by virtue and in pursuance of the above-mentioned Act, and in consideration of paid to him by *C. D.*, of , hereby grants and transfers to the said *C. D.* and his heirs the site comprised in the within-written * grant [*or* the grant No. under the said Act, dated the day of , 187 †] with the appurtenances and with the dwelling and other buildings thereon, subject to the conditions on which that site is held immediately before the execution of this transfer.

In witness whereof, etc., this day of , 18 .

A. B. (L.S.)

* In case of transfer by indorsement.
† In case of transfer by separate deed.

(*a*) See s. 240, *ante*, p. 2433.
(*b*) See s. 111, *ante*, p. 2429.

Form N.

Form of Lease by Corporation.

The Municipal Corporations Act, 1882.
(Working Men's Dwellings.)

Borough of . Lease No. .

The mayor, aldermen, and burgesses of the borough of by virtue and in pursuance of the above-mentioned Act, and in consideration of the sum of paid to them by *A. B.* of and of the rent and stipulations in this lease reserved and contained, and to be by him, his executors, administrators, or assigns, paid and performed, hereby lease to the said *A. B.* (herein referred to as the lessee), his executors and administrators, the site following (that is to say) [*insert description*] with the appurtenances, for the term of [*nine hundred and ninety-nine*] years from the day of , at the yearly rent (clear of all deductions) of , payable by two equal half-yearly payments on the day of and the day of in every year, the first thereof to be made on the day of , and the last thereof to be made in advance on the day of next before the end of the term, and so that on the term being determined by re-entry a proportionate part of the rent for the fraction of the current half year up to re-entry be repayable.

And the lessee hereby covenants with the corporation that he, his executors, administrators, or assigns, will during the term pay the rent on the days and in manner aforesaid, and will pay all taxes, rates, and outgoings for the time being payable by the tenant in respect of the premises.

And this lease is made subject to the following conditions (that is to say):

1. The lessee shall build on the site one working man's or working men's dwelling (and no more) according to the plan and specification deposited in the office of the town clerk, and numbered , under the superintendence and to the satisfaction of the corporation.

2. The lessee, his executors, administrators, and assigns, shall always during the term maintain and repair the building, and shall not sell or alienate the site or building in divisions or separate parts, and in case of the taking down or destruction of the building, shall not rebuild it, except in manner approved by the corporation.

3. The lessee, his executors, administrators, or assigns, shall not add to or alter the character of the building without the consent in writing of the corporation.

4. If at any time the lessee, his executors, administrators, or assigns, fail to duly pay the rent hereby reserved, or to fully observe and perform any stipulation herein contained, the corporation may, if they think fit, re-enter on any part of the site in the name of the whole, and thereupon the term of years shall absolutely cease.

In witness whereof, etc., this day of , 187 .

(*Corporate Seal.*)
A. B. (L.S.)

Form O.

Form of Assignment of Lease.

The Municipal Corporations Act, 1882.
(Working Men's Dwellings.)

Borough of . Transfer No. . Lease No. .

A. B. of (herein referred to as the assignor) by virtue and in pursuance of the above-mentioned Act, and in consideration of paid to him by *C. D.* of , hereby assigns to the said *C. D.* (herein referred to as the assignee), his executors and administrators, the site comprised in the within-written lease* [*or* the lease No. under the said Act, dated the day of , 187 †], with the appurtenances, and with the dwelling and other buildings thereon, for the residue of the term of years, at the rent and subject to the stipulations and conditions at and subject to which that site is held immediately before the execution of this assignment.

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* In case of assignment by indorsement.

† In case of assignment by separate deed.

And the assignee for himself, his executors and administrators, covenants with the assignor, his executors and administrators, that the assignee, his executors or administrators, will pay the yearly rent and observe and perform the stipulations and conditions aforesaid, and will at all times keep the assignor, his executors and administrators, indemnified in respect thereof.

In witness whereof, etc., this day of , 187 .

A. B. (L.S.)
C. D. (L.S.)

PART IV.

Forms relating to Borough Bridges (*a*).

FORM P.

FORM OF MORTGAGE.

The Municipal Corporations Act, 1882.
(Borough Bridges.)

Borough of . Mortgage No. .

We, the mayor, aldermen, and burgesses of the borough of by virtue and in pursuance of the above-mentioned Act, and in consideration of the sum of paid to us by *A. B.* of for the purposes of the said Act, do grant and assign unto the said *A. B.*, his executors, administrators, and assigns, such proportion of the borough fund and borough rate as the said sum of doth or shall bear to the whole sum which is or shall be borrowed on the credit of the said fund and rate, to hold to the said *A. B.*, his executors, administrators, and assigns, from the day of the date hereof, until the said sum of with interest at the rate of per centum per annum for the same, shall be fully paid and satisfied. And it is hereby declared that the said principal sum shall be repaid on the day of at [*place of payment*].

In witness whereof, etc., this day of , 187 .

(*Corporate Seal.*)

(*a*) See s. 119, *ante*, p. 2430.

FORM Q.

FORM OF TRANSFER OF MORTGAGE.

The Municipal Corporations Act, 1882.
(Borough Bridges.)

Borough of . Transfer No. . Mortgage No. .

I *A. B.* of , in consideration of the sum of paid to me by *C. D.* of , do hereby transfer to the said *C. D.*, his executors, administrators, and assigns, a certain mortgage, dated this day of , and made by the mayor, aldermen, and burgesses of the borough of , under the above-mentioned Act, for securing the sum of and interest thereon at per centum per annum [*or, if the transfer is by indorsement on the mortgage, insert instead of the words immediately following the word "assigns,"* the within security], and all my right, estate, and interest in and to the money thereby secured, and in and to the fund and rate thereby assigned.

In witness whereof, etc., this day of , 187 .

A. B. (L.S.)

Sched. IX.

THE NINTH SCHEDULE.

ENACTMENTS IN WHICH A REFERENCE TO THIS ACT IS TO BE SUBSTITUTED (*a*).

PART I.

General References.

9 & 10 Vict. c. 74.—The Baths and Washhouses Act, 1846 (section 1) (*b*).

. . . . . .

20 & 21 Vict. c. 81.—The Burial Act, 1857 (*c*).

. . . . . .

26 & 27 Vict. c. 13.—The Town Gardens Protection Act, 1863 (*d*).

. . . . . .

33 & 34 Vict. c. 78.—The Tramways Act, 1870 (Schedule A.) (*e*).

. . . . . .

34 & 35 Vict. c. 105.—The Petroleum Act, 1871 (section 2) (*f*).

. . . . . .

35 & 36 Vict. c. 91.—The Borough Funds Act, 1872 (*g*).

. . . . . .

38 & 39 Vict. c. 55.—The Public Health Act, 1875 (section 4) (*h*).
38 & 39 Vict. c. 83.—The Local Loans Act, 1875 (section 34) (*i*).
39 & 40 Vict. c. 56.—The Commons Act, 1876 (section 37) (*k*).

. . . . . .

41 & 42 Vict. c. 77.—The Highways and Locomotives (Amendment) Act, 1878 (section 38) (*l*).

PART II.

Particular References.

14 & 15 Vict. c. 55.—The Criminal Justice Administration Act, 1851:
In section 24, for Schedule C. to the Municipal Corporations Act, 1835, the Sixth Schedule to this Act.
33 & 34 Vict. c. 91.—The Clerical Disabilities Act, 1870:
In the First Schedule, for section 28 of the Municipal Corporations Act, 1835, so much of the provision of this Act relative to disqualifications for being councillor as relates to being in holy orders.

(*a*) See s. 242, *ante*, p. 2433.
(*b*) *Ante*, p. 2143.
(*c*) *Ante*, p. 2252.
(*d*) *Ante*, p. 2262.
(*e*) *Ante*, p. 2311.
(*f*) Now repealed. See p. 2990, *post*.
(*g*) *Ante*, p. 2331.
(*h*) *Ante*, p. 4.
(*i*) *Ante*, p. 2354.
(*k*) *Ante*, p. 2393.
(*l*) *Ante*, p. 750.

THE ELECTRIC LIGHTING ACT, 1882.

(45 & 46 VICT. c. 56) (*a*).

An Act to facilitate and regulate the supply of Electricity for Lighting and other purposes in Great Britain and Ireland. [18th August, 1882.]

Short title.

1. This Act may be cited for all purposes as "The Electric Lighting Act, 1882."

(*a*) This Act is included in this Appendix, as it confers important powers upon urban and rural district councils. It and two amending Acts of 1888, *post*, p. 2495, and 1909, *post*, p. 2695, constitute "The Electric Lighting Acts, 1888 to 1909"; they are supplemented by the Electric Lighting Clauses Act, 1899, *post*, p. 2569. Important amendments in the law as to the supply of electricity have been made by the Electricity

Note to Section 1.

(Supply) Act, 1919 (9 & 10 Geo. 5, c. 100), *post*, p. 2782; the Electricity (Supply) Act, 1922, *post*, p. 2835; the Electricity (Supply) Act, 1926, *post*, p. 2909; and the Electricity (Supply) Act, 1928, *post*, p. 3019.

By s. 39 of the 1919 Act and the Ministry of Transport (Electricity Supply) Order, 1920, all the powers and duties of the Board of Trade under the said Act of 1919 or the Electric Lighting Acts, or the orders and regulations made thereunder, or any local Act relating to the supply of electricity, or any enactment relating to matters incidental to such supply have been transferred to the Ministry of Transport. By s. 1 of that Act provision was made for the appointment of Electricity Commissioners for promoting, regulating, and supervising the supply of electricity. Power was given to the Electricity Commissioners to provisionally determine that separate electricity districts shall be formed, and to approve or make schemes for the improvement of the existing organisation for the supply of electricity in such districts and the establishment of joint electricity authorities, but in effect these objects could only be fulfilled upon the agreement of the parties concerned. By the Electricity Supply Act, 1926, a Central Electricity Board is set up and invested with the direction of the generation of energy and responsibility for a network of main transmission lines interconnecting the large generating stations from which the whole supply of the country is ultimately to be produced. All energy produced will eventually belong to the Board who will arrange for its distribution in the most economical manner. The probable result of the Act will be that no more orders will be made authorising the establishment of further undertakings except in accordance with the provisions of the Act or schemes made thereunder. Important amendments of the Electric Lighting Acts are also made. An endeavour has been made to draw attention to all these alterations in the law in the notes to the various sections of the existing Acts, the provisions of which are affected by such alterations.

By s. 40 of the Electricity (Supply) Act, 1919, the Electric Lighting Acts, 1882 to 1909, and the Act of 1919, may be cited together as the Electricity (Supply) Acts, 1882 to 1919, and those Acts and the Supply Acts of 1922, 1926 and 1928, are to be construed together as one Act and may be cited as the Electricity (Supply) Acts, 1882 to 1928 (s. 2, Electricity (Supply) Act, 1928). Special orders under the Electricity (Supply) Acts may be granted to statutory gas companies by the Electricity Commissioners (Statutory Gas Companies) (Electricity Supply Powers) Act, 1925, *post*, p. 2885), or by the Minister of Transport (s. 49, Electricity (Supply) Act, 1926).

Application of Act.

2. The provisions of this Act shall apply to every local authority (*a*), company, or person who may by this Act or any licence or Provisional Order (*b*) granted under this Act, or by any special Act to be hereafter passed, be authorised to supply electricity within any area (in this Act referred to as "the undertakers") and to every undertaking so authorised, except so far as may be expressly provided by any such special Act; and every such licence, Provisional Order, and special Act, is in this Act included in the expression "licence, Order, or special Act."

(*a*) See the definition of this term in s. 31, *post*, p. 2453. It includes urban and rural sanitary authorities. Licences are practically obsolete. It became usual to apply for a Provisional Order under s. 4, but see now the next note.

(*b*) Anything which could be effected by a Provisional Order may now be effected by a Special Order or (in the case of a joint electricity authority) by an order, and references in this Act to provisional orders now include references to such a special order or order except as regards paragraphs (1) to (4) of s. 4 (see s. 26 of the Electricity (Supply) Act, 1919, *post*, p. 2799).

Granting of licences authorising the supply of electricity.

3. The Board of Trade (*a*) may from time to time license any local authority as defined by this Act (*b*), or any company or person, to supply electricity under this Act for any public or private purposes (*c*) within any area (*d*), subject to the following provisions:

(1) The consent of every local authority (*b*) having jurisdiction within the area or any part of the area within which a supply is licensed to be furnished shall be required to the application for a licence, which consent such local authority is hereby authorised to give, with such conditions (if any) as, subject to the approval of the Board of Trade (*a*), the local authority may prescribe:

(2) A licence shall be for any period not exceeding seven years, but may, at or after the expiration of such licence, be renewed from time

Section 3.

to time for a like period with such consent as above mentioned upon such terms and conditions as the Board of Trade (*a*) may determine:

(3) "Public purposes" shall mean lighting any street or any place belonging to or subject to the control of the local authority, or any church or registered place of public worship, or any hall or building belonging to or subject to the control of any public authority, or any public theatre, but shall not include any other purpose to which electricity may be applied:

(4) "Private purposes" shall include any purposes whatever to which electricity may for the time being be applicable, not being public purposes, except the transmission of any telegram (*e*):

(5) Every local authority, company, or person applying for a licence shall publish notice of their application by public advertisement in such manner and including such particulars as the Board of Trade (*a*) may from time to time direct or approve (*f*); and such licence shall not be granted by the Board of Trade (*a*) . . . (*g*) until opportunity has been given to all parties interested to make representations or objections to the Board of Trade (*a*) with reference to the application:

(6) No application for a licence shall be made by any local authority except in pursuance of a resolution to be passed at a special meeting of the local authority, and such special meeting shall only be held after one month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given (*h*):

(7) A licence may, subject to the provisions of this Act, be granted to a local authority authorising them to supply electricity within any area although the same or some part thereof may not be included within their own district:

(8) The licence may make such regulations as to the limits within which and the conditions under which a supply of electricity is to be compulsory or permissive, and for enforcing the performance by the licensees of their duties in relation to such supply, and for the revocation of the licence where the licensees fail to perform such duties, and generally may contain such regulations and conditions as the Board of Trade (*a*) may think expedient: (*i*)

(9) Where in any area or part of an area in which any undertakers are authorised to supply electricity under any licence the undertakers are not themselves the local authority, the licence may contain any provisions and restrictions for enabling the local authority within whose jurisdiction such area or part of an area may be to exercise any of the powers of the undertakers under this Act with respect to the breaking up of any street repairable by such local authority within such area or part of an area (*k*), and the alteration of the position of any pipes or wires being under such street (*l*), and not being the pipes or wires of the undertakers, on behalf and at the expense of the undertakers, and for limiting the powers and liabilities of the undertakers in relation thereto, which the Board of Trade (*a*) may think expedient (*m*).

(*a*) Now Ministry of Transport, see note (*a*) to s. 1, *ante*, p. 2437.

(*b*) See note (*a*) to s. 2, *ante*, p. 2438.

(*c*) This phrase is explained by sub-ss. (3), (4). See also *A.-G.* v. *Southport Corpn.*, [1923] 1 Ch. 548; in H. L. [1924] A. C. 909; 88 J. P. 181.

(*d*) See *Newcastle-on-Tyne Electric Supply Co., Ltd.* v. *Newcastle-on-Tyne Corporation* (1911), 75 J. P. 97; 9 L. G. R. 161.

Note to Section 3.

(*e*) Defined in s. 32, *post*, p. 2454.

(*f*) See the Rules as to special orders made by the Electricity Commissioners in App. II., *post*, p. 3252.

(*g*) The words "until after the expiration of a period of three months from the date of the first publication of such advertisement nor" were repealed by s. 50 and Sched. VI. of the Electricity (Supply) Act, 1926.

(*h*) A special meeting of the council of a borough is called pursuant to the Municipal Corporations Act, 1882, Sched. II.; of an urban district council other than a borough council and of a rural district council pursuant to the P. H. A., 1875, Sched. I., *ante*, p. 672, as applied by s. 59 of the L. G. A., 1894, *ante*, p. 1025.

(*i*) See *R.* v. *Electricity Commissioners*, [1924] 1 K. B. 171; 88 J. P. 13.

(*k*) See s. 12, *post*, p. 2446.

(*l*) See s. 15, *post*, p. 2447.

(*m*) See also the Electric Lighting Clauses Act, 1899, Sched., r. 16, *post*, p. 2578.

Granting of Provisional Orders authorising the supply of electricity.

4. The Board of Trade (*a*) may, from time to time, by Provisional Order (*b*) authorise any local authority (*c*), company, or person to supply electricity (*d*) for any public or private purposes (*e*) within any area (*f*) *without requiring such consents as are required to the granting a licence under this Act* (*g*), and for such period, whether limited or unlimited, as the Board of Trade (*a*) may think proper, but in all other respects subject to the like provisions as in the last section contained with respect to licences, and subject also to the following provisions:

(1) No Provisional Order (*b*) shall authorise the supply of electricity by any undertakers within the district of any local authority (not being themselves the undertakers), unless notice that such Provisional Order (*b*) has been or is intended to be applied for has been given to such local authority by the applicants in such manner as the Board of Trade (*a*) may direct or approve on or before the first day of July in the year in which such application is made (*h*); . . .

(2) The Board of Trade (*a*) may submit to Parliament for confirmation any Provisional Order (*b*) granted by it in pursuance of this Act, but any such Order shall be of no force unless and until it is confirmed by Act of Parliament:

(3) If, while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to such Order, may be referred to a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills:

(4) Any Act confirming any Provisional Order (*b*) granted in pursuance of this Act may, on the application of the undertakers thereby authorised to supply electricity, be repealed, altered, or amended by any subsequent Provisional Order (*b*) granted by the Board of Trade (*a*) and confirmed by Parliament.

(*a*) See note (*a*) to s. 1, *ante*, p. 2438.

(*b*) See note (*b*) to s. 2, *ante*, p. 2438.

(*c*) Two or more authorities may be empowered to supply jointly in certain cases: see s. 8 of the Electric Lighting Act, 1909, *post*, p. 2699. And see now the Electricity (Supply) Act, 1919, *post*, p. 2782, under which joint electricity authorities may be set up. See also s. 19 of the last-mentioned Act as to the power of authorised undertakers to render mutual assistance to one another.

(*d*) This does not include the supply of lamps and fittings (*Leicester Corporation* v. *Hill* (1898), 62 J. P. 232, and see also *Att.-Gen.* v. *Ilford U. D. C.* (1915), 13 L. G. R. 441). But some special Acts do authorise the supply of lamps and fittings. (See *Attorney-General* v. *Liverpool Corporation*, [1922] 1 Ch. 211.) And see now s. 23 of the Electricity (Supply) Act, 1919, *post*, p. 2798. Under s. 48, Electricity (Supply) Act, 1926, *post*, p. 2935, local authorities authorised by special Act or Order to supply electricity may sell and instal lines, fittings and appliances. See also note (*b*) to s. 10, *post*, p. 2444.

(*e*) See definition in s. 3, *ante*, p. 2439. As to authority to supply electricity in bulk, see s. 4 of the Electric Lighting Act, 1909, *post*, p. 2696.

(*f*) The usual prohibition contained in Provisional Orders against the undertakers supplying electrical energy or erecting or laying down any lines or works beyond their statutory areas of supply was of universal application so that they could be restrained by injunction from carrying on business and supplying energy in any other place whatsoever however far removed from the statutory area of supply, and although such business be carried on and supply furnished quite independently of any special statutory powers (*Att.-Gen.* v. *Metropolitan Electric Supply Co.*, [1905] 1 Ch. 757; 69 J. P. 169). But see ss. 4, 5, 6 of the Electric Lighting Act, 1909, *post*, p. 2696, authorising in certain cases a supply outside the area; and see now the power which a joint electricity authority may obtain under s. 12 of the Electricity (Supply) Act, 1919, *post*, p. 2787.

Undertakings authorised since 1909 are protected from competition by unauthorised undertakers by s. 23 of the Electric Lighting Act, 1909, *post*, p. 2702. See also *Newcastle-on-Tyne Electric Supply Co., Ltd.* v. *Newcastle-on-Tyne* (1911), 75 J. P. 97; 9 L. G. R. 161; but see now s. 25 of the Electricity (Supply) Act, 1922, *post*, p. 2846, giving to persons not being undertakers a power in some cases to supply electricity.

(*g*) These words were practically repealed by the Electric Lighting Act, 1888, s. 1, which provided that the consent of the local authority should be required save as therein provided, but reference should now be made to s. 12 of the Electricity (Supply) Act, 1919, *post*, p. 2787.

(*h*) But see now as to these "July notices," s. 9 of the Electric Lighting Act, 1909, *post*, p. 2699, which in some cases dispenses with the necessity for giving them.

Making of rules as to application, etc. under Act.

5. The Board of Trade (*a*) may from time to time make, and when made may rescind, alter, or repeal rules in relation to the applications for licences or Provisional Orders, and to the payments to be made in respect thereof, and to the publication of notices and advertisements, and the manner in which and the time within which representations or objections with reference to any application are to be made, and to the holding of local inquiries in such cases as they may think it advisable, and to any other matters arising under this Act.

Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed.

Any rules made in pursuance of this section shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if Parliament be not then sitting, within three weeks after the beginning of the next session of Parliament (*b*).

(*a*) See note (*a*) to s. 1, *ante*, p. 2438.

(*b*) The rules must provide for (*inter alia*) the notices required by s. 1 (3) of the Electric Lighting Act, 1909. For the current Rules of the Electricity Commissioners, see App. II., *post*, p. 3252.

Regulations to be inserted in licences, etc.

6. The undertakers shall be subject to such regulations and conditions as may be inserted in any licence, Order, or special Act (*a*) affecting their undertaking with regard to the following matters:

(a) The limits within which and the conditions under which a supply of electricity is to be compulsory or permissive;

(b) The securing a regular and efficient supply of electricity;

(c) The securing the safety of the public from personal injury, or from fire or otherwise;

(d) The limitation of the prices to be charged in respect of the supply of electricity;

(e) The authorising inspection and inquiry from time to time by the Board of Trade (*b*) and the local authority;

(f) The enforcement of the due performance of the duties of the undertakers in relation to the supply of electricity by the imposition of penalties (*c*) or otherwise, and the revocation of the licence, Order, or special Act where the undertakers have, in the opinion of the Board of Trade (*b*), practically failed to carry the powers granted to them into effect within a reasonable time, or discontinued the exercise of such powers; and

(g) Generally with regard to any other matters in connection with the undertakings.

Section 6.

Provided always, that the Board of Trade (*b*) may, from time to time, make such regulations as they may think expedient for securing the safety of the public from personal injury or from fire or otherwise (*d*), and may from time to time amend or repeal any regulations which may be contained in any such licence, Order, or special Act in relation thereto; and any regulations so made or amended by the Board of Trade (*b*) shall, from and after the date thereof, have the like effect in every respect as though they had been originally inserted in the licence, Order, or special Act authorising the undertaking, and every regulation so repealed shall, from and after the date thereof, be repealed accordingly, but such repeal shall not affect any liability or penalty incurred in respect thereof prior to the date of such repeal or any proceeding or remedy which might have been had in relation thereto.

Any local authority within any part of whose district electricity is authorised to be supplied under any licence, Order, or special Act, may, in addition to any regulations which may be made under the preceding provisions of this section for securing the safety of the public, from time to time make, rescind, alter, or repeal byelaws (*e*) for further securing such safety; and there may be annexed to any breach of such byelaws such penalties to be recovered in a summary manner as they may think necessary: Provided always, that no such byelaws shall have any force or effect unless and until they have been confirmed by the Board of Trade (*b*) and published in such manner as the Board of Trade (*b*) may direct.

(*a*) The usual regulations and conditions on these matters formerly inserted at length are now collectively incorporated by the Electric Lighting Clauses Act, 1899, *post*, p. 2569, in every Provisional Order and special Act made or passed on or since October 1st, 1899 except so far as expressly varied or excepted thereby.

(*b*) See note (*a*) to s. 1, *ante*, p. 2438.

(*c*) By a local Act, a corporation were empowered to make agreements with regard to a supply of electrical energy to consumers and were liable to a penalty for default in supplying energy to any owner or occupier of premises to whom they might be and were required to supply energy under the Act. The plaintiffs, who were not entitled to require a supply under the Act, made an agreement with the corporation for the supply of electrical energy. It was held that an action would lie at the suit of the plaintiffs against the corporation to recover damages for an alleged breach of the agreement, there being no clear words in the statute confining the remedy of the plaintiffs to proceedings to recover the penalty under the section which rendered the corporation liable to such penalty (*Morris and Bastert, Ltd.* v. *Loughborough Corporation*, [1908] 1 K. B. 205; 71 J. P. 521).

(*d*) See these regulations in App. II., *post*, p. 3239.

(*e*) These byelaws will not be subject to the provisions of the P. H. A., 1875, as to byelaws. Byelaws made under Part II., ss. 13 *et seq.*, of the P. H. A., 1890, do not apply to the posts, wires, etc., of electrical undertakings. See s. 15 of that Act, *ante*, p. 875, and s. 26, P. H. A., 1925, *ante*, p. 1565, dealing with wires in connection with wireless installations.

Expenses of local authority

7. Any expenses incurred by a local authority under this Act (*a*), and not otherwise provided for (*b*), including any expenses incurred in connection with the obtaining by them, or any opposition to the obtaining by any other local authority, company, or person, of any licence, Order, or special Act under this Act, may be defrayed out of the local rate as defined in the Schedule to this Act (*c*), and the local authority may from time to time cause such rates to be levied as may be necessary for the purpose of defraying such expenses; provided that where such local authority is a rural sanitary authority such expenses shall be deemed to be special expenses within the meaning of the Public Health Act, 1875 (*d*).

38 & 39 Vict. c. 55.

(*a*) Expenses incurred by a local authority under an agreement with a joint electricity authority are deemed to be expenses incurred under the Electric Lighting Acts, and this and the next section are to apply accordingly (s. 32 of the Electricity (Supply) Act, 1919, *post*, p. 2800). See also the borrowing power conferred by s. 5 of the Electricity (Supply) Act, 1922, *post*, p. 2837.

(*b*) See the P. H. A., 1875, s. 298, *ante*, p. 633, and notes.

(*c*) See the Schedule, *post*, p. 2456. In urban districts the local rate is the general rate; in rural districts it is normally the special rate (see the P. H. A., 1875, ss. 207, 229, *ante*, pp. 495, 514, and the Rating and Valuation Act, 1925, ss. 2 (1) and 3, *ante*, pp. 1637, 1643). No sanction is required to the payment of such costs, as is the case with Orders to which s. 298 of the P. H. A., 1875, applies. It will be observed that no power of borrowing is conferred by the section.

(*d*) See s. 229 of that Act, *ante*, p. 514.

Note to Section 7.

Power of local authority to borrow money.

8. A local authority authorised to supply electricity by any licence, Order, or special Act may from time to time borrow (*a*) money on such security, with such consent and subject to such provisions and restrictions with respect to borrowing and the repayment of loans, as are in the Schedule to this Act in that behalf mentioned (*b*), and the money so borrowed shall be deemed to be borrowed under the enactments subject to the provisions and restrictions of which it is borrowed, and the accounts of all receipts and expenditure by the local authority in pursuance of this Act, or any licence, Order, or special Act, shall be subject to such audit as is in the said Schedule in that behalf mentioned (*c*): Provided always, that any moneys borrowed under this section by the local authority of any district to which the Local Loans Act, 1875 (*d*), extends, may, if it is thought fit, be borrowed in manner provided by that Act; and in the construction of the said Act for the purposes of this Act the expression "prescribed" means prescribed by any conditions imposed by the authority whose consent is required to borrowing under this section.

38 & 39 Vict. c. 83.

Where any local authority is authorised by any Act to raise any money which they may be empowered to borrow for certain purposes by the issue of corporation or other stock, any money which a local authority may be authorised to borrow under this section may, if it is thought fit, be raised by them by the issue of such stock as aforesaid (*e*).

This section shall not apply to the mayor, commonalty, and citizens of the city of London or to the Metropolitan Board of Works, except in so far as the Metropolitan Board of Works may be concerned in the borrowing of any money by any vestry or district board (*f*).

(*a*) See note (*a*) to s. 7, *ante*, p. 2442. Money borrowed under the Electricity Supply Acts was not to be reckoned as part of the authority's total debt for the purpose of any limitation on borrowing powers: see s. 21 of the Electric Lighting Act, 1909, *post*, p. 2701, and s. 5 (2) of the Electricity (Supply) Act, 1922, *post*, p. 2538, but by s. 74 of the L. G. A., 1929, *ante*, p. 1940, all limitations on borrowing powers are removed. As to suspension of sinking fund payments in respect of new works, see s. 2 of the Electricity (Supply) Act, 1922, *post*, p. 2836. The borrowing powers conferred by this section are extended to cover agreements entered into with the Central Electricity Board by s. 16 of the 1926 Act, *post*, p. 2921, and in the case of local authorities for the sale, etc., of fittings under s. 48, *ibid.*, *post*, p. 2935.

(*b*) These provisions are contained in the P. H. A., 1875, ss. 233, 234, 236—239, *ante*. The L. G. B. was formerly the Government Department concerned with borrowing. The Board was superseded by the Ministry of Health, but now by s. 20 of the Electricity (Supply) Act, 1919, the powers of the Ministry of Health to sanction borrowing under this Act have been transferred to the Electricity Commissioners set up by the Act of 1919. In determining whether to sanction a loan under this section the Commissioners must have regard to the provisions of the Electricity (Supply) Act, 1926, and the effect of any scheme or proposed scheme thereunder (s. 18 (2), Electricity (Supply) Act, 1926, *post*, p. 2922).

(*c*) That is, the audit prescribed by the P. H. A., 1875, ss. 246—248, *ante*, p. 539.

(*d*) See the Act, *ante*, p. 2343.

(*e*) A local authority authorised to supply electricity by Provisional Order entered into an agreement with a company by which the local authority were to purchase a site and erect buildings for the generating station, and the company were to fit up the plant and apparatus and carry on the undertaking and receive the profit for their own benefit. It being contemplated that it would be necessary for the local authority to borrow money to enable the company to construct and fit up apparatus, a clause in the agreement provided that the company should pay half-yearly to the local authority sums equal to the sums paid by the local authority in the preceding half-year for interest and sinking fund on money borrowed. It was held that the sums payable half-yearly by the company were an "annual payment" within the meaning of s. 40 of the Income Tax Act, 1853, and the company in making the payment were entitled to deduct income tax accordingly (*Surbiton U. D. C.* v. *Callender's Cable and Construction Co., Ltd.* (1910), 8 L. G. R. 244).

Note to Section 8.

(*f*) The powers of the London County Council (as successors to the Metropolitan Board of Works) have been transferred to the Electricity Commissioners set up by the Electricity (Supply) Act, 1919 (see s. 20 of that Act, *post*, p. 2794).

Accounts.

9. The undertakers shall on or before the twenty-fifth day of March (*a*) in every year fill up an annual statement of accounts of the undertaking made up to the thirty-first day of December (*a*) then next preceding; and such statement shall be in such form and shall contain such particulars and shall be published in such manner as may from time to time be prescribed in that behalf by the Board of Trade (*b*).

The undertakers shall keep copies of such annual statement at their office, and sell the same to any applicant at a price not exceeding one shilling a copy.

In case the undertakers make default in complying with the provisions of this section, they shall be liable to a penalty not exceeding forty shillings for each day during which such default continues.

(*a*) In the case of local authorities these dates are varied by s. 12 of the Electric Lighting Act, 1909, *post*, p. 2699, but see next note.

(*b*) The Board of Trade has now, for most of the purposes of this Act, been superseded by the Ministry of Transport, see note (*a*) to s. 1 on p. 2438, *ante*, but by s. 27 of the Electricity (Supply) Act, 1919, *post*, p. 2799, it is provided that (*inter alia*) authorised undertakers under the Act in the text shall furnish to the Electricity Commissioners at such times and in such form and manner as the Commissioners may direct such accounts, statistics, and returns as they may require for the purposes of their powers and duties under that Act.

General powers of undertakers under licence or Provisional Order.

10. The undertakers may, subject to and in accordance with the provisions and restrictions of this Act, and of any rules made by the Board of Trade (*a*) in pursuance of this Act and of any licence, Order, or special Act authorising or affecting their undertaking, and for the purpose of supplying (*b*) electricity acquire such lands (*c*) by agreement (*d*), construct such works (*e*), acquire such licences for the use of any patented or protected processes, inventions, machinery, apparatus, methods, materials, or other things, enter into such contracts, and generally do all such acts and things as may be necessary and incidental to such supply (*f*).

(*a*) See note (*a*) to s. 1, *ante*, p. 2438.

(*b*) A municipal corporation were the undertakers for the supply of electricity within their area, and purporting to exercise their statutory powers, supplied every description of electrical fittings and apparatus to consumers of electricity. It was held that the statutory powers of the undertakers ceased with the delivery of electricity at the terminals, *i.e.*, the meter, on the consumers' premises, and were complete at that point, and that the general power to do "all such acts and things as were necessary and incidental to such supply" was limited to the generation and delivery of such supply; that the analogy of the supply of gas under the Gasworks Clauses Acts did not apply to the supply of electricity under the Electric Lighting Acts; and that the supply of electrical fittings and apparatus for the use of consumers was *ultra vires* the corporation (*Att.-Gen.* v. *Leicester Corporation*, [1910] 2 Ch. 359; 74 J. P. 385), followed in *A.-G.* v. *County of London Electric Supply Co., Ltd.*, [1926] Ch. 542; and *cf. Deuchar* v. *Gas Light and Coke Co.*, [1925] A. C. 691). In a case of a municipal corporation alleged to have in excess of their powers under the Electric Lighting Acts and a confirmed Provisional Order installed and repaired electric light fittings and wires within and without their area of supply on the consumers' sides of the terminals and also electric bell fittings and wires, the facts were held to have been brought within the judgment in *Att.-Gen.* v. *Leicester Corporation*, *supra*, where an injunction was granted, and that this would be followed unless the defendants (1) had power as a chartered corporation to carry on the business complained of, or (2) were so empowered by a private Act enabling them to supply mains but not manufacture things for cooking, heating, ventilating and motive power, and also to repair such things. It was held that the first point, not having been raised until the trial, was not open to the defendants, and that if it were, the impugned acts were continuous acts partly *intra vires* and partly *ultra vires* the corporate powers, and could not be dissected, and could not, therefore, be justified; also that the further powers under the Act were confined to the area of supply and to electric motors and apparatus used as sources of power for the specified purposes and did not extend to the objects to which the power was transmitted (*Att.-Gen.* v. *Sheffield Corporation* (1912), 76 J. P. 185; 106 L. T. 367).

Note to Section 10.

See also *Att.-Gen.* v. *Ilford U. D. C.* (1915), 13 L. G. R. 441. But see now s. 23 of the Electricity (Supply) Act, 1919, *post*, p. 2798, and *Attorney-General* v. *Liverpool Corporation*, [1922] 1 Ch. 211; 20 L. G. R. 547; and s. 48, Electricity (Supply) Act, 1926, *post*, p. 2935, which expressly authorises local authorities to sell, install, etc., fittings and appliances.

(*c*) As to purchase by local authority, see the Electric Lighting Clauses Act, 1899, Sched., clause 8, *post*, p. 2573; and see now also ss. 6, 8, 9, 13, and 32 of the Electricity (Supply) Act, 1919, *post*, pp. 2784, 2785, 2786, 2788, 2800. A local authority having acquired land for the purpose of erecting thereon works for generating electricity were restrained from using part of such land for the erection of a refuse destructor, although they proposed to use the surplus heat produced by the destruction of refuse in aid of their machinery for generating electricity (*Att.-Gen.* v. *Pontypridd U. D. C.*, [1906] 2 Ch. 257; 70 J. P. 394). The case is an illustration of the general principle that it is *ultra vires* for a local authority having acquired land for particular purposes under the powers of one statute to use the land so acquired or any part of it for another purpose, although such other purpose may be within the powers given to them under some other statute. And see the similar case of *Att.-Gen.* v. *Bradford Corporation* (1911), 75 J. P. 553; 55 Sol. J. 715. See, however, s. 95, P. H. A., 1907, *ante*, p. 1161.

(*d*) Land for a generating station may now be acquired compulsorily. See s. 1 of the Electric Lighting Act, 1909, *post*. See also as to generating stations, ss. 9, 10, and 11 of the Electricity (Supply) Act, 1919, and ss. 5, 6 and 14, Electricity (Supply) Act, 1926.

(*e*) Defined by s. 32, *post*, p. 2454. But as to restrictions on the construction of generating stations, see ss. 1 and 2 of the Electric Lighting Act, 1909, and s. 11 of the Electricity (Supply) Act, 1919. And as to the power of the Central Electricity Board to close generating stations in certain events (s. 14, Electricity (Supply) Act, 1926, *post*, p. 2920).

(*f*) See note (*b*) to s. 10, *ante*, p. 2444. By s. 6 of the Telegraph Act, 1892, the undertakers may agree with the Postmaster-General for placing telegraphs in the trenches, tubes, or pipes used for the purposes of laying their own electric line. In the case of *In re St. Nicholas Cole Abbey and St. Benet Fink*, [1893] P. 58, an electric lighting company obtained a faculty for constructing chambers for the storage and transformation of electricity under two disused churchyards in the city of London, and it was held that the vesting of one of such churchyards by local Acts in the corporation to the intent that it might for ever remain unbuilt upon and unused for any purpose, except such ornamental purpose as the bishop should approve, did not preclude the court from granting the faculty. As to sale of lamps and fittings, see note (*d*) to s. 4, *ante*, p. 2440. As to liability for nuisance, see s. 17 and notes, *post*, p. 2448. As to liability of contractors to the local authority, being the undertakers, see *Fulham Borough Council* v. *National Electric Construction Co.* (1906), 70 J. P. 55; 4 L. G. R. 115.

Power for local authority to contract in certain cases and restrictions on assignments of powers, etc. of undertakers.

11. Any local authority who have obtained a licence, Order, or special Act for the supply of electricity, may contract with any company or person for the execution and maintenance of any works needed for the purposes of such supply, or for the supply of electricity within any area mentioned in such licence, Order, or special Act, or in any part of such area; *but no local authority, company, or person shall by any contract or assignment transfer to any other company or person or divest themselves of any legal powers given to them, or any legal liabilities imposed on them by this Act, or by any licence, Order, or special Act, without the consent of the Board of Trade* (*a*).

(*a*) The first part of the section deals with cases where the local authority remains the party supplying electricity, though it may contract for the execution of works or buy electricity from some other person or company. The second part, now repealed and replaced by a different provision in s. 14 of the Electric Lighting Act, 1909, *post*, p. 2700, as to which see now the provisions contained in the Electricity (Supply) Acts, 1919 and 1922, dealt with cases of transfer by the local authority or some other company or person of the legal powers for supplying electricity. Where the effect of a contract between a local authority having statutory powers and a company was to place the company in the position of the authority as regards their statutory powers and duties without the consent of the Board of Trade, the contract was held void, notwithstanding a clause intended to prevent the contract from being as between the parties an assignment or transfer of the statutory powers of the authority (*Sudbury Corporation* v. *Empire Electric Light and Power Co.*, [1905] 2 Ch. 104; 69 J. P. 321). A collateral agreement containing terms of transfer not approved by the Board of Trade, but made a condition of the execution of a transfer deed approved by that Board, was held not *ultra vires* and enforceable (*Lambeth Borough Council* v. *South London Electric Supply Corporation, Ltd.* (1907), 71 J. P. 233; 96 L. T. 440, followed in *Southport Corporation* v. *Birkdale District Electric Supply Co. Ltd.*, [1925] Ch. 794; 89 J. P. 149, where, after an agreement had been made containing terms of transfer approved by the Board, a further agreement that the company to whom the transfer had been made would not charge higher prices than those charged in an adjoining

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borough was entered into without the approval of the Board This latter agreement was held not *ultra vires* as being a business transaction into which the defendants might reasonably enter, 22 T. L. R. 78). See also *London Electric Supply Corporation, Ltd.* v. *Westminster Electric Supply Corporation, Ltd.* (1913), 11 L. G. R. at p. 1052.

Incorporation of certain provisions of Clauses Consolidation Acts.

12. The provisions of the following Acts shall be incorporated with this Act; that is to say,

(1) The Lands Clauses Acts (*a*), except the enactments with respect to the purchase and taking of lands otherwise than by agreement (*b*), and except the enactments with respect to the entry upon lands by the promoters of the undertaking; and

10 & 11 Vict. c. 15.

(2) The provisions of the Gasworks Clauses Act, 1847 (*c*), with respect to breaking up streets (*d*) for the purpose of laying pipes, and with respect to waste or misuse of the gas or injury to the pipes and other works, except so much thereof as relates to the use of any burner other than such as has been provided or approved of by the undertakers; and

34 & 35 Vict. c. 41.

(3) Sections thirty-eight to forty-two inclusive, and sections forty-five and forty-six, of the Gasworks Clauses Act, 1871.

For the purposes of this Act, in the construction of all the enactments incorporated by this section, "the special Act" means this Act inclusive of any licence, Order, or special Act; and "the promoters" or "undertakers," and "the undertaking," as the case may be, mean the undertakers and the undertaking respectively under this Act.

In the construction of the said Lands Clauses Acts, "land" includes easements in or relating to lands.

In the construction of the said Gasworks Clauses Act, 1847, and the Gasworks Clauses Act, 1871, the said Acts shall be construed as if "gas" meant "electricity," and as if "pipe" meant electric line, and "works" meant "works" as defined by this Act, and as if "the limits of the special Act" meant the area within which the undertakers are authorised to supply electricity under any licence, Order, or special Act.

All offences, forfeitures, penalties, and damages under the said incorporated provisions of the said Acts or any of them may be prosecuted and may be recovered in manner by the said Acts respectively enacted in relation thereto, provided that sums recoverable under the provisions of section forty of the Gasworks Clauses Act, 1871, shall not be recovered as penalties, but may be recovered summarily as civil debts (*e*).

(*a*) These Acts are 8 & 9 Vict. c. 18; 23 & 24 Vict. c. 106; 32 & 33 Vict. c. 18; 46 & 47 Vict. c. 15, and are (except 32 & 33 Vict. c. 18, which so far as still unrepealed relates only to lands in Westminster) included in this Appendix.

(*b*) But see now s. 1 of the Electric Lighting Act, 1909, *post*, p. 2695, as to compulsory acquisition of land for generating stations.

(*c*) *Ante*, p. 2164, and see *Porter* v. *Ipswich Corporation*, [1922] 2 K. B. 145; 20 L. G. R. 502. See also the provisions in the Electric Lighting Act, 1888, s. 4, *post*, p. 2497, as to the restrictions on placing electric lines in, over, etc., streets.

(*d*) As to breaking up streets, railways, or tramways, outside the area of supply in order to connect with a generating station, see s. 3 of the Electric Lighting Act, 1909, *post*, p. 2696; *cf.* also *ibid.*, ss. 4, 6.

(*e*) That is to say, in manner provided by the S. J. A., 1879, ss. 6, 35. See the note to s. 251 of the P. H. A., 1875, *ante*, p. 549.

Restriction on breaking up of private streets, railways and tramways.

13. Nothing in this Act or in any Act incorporated therewith shall authorise or empower the undertakers to break up any street which is not repairable by such local authority, or any railway or tramway, without the consent of the authority, company, or person by whom such street, railway, or tramway is repairable, unless in pursuance of special powers in that behalf inserted in the licence, Order, or special Act, or with the written consent of the Board of Trade (*a*), and the Board of Trade (*a*) shall not in any case insert any such special powers in any licence or Provisional Order, or give any such consent until notice has been given to such authority, company, or person by advertisement or otherwise, as the Board of Trade (*a*) may direct, and an opportunity has been given to such authority, company, or person to state any objections they may have thereto (*b*).

(*a*) See note (*a*) to s. 1, *ante*, p. 2438.

(*b*) See r. V. of the Electricity Commissioners Rules, in App. II., *post*, p. 3253, and the Electric Lighting Clauses Act, 1899, Sched., clause 21 (3), *post*, p. 2583, as to obtaining the consent of the Ministry of Transport as successor of the Board of Trade. In the case of *London Corporation* v. *County of London Electric Supply Co.*, [1910] 2 Ch. 208; 74 J. P. 268, the defendants proposed to connect up their areas of supply on the north and south sides of the Thames by laying electric mains along streets, including London Bridge, outside their areas of supply, in pursuance of the powers conferred upon them by the London Electric Supply Act, 1908. London Bridge is not a bridge repairable by the local authority, but is repairable by the corporation of the city of London as trustees of the Bridge House estates. The corporation sought an injunction to restrain the defendants from laying the proposed mains, and a declaration that the Act of 1908 did not entitle them to break up or carry the mains over London Bridge without the corporation's consent. It was held that the defendants had power, subject to the provisions of the Acts therein referred to, to lay electric mains over London Bridge, that is subject to the consent either of the corporation or, if that were refused, of the Board of Trade. In *Andrews* v. *Abertillery U. D. C.*, [1911] 2 Ch. 398; 75 J. P. 449, it was held (KENNEDY, L.J., *dissentiente*) that where there was no person by whom the street was repairable the section operated as an absolute prohibition against the breaking up of the street by the undertakers, and that therefore where a strip of land adjoining a street repairable by the local authority had been dedicated to the public by the owner and had become part of the street, but was not repairable either by the local authority or by the owner or by any other person, the local authority, as undertakers for the supply of electric light in their district, had no power to break up that portion of the street. See also now s. 22 of the Electricity (Supply) Act, 1919, and s. 44, Electricity (Supply) Act, 1926, as to wayleaves, *post*, pp. 2795, 2934.

Restrictions as to above-ground works.

14. Notwithstanding anything in this Act or in any Act incorporated therewith, the undertakers shall not be authorised to place any electric line above ground, along, over, or across any street, without the express consent of the local authority (*a*), and the local authority may require the undertakers to forthwith remove any electric line placed by them contrary to the provisions of this section, or may themselves remove the same, and recover the expenses of such removal from the undertakers in a summary manner; and where any electric line has been placed above ground by the undertakers in any position, a court of summary jurisdiction, upon complaint made, if they are of opinion that such electric line is or is likely to become dangerous to the public safety, may, notwithstanding any such consent as aforesaid, make an order directing and authorising the removal of such electric line by such person and upon such terms as they may think fit.

(*a*) Therefore the case of *Wandsworth Board of Works* v. *United Telephone Co.*, *ante*, p. 294, will not apply to such wires. See also *National Telephone Co.* v. *Constables of St. Peter Port, Guernsey*, *ante*, p. 295, and *Finchley Electric Light Co., Ltd.* v. *Finchley U. D. C.*, Times, October 17th, 1901. Further restrictions are contained in the Electric Lighting Act, 1888, s. 4, and the Electric Lighting Clauses Act, 1899, Sched., clause 10 (b), *post*, pp. 2497, 2574. However, by s. 21 of the Electricity (Supply) Act, 1919, as amended by s. 44, Electricity (Supply) Act, 1926, the consent of the Ministry of Transport (as successor to the Board of Trade) now suffices for the placing of any electric line above ground. Wires to which this Act applies are not subject to the P. H. A., 1890, ss. 13, 14. See s. 15 of that Act, *ante*, p. 875. As to London, see 54 & 55 Vict. c. lxxvii.

Power to undertakers to alter position of pipes and wires.

15. Subject to the provisions of this Act and of the licence, Order, or special Act authorising them to supply electricity, and to any byelaws made under this Act (*a*), the undertakers may alter the position of any pipes or wires being under any street or place authorised to be broken up by them

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which may interfere with the exercise of their powers under this Act, on previously making or securing such compensation to the owners of such pipes or wires, and on complying with such conditions as to the mode of making such alterations as may before the commencement of such alterations be agreed upon between the undertakers and owners, or in case of difference as may be determined in manner prescribed by the licence or Provisional Order authorising the undertakers to supply electricity, or where no such manner is prescribed as may be determined by arbitration, and any local or other public authority, company, or person may in like manner alter the position of any electric lines or works of the undertakers, being under any such street or place as aforesaid, which may interfere with the lawful exercise of any powers vested in such local or other public authority, company, or person in relation to such street or place, subject to the like provisions, conditions, and restrictions as are in this section contained with reference to the alteration of the position of any pipes or wires by the undertakers (*b*).

(*a*) See also the Electric Lighting Clauses Act, 1899, Sched., clause 17, *post*, p. 2579.
(*b*) The provisions of this section are overridden by s. 35, Electricity (Supply) Act, 1926, *post*, p. 2929, in so far as alterations of works crossing a county bridge are concerned.

Clause for protection of canals.

16. If at any time after the undertakers have placed any works under, in, upon, over, along or across any canal (*a*), any person having power to construct docks, basins or other works upon any land adjoining to or near such canal, constructs any dock, basin or work on such land, but is prevented by the works of the undertakers from forming a communication for the convenient passage of vessels with or without masts between such dock, basin or other work, and such canal; or if the business of such dock, basin or other work is interfered with by reason or in consequence of any such works of the undertakers, then the undertakers at the request of such person, and on having reasonable facilities afforded them by him for placing works round such dock, basin or other work, under, in, upon, over, along or across land belonging to or under his control, shall remove and place their work accordingly. If any dispute arises between the undertakers and such person as to the facilities to be afforded to the undertakers, or as to the direction in which the works are to be placed, it shall be determined by arbitration.

(*a*) See also as to protection of railway and canal companies the Electric Lighting Clauses Act, 1899, Sched., clause 19, *post*, p. 2582, and s. 22 of the Electricity (Supply) Act, 1919, *post*.

Compensation for damage.

17. In the exercise of the powers in relation to the execution of works given them under this Act, or any licence, Order, or special Act, the undertakers shall cause as little detriment and inconvenience and do as little damage (*a*) as may be, and shall make full compensation to all bodies and persons interested for all damage sustained by them by reason or in consequence of the exercise of such powers, the amount and application of such compensation in case of difference to be determined by arbitration (*b*).

(*a*) See s. 26, *post*, p. 2451, for the protection of the Postmaster-General, and ss. 5 (3), 22 of the Electric Lighting Act, 1909, *post*, pp. 2697, 2701, for the protection of certain public buildings.
(*b*) See s. 28, *post*, p. 2452.

A company authorised by private Act to supply a certain district with electric light committed a nuisance and damage to a public-house near their lighting station, by the withdrawal of support caused in digging foundations, and by vibration in working their engines:—*Held*, that "works" in s. 17, as defined by s. 32 of this Act, included only what was required to supply electricity and not the actual supply, and, therefore, the case did not fall within s. 17; but the company were liable in damages at common law, and to be restrained by injunction (*Shelfer* v. *City of London Electric Lighting Co.*; *Meux's Brewery, Ltd.* v. *City of London Electric Lighting Co.*, [1895] 1 Ch. 287). See also *National Telephone Co.* v. *Baker*, [1893] 2 Ch. 186; 57 J. P. 373; *Att.-Gen.* v. *Pall*

Mall Electric Lighting Co., Times, March 13th, 1895; *Fowler* v. *Chelsea Electric Supply Co.*; *Sandon* v. *Same*, Times, May 25th, 1895; *Holdsworth* v. *St. Pancras Vestry*, Times, April 18th, 1896; *Hawkes* v. *Leyton U. D. C.*, Times, November 30th, 1900; May 1st, 1901; *Morrow* v. *Stepney Corporation* (1921), 43 M. C. C. 33.

Note to Section 17.

A serious annoyance to adjoining occupiers by vibration, noise, and smell, is not to be excused on the ground that it is temporary and occasional (*Knight* v. *Isle of Wight Electric Light and Power Co.* (1904), 73 L. J. Ch. 299; 68 J. P. 266). This is the case although the defendants are a local authority having under a Provisional Order a power to supply electricity (*Colwell* v. *St. Pancras Borough Council*, [1904] 1 Ch. 707; 68 J. P. 286). No special consideration is due to the fact that the complaint is made in respect of a place of worship, but the general character of the neighbourhood and all the surrounding circumstances must be considered, and an injunction will be refused unless there is a serious annoyance (*Heath* v. *Brighton Corporation* (1908), 72 J. P. 225). See also as to nuisance caused by fumes from a generating station (*Farnworth* v. *Manchester Corporation*, [1929] W. N. 281; 94 J. P. 62 (H.L.), upholding decision of C. A. at [1929] 1 K. B. 533).

Undertakers not to prescribe special form of lamp or burner.

18. The undertakers shall not be entitled to prescribe any special form of lamp or burner to be used by any company or person, or in any way to control or interfere with the manner in which electricity supplied by them under this Act, and any licence, Order, or special Act, is used: Provided always that no local authority, company, or person shall be at liberty to use any form of lamp or burner or to use the electricity supplied to them for any purposes, or to deal with it in any manner so as to unduly or improperly interfere with the supply (*a*) of electricity supplied to any other local authority, company, or person by the undertakers (*b*), and if any dispute or difference arises between the undertakers, and any local authority, company, or person entitled to be supplied with electricity under this Act, or any licence, Order, or special Act, as to the matters aforesaid, such dispute or difference shall be determined by arbitration.

(*a*) See note (*b*) to s. 10, *ante*, p. 2444.

(*b*) See also the Electric Lighting Clauses Act, 1899, Sched., clause 27 (4), *post*, p. 2586.

Obligation on undertakers to supply electricity.

19. Where a supply of electricity is provided in any part of an area for private purposes, then except in so far as is otherwise provided by the terms of the licence, Order, or special Act authorising such supply, every company or person within that part of the area shall, on application, be entitled to a supply on the same terms on which any other company or person in such part of the area is entitled under similar circumstances to a corresponding supply (*a*).

(*a*) No one is entitled to demand a supply of energy under this section unless and until he has made a contract with the undertakers for the supply. Thus a receiver for debenture-holders taking possession of a hotel for the lighting of which the company, who were proprietors, were in debt to an electric supply company, was held not to be entitled to a further supply, as he refused to pay the arrears which the electric supply company demanded payment of as a condition for continuing the light (*Husey* v. *London Electric Supply Corporation*, [1902] 1 Ch. 411).

See s. 23 (1) of the Electricity (Supply) Act, 1922, *post*, p. 2846, as to standby supplies of electricity; and see s. 18 of Electric Lighting Act, 1909, *post*, p. 2701, as to their right to refuse a supply to a person who is in their debt for electricity previously supplied.

In *Metropolitan Electric Supply Co., Ltd.* v. *Ginder*, [1901] 2 Ch. 799, at p. 811, it was held by BUCKLEY, J., that the words "a supply on the same terms" used in this section bear their natural meaning, and include price. In *Att.-Gen. for Victoria* v. *Melbourne Corporation*, [1907] A. C. 469, at p. 475, the Privy Council approved this construction with regard to the same words as used in s. 38 of the Victorian Electric Lighting and Power Act, 1896, that section being practically identical with this. But s. 39 of that Act dealing with preference differs in its wording from s. 20 of this Act, relating to the same subject. The Privy Council held that on the true construction of ss. 38 and 39 of the Victorian Act the corporation were authorised to supply electricity under two different systems of charge—one at a fixed rate and the other at a rate varying with the amount consumed, the system adopted being at the choice of the customer and no preference being given within each system to one consumer over another.

Section 20.

Charges for electricity.

20. The undertakers shall not, in making any agreements for a supply of electricity, show any undue preference to any local authority, company, or person, but save as aforesaid, they may make such charges for the supply of electricity as may be agreed upon, not exceeding the limits of price imposed by or in pursuance of the licence, Order, or special Act authorising them to supply electricity (*a*).

(*a*) See also the Electric Lighting Clauses Act, 1899, Sched., clauses 31—34, *post*, p. 2587, and the Electric Lighting Act, 1909, s. 17, *post*, p. 2701. A form of agreement is given in Key and Elphinstone's Precedents in Conveyancing, 8th ed.; but from the consumer's point of view the agreement should always contain a provision that no change should be made in the pressure of the supply. A contract containing a clause that the consumer agrees to take the whole of the electric energy required for his premises from the company for a period of not less than five years at a fixed charge not exceeding the limit under this section, does not contravene this or the preceding section, and may be enforced by injunction (*Metropolitan Electric Supply Co.* v. *Ginder*, [1901] 2 Ch. 799; 65 J. P. 519). Where undertakers issued a circular with reference to the price proposed to be charged for electricity to power consumers, the effect of which was in certain cases to make a lower charge for power purposes to consumers who in addition to a supply for power took exclusively a supply of electricity for lighting purposes, and a higher charge to consumers of electricity for power only or for power and partial lighting, it was held that the differentiation proposed by the circular was a breach of both ss. 19 and 20 (*Att.-Gen.* v. *Long Eaton U. D. C.*, [1915] 1 Ch. 124. The principle of the last-mentioned decision was applied in *Att.-Gen.* v. *Ilford U. D. C.* (1915), 13 L. G. R. 441, and in *Att.-Gen.* v. *Hackney Corporation*, [1918] 1 Ch. 372, which last-mentioned case was, however, distinguished from the Long Eaton case on facts). By a contract for electric lighting installation, it was provided that the work should be completed in all respects before November 26th, 1898, subject to a penalty of £15 a day, and the plant by December 10th, subject to a penalty of £3 per day for every day the work remained unfinished to the satisfaction of the authorities or engineers:—*Held*, that although the word "penalties" was used, the amounts incurred owing to the default of the contractors were, in fact, "liquidated damages" (*Re White and Arthur* (1901), 84 L. T. 594). For the construction of an agreement for the supply of electricity and as to the finality of meter readings, see *Gravesend and Northfleet Electric Tramways, Ltd.* v. *Gravesend Corporation* (1910), 74 J. P. 156; 8 L. G. R. 445.

Recovery of charges, etc.

21. If any local authority, company, or person neglect to pay any charge for electricity or any other sum due from them to the undertakers in respect of the supply of electricity to such local authority, company, or person, the undertakers may cut off such supply, and for that purpose may cut or disconnect any electric line or other work through which electricity may be supplied, and may, until such charge or other sum, together with any expenses incurred by the undertakers in cutting off such supply of electricity as aforesaid, are fully paid, but no longer, discontinue the supply of electricity to such local authority, company, or person (*a*).

(*a*) These charges are recoverable like gas rents, subject to the qualifications contained in the last clause of s. 12, *ante*, p. 2446. See also s. 18, Electric Lighting Act, 1909, *post*, p. 2701. Power is given by s. 45, Electricity (Supply) Act, 1926, *post*, p. 2934, to recover expenses of reconnecting after a supply has been cut off under this section.

Injuring works with intent to cut off supply of electricity.

22. Any person who unlawfully and maliciously cuts or injures any electric line or work with intent to cut off any supply of electricity shall be guilty of felony, and be liable to be kept in penal servitude for any term not exceeding five years, or to be imprisoned with or without hard labour for any term not exceeding two years; but nothing in this section shall exempt a person from any proceeding for any offence which is punishable under any other provision of this Act, or under any other Act, or at common law, so that no person be punished twice for the same offence.

Stealing electricity.

23. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, consumes, or uses any electricity shall be guilty of simple larceny and punishable accordingly.

Section 24.

Power to enter lands or premises for ascertaining quantities of electricity consumed, or to remove fittings, etc.

24. Any officer appointed by the undertakers may at all reasonable times enter (*a*) any premises to which electricity is or has been supplied (*b*) by the undertakers, in order to inspect the electric lines, meters, accumulators, fittings, works, and apparatus for the supply of electricity belonging to the undertakers (*c*), and for the purpose of ascertaining the quantity of electricity consumed or supplied, or where a supply of electricity is no longer required, or where the undertakers are authorised to take away and cut off the supply of electricity from any premises, for the purpose of removing any electric lines, accumulators, fittings, works, or apparatus belonging to the undertakers (*c*), repairing all damage caused by such entry, inspection, or removal.

(*a*) No penalty is provided for obstructing the officer. Compare the Gasworks Clauses Act, 1871, s. 21, *ante*, p. 2320.

(*b*) See note (*b*) to s. 10, *ante*, p. 2444.

(*c*) As to lines, etc., let on hire, or sold on the instalment principle, see s. 16 of the Electric Lighting Act, 1909, *post*, p. 2700. See also Electricity (Supply) Act, 1919, s. 23, *post*, p. 2798.

Electric lines, etc. not to be subject to distress in certain cases.

25. Where any electric lines, meters, accumulators, fittings, works, or apparatus belonging to the undertakers (*a*) are placed in or upon any premises not being in the possession of the undertakers for the purpose of supplying electricity under this Act, or any licence, Order, or special Act, such electric lines, meters, accumulators, fittings, works, or apparatus shall not be subject to distress or to the landlord's remedy for rent of the premises where the same may be, nor to be taken in execution under any process of a court of law or equity, or any proceedings in bankruptcy against the person in whose possession the same may be (*b*).

(*a*) See note (*c*) to s. 24, *supra*.

(*b*) A somewhat similar provision was contained in the Gasworks Clauses Act, 1847, s. 14, with reference to which see *Gaslight and Coke Co.* v. *Hardy* (1886), 17 Q. B. D. 619; 51 J. P. 6. A person who procures possession of a house under an agreement between him and the owner for a lease thereof, with the fraudulent intention of stealing the fixtures thereto belonging, and upon obtaining possession severs and steals the fixtures, was held to be guilty of larceny under the Larceny Act, 1861, s. 31 (*R.* v. *Richards*, [1911] 1 K. B. 260; 75 J. P. 144). Section 31 of the Larceny Act, 1861, has now been repealed by the Larceny Act, 1916, which consolidated the law relating to larceny triable on indictment. See s. 8 of that Act.

Provision for protection of the Postmaster-General.
41 & 42 Vict. c. 76.

26. (*a*) No alteration in any telegraph line of the Postmaster-General shall be made by the undertakers except subject to the provisions of the Telegraph Act, 1878.

The undertakers shall not in the exercise of the powers conferred by this Act, or by any licence, Order, or special Act, lay down any electric line or do any other work for the supply of electricity whereby any telegraphic line of the Postmaster-General is or may be injuriously affected, and before any such electric line is laid down or work is done within ten yards of any part of a telegraphic line of the Postmaster-General (other than repairs *or the laying of connexions with mains where the direction of the electric lines so laid down crosses the line of the Postmaster-General at right angles at the point of shortest distance and continues the same for a distance of six feet on each side of such point*) (*b*) the undertakers or their agents *not more than twenty-eight nor less than seven clear days* [one month, or, in the case of the laying of service lines to consumers' premises, seven clear days] (*c*) before commencing such work shall give written notice to the Postmaster-General specifying the course and nature of the work, including the gauge of any electric lines, and the undertakers and their agents shall conform with such reasonable requirements either general or special as may from time to time be made by the Postmaster-General for the purpose of preventing any

Section 26.

telegraphs of the Postmaster-General from being injuriously affected by the said work.

Any difference which arises between the Postmaster-General and the undertakers or their agents with respect to any requirements so made, shall be determined by arbitration.

In the event of any contravention of or wilful non-compliance with this section by the undertakers or their agents the undertakers shall be liable to a fine not exceeding ten pounds for every day during which such contravention or non-compliance continues, or, if the telegraphic communication is wilfully interrupted, not exceeding fifty pounds for every day on which such interruption continues.

Provided that nothing in this section shall subject the undertakers or their agents to a fine under this section, if they satisfy the court having cognizance of the case that the immediate execution of the work was required to avoid an accident, or otherwise was a work of emergency, and that they forthwith served on the postmaster or sub-postmaster of the postal telegraph office nearest to the place where the work was done a notice of the execution thereof, stating the reason for executing the same without previous notice.

For the purposes of this section a telegraphic line of the Postmaster-General shall be deemed to be injuriously affected by a work if telegraphic communication by means of such line is, whether through induction or otherwise, in any manner affected by such work, or by any use made of such work.

For the purposes of this section, and subject as therein provided, sections two, seven, eight, nine, ten, eleven, and twelve of the Telegraph Act, 1878, shall be deemed to be incorporated with this Act, as if the undertakers were undertakers within the meaning of those sections, without prejudice nevertheless to any operation which the other sections of the said Act would have had if this section had not been enacted (*d*).

(*a*) See also s. 4 of the Act of 1888, *post*, p. 2497. This section is extended by s. 24 (2) Electricity (Supply) Act, 1926, *post*, p. 2924, to apply to all Government departments where the Central Electricity Board are the undertakers. See also s. 46 (3), *ibid.*, in relation to supplies by railway companies.

(*b*) These words were repealed by s. 25 of the Electricity (Supply) Act, 1919, *post*, p. 2798.

(*c*) The italicised words were repealed by s. 25 of the Electricity (Supply) Act, 1919, and by the same section the words in brackets were inserted.

(*d*) Section 2 of the Telegraph Act, 1878, contains certain definitions of expressions used in that Act, and is amended by the Light Railways Act, 1896, s. 25. Section 7 makes provision as to work done in pursuance of special Acts of Parliament which involves alteration in any telegraphic line. Section 8 deals with compensation and fines for injury to any telegraphic line of the Postmaster-General, and for interruption of telegraphic communication. Section 9 enacts a penalty for obstruction. Section 10 provides for the prosecution of offences. See further, as to the protection of the Postmaster-General, note (*b*) to s. 4 of the 1888 Act, *post*, p. 2498, and the Electric Lighting Clauses Act, 1899, Sched., clauses 14, 79, *post*, pp. 2576, 2599, and *Postmaster-General* v. *Liverpool Corporation*, [1923] A. C. 587 ; 87 J. P. 157.

27. [*Purchase of undertaking by local authority.*] (*a*)

(*a*) This section was repealed by the Electric Lighting Act, 1888, s. 2, *post*, p. 2495, which contained substituted provisions as to purchase by the local authority, but see now also s. 7 of the Electric Lighting Act, 1909, *post*, p. 2698, and s. 13 (2) and (3) of the Electricity (Supply) Act, 1919, *post*, pp. 2788, 2789.

Arbitration.

28. Where any matter is by this Act, or any licence, Order, or special Act (*a*), directed to be determined by arbitration, such matter shall, except as otherwise expressly provided, be determined by an engineer or other fit person to be nominated as arbitrator by the Board of Trade (*b*), on the application of either party, and the expenses of the arbitration shall be borne and paid as the arbitrator directs.

Section 28.

Any licence or Provisional Order granted under this Act shall be deemed to be a special Act within the meaning of the Board of Trade Arbitrations, etc., Act, 1874.

(*a*) Or by the Electric Lighting Clauses Act, 1899, *post*, p. 2569, where it applies. See, for instance, clause 18 (4) of the Schedule to that Act and *Chepstow Electric Light and Power Co.* v. *Chepstow Gas and Coke Consumers' Co.*, [1905] 1 K. B. 198; 69 J. P. 72.

(*b*) See note (*a*) to s. 1, *ante*, p. 2438.

Power for Board of Trade to relieve gas undertakers from obligation to supply gas in certain cases.

29. Where a supply of electricity is authorised in any area by any licence, Order, or special Act, and a supply of gas by any gas undertakers is also authorised within such area or any part thereof by any Provisional Order or special Act under the provisions of which such gas undertakers are under any general or limited obligation to supply gas upon demand (*a*), the Board of Trade (*b*) may, upon the application of such gas undertakers, inquire into the circumstances of the case, and if they are satisfied that any specified part of such area is sufficiently supplied with electric light, and that the supply of gas in such specified part has ceased to be remunerative to the gas undertakers, and that it is just that such gas undertakers should be relieved from the obligation to supply gas upon demand as aforesaid, the Board of Trade (*b*) may in their discretion make an Order relieving the gas undertakers from such obligation, within such specified part of such area, either wholly or in part, and upon such terms and conditions as they may think proper; and from and after the date of such Order such gas undertakers shall be so relieved accordingly. All expenses of the Board of Trade (*b*) in connection with any such inquiry or Order shall be borne and paid by the gas undertakers upon whose application the inquiry or Order was made.

(*a*) See the Gasworks Clauses Act, 1871, ss. 11, 36, *ante*, pp. 2317, 2323. As to the power of gas undertakers to obtain powers for the supply of electricity, see Statutory Gas Companies (Electricity Supply Powers) Act, 1925, and s. 49, Electricity (Supply) Act, 1926, *post*, pp. 2885, 2937.

(*b*) See note (*a*) to s. 1, *ante*, p. 2438.

Annual report by Board of Trade (*a*)

30. Not later than the first day of July in each year the Board of Trade (*a*) shall lay before both Houses of Parliament a report respecting the applications to and proceedings of the Board of Trade (*a*) under this Act during the year then last past (*b*).

(*a*) See note (*a*) to s. 1, *ante*, p. 2438.

(*b*) See also s. 13 of the Electric Lighting Act, 1909, *post*, p. 2700, as to the Ministry of Transport making a return with regard to auditors' reports.

Definition of local authority, etc.

31. In this Act, unless the context otherwise requires, the expressions "local authority" and "local rate" mean, as respects each district set forth in the first column of the Schedule to this Act annexed, the authority and rate mentioned opposite to that district in the second and third columns of that Schedule; and such Schedule, and the notes appended thereto, shall be of the same validity as if enacted in the body of the Act.

Interpretation.

32. In this Act, unless the context otherwise requires—

The expression "electricity" means electricity, electric current, or any like agency (*a*):

The expression "electric line" means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, tube, pipe, or insulator enclosing, surrounding, or supporting the same, or any part thereof, or any apparatus connected therewith for the purpose of conveying transmitting, or distributing electricity or electric currents:

The expression "works" means and includes electric lines, also any buildings, machinery, engines, works, matters, or things of whatever description required to supply electricity and to carry into effect the object of the undertakers under this Act (*b*):

The expression "company" means any body of persons corporate or unincorporate:

8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106. 32 & 33 Vict. c. 18.

The expression "Lands Clauses Acts" means the Lands Clauses Consolidation Acts, 1845, 1860, and 1869:

The expression "street" includes any square, court, or alley, highway, lane, road, thoroughfare, or public passage, or place, within the area in which the undertakers are authorised to supply electricity by this Act or any licence, Order, or special Act (*c*):

32 & 33 Vict. c. 73.

The expression "telegram" has the same meaning as in the Telegraph Act, 1869 (*d*).

(*a*) See definition of "energy" in the Electric Lighting Clauses Act, 1899, Sched., clause 1, *post*, p. 2570.

(*b*) See *Meux's Brewery, Ltd.* v. *City of London Electric Lighting Co.*, *ante*, p. 2448, and note (*b*) to s. 10, *ante*, p. 2444.

(*c*) See a further definition of this expression for the purposes of the Electric Lighting Act, 1888, s. 4, in sub-s. (5) of that section, *post*, p. 2498.

(*d*) By s. 3 of the Telegraph Act, 1869, the term "telegram" shall mean any message or other communication transmitted or intended for transmission by telegraph. And the term "telegraph" shall, in addition to the meaning assigned to it in the Telegraph Act, 1863, mean and include any apparatus for transmitting messages or other communications by means of electric signals. These definitions include the telephone and telephonic messages (*Att.-Gen.* v. *Edison Telephone Co. of London* (1880), 6 Q. B. D. 244).

For the protection of mines.

33. Nothing in this Act shall limit or interfere with the rights of any owner, lessee, or occupier of any mines or minerals lying under or adjacent to any road along or across which any electric line shall be laid to work such mines and minerals.

Provision as to general Acts.

34. Nothing in this Act shall exempt the undertakers or their undertaking from the provisions of any general Act relating to the supply of electricity which may be passed in this or any future session of Parliament (*a*).

(*a*) *Cf.* the Gasworks Clauses Act, 1847, s. 49, *ante*, p. 2177.

Saving for privileges of Postmaster-General.

35. Nothing in this Act or in any licence, Order, or special Act, shall affect the exclusive privileges conferred upon the Postmaster-General by the Telegraph Act, 1869, or authorise or enable any local authority, company, or person to transmit any telegram or to perform any of the incidental services of receiving, collecting, or delivering telegrams, or give to any local authority, company, or person, any power, authority, or facility of any kind whatever, in connection with the transmission of telegrams, or the performance of any of the incidental services of receiving, collecting, or delivering telegrams (*a*).

(*a*) See also the Electric Lighting Act, 1888, s. 4 (5), *post*, p. 2498. The Postmaster-General may, by written licence, under the Telegraph Act, 1869, s. 5, authorise the transmission of telegrams otherwise than by the post office. As to payment of expenses of exercise of powers by an urban district council under a telephone licence from the Postmaster-General, see the Telegraph Act, 1899, s. 2, *post*, p. 2608.

Note to Section 35.

Section 36 relates to Scotland, and s. 37 to Ireland. These sections and the parts of the Schedule relating to Scotland and Ireland are omitted.

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Schedule.

SCHEDULE.

ENGLAND AND WALES.

Districts of Local Authorities.	Description of Local Authority of District set opposite its name.	The Local Rate.	Security upon which Loans are to be contracted.	Authority whose Consent is required to borrowing by Local Authority.	Provisions and Restrictions as to borrowing and the Repayment of Loans.	Mode of Audit of Accounts of Local Authority.
The City of London and the liberties thereof.	The Mayor, Commonalty, and Citizens acting by the Commissioners of Sewers.	The consolidated sewers rate.				
Parts of the Metropolis which the Metropolitan Board of Works are authorised to light.	The Metropolitan Board of Works.	The consolidated rate.				
Parish mentioned in Schedule A. to the Metropolis Management Act, 1855.	The vestry.	The lighting rate or other fund or rate applicable for lighting.	The local rate as herein defined.	The Metropolitan Board of Works(a).	Those contained in sections one hundred and eighty-three to one hundred and ninety-one (both inclusive) of the Metropolis Management Act, 1855.	That prescribed by section one hundred and ninety-five of the Metropolis Management Act, 1855.
District mentioned in Schedule B. to the Metropolis Management Act, 1855.	The district board.					

Schedule.

Urban sanitary district (1).	The urban sanitary authority (1).	The fund or rate applicable to the general purposes of the Public Health Act, 1875, in the district, or any other fund or rate applicable to lighting under any local Act (*b*).	The local rate as herein defined and any property of the local authority.	The authority whose consent is required to loans under section two hundred and thirty-three of the Public Health Act, 1875 (*d*).	Those contained in sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine (both inclusive) of the Public Health Act, 1875.	In the case of boroughs (2), that prescribed by section two hundred and forty-six of the Public Health Act, 1875, and in the case of other urban sanitary authorities that prescribed by section two hundred and forty-seven of the same Act (*e*).
Rural sanitary district (1).	The rural sanitary authority (1).	The rate or rates out of which special expenses incurred in respect of the contributory place or places (1) comprised within the area of supply are payable under the Public Health Act, 1875 (*c*).	The local rate as herein defined.	The authority whose consent is required to loans under section two hundred and thirty-three of the Public Health Act, 1875 (*d*).	Those contained in sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine (both inclusive) of the Public Health Act, 1875.	That prescribed by section two hundred and forty-eight of the Public Health Act, 1875 (*e*).

NOTES.

(1) "Urban sanitary district," "urban sanitary authority," "rural sanitary district," "rural sanitary authority," and "contributory place," have the meanings respectively assigned to them in the P. H. A., 1875. [See ss. 6—9 of that Act, *ante*.]

(2) "Borough" means any place for the time being subject to an Act passed in the session holden in the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and the Acts amending the same. [This Act is now repealed, and the Municipal Corporations Act, 1882, is substituted for it.]

(*a*) See now note (†) to s. 8, *ante*, p. 2444. By s. 28 of the Electricity (Supply) Act, 1922, *post*, p. 2848, any expenses incurred by the L. C. C. under or in pursuance of that Act or the Electricity (Supply) Acts, 1882 to 1919, are to be defrayed as expenses for general county purposes.

(*b*) See the P. H. A., 1875, s. 207, *ante*, p. 495, and the Rating and Valuation Act, 1925, s. 2 (1), *ante*, p. 1637.

(*c*) See the P. H. A., 1875, s. 229, *ante*, p. 514, and the Rating and Valuation Act, 1925, s. 3, *ante* p. 1643.

(*d*) Now the Electricity Commissioners, see note (*b*) to s. 8, *ante*, p. 2443.

(*e*) See these sections, *ante*, pp. 540, 546.

THE PUBLIC WORKS LOANS ACT, 1882.

(45 & 46 VICT. c. 62) (*a*).

An Act to grant Money for the purpose of Loans by the Public Works Loan Commissioners and the Commissioners of Public Works in Ireland and the Irish Land Commission; and for other purposes relating to Loans by those Commissioners. [18th August, 1882.]

Short title.

1. This Act may be cited as "The Public Works Loans Act, 1882."

(*a*) See the Public Works Loans Act, 1875, *ante*, p. 2357.

Citation of Acts. 38 & 39 Vict. c. 89. 42 & 43 Vict. c. 77.

2. This Act may be cited, together with the Public Works Loans Act, 1875, and the Public Works Loans Act, 1879 (*a*), as the Public Works Loans Acts, 1879 to 1882.

(*a*) *Ante*, p. 2407.

PART I.

GRANT OF MONEY FOR PUBLIC WORKS LOAN COMMISSIONERS DURING THE PERIOD ENDING JUNE 30TH, 1883.

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PART II.

GRANT OF MONEY FOR PUBLIC WORKS COMMISSIONERS, IRELAND.

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PART III.

GRANT OF MONEY FOR IRISH LAND COMMISSION.

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PART IV.

AMENDMENT OF ACTS.

7. (*a*) . . .

Amendment of 24 & 25 Vict. c. 45, as to provision for loans in Provisional Order respecting harbours.

(1) Where a Provisional Order under the General Pier and Harbour Act, 1861, authorises any public body to raise a loan for the construction of any works as defined by that Act in any place, the same or any other order may authorise any rating authority as hereinafter defined in that place, under the circumstances and subject to the conditions specified in the order, to charge, if they think it expedient for the inhabitants at large of such place, any fund or rate under their control for the purpose of aiding the public body in raising the said loan, or any part thereof, from the Public Works Loan Commissioners, and to give such aid by guaranteeing the principal and interest of the loan or by borrowing the sum required and advancing it to the public body, or partly in one way and partly in the other, or otherwise in manner provided by the order.

(2) The order shall provide that the resolution of the rating authority to give the guarantee shall be a special resolution, that is to say, a resolution passed at one meeting of such authority and published

in manner directed by the order, so as to give notice to all persons interested, and confirmed at a second meeting of the rating authority held not less than fourteen days after the first of such public notices has been given, and not less than three months after the meeting at which the resolution was passed.

Section 7.

(3) The order shall provide for the time within which and the mode in which any money borrowed by the rating authority is to be repaid, and for the effectual recovery out of the said fund or rate of any sum payable under the guarantee, and of the principle and interest of any money borrowed by the said authority, and for the reimbursement of the fund or rate out of the income of the said works, or otherwise by the said public body, and shall contain such incidental provisions as seem necessary or proper for carrying this section into effect.

(4) The promoters of an order proposing to confer power under this section on any rating authority shall, a reasonable time before they apply to the Board of Trade to settle the order, submit to the Local Government Board . . . a statement of such proposal, and if the Local Government Board . . . declare that in their opinion, having regard to the financial condition of the rating authority, or to the necessity for such rating authority to provide a water supply or drainage for the inhabitants of the said place, or otherwise to fulfil the original duties of such authority, it is inexpedient to burden such rating authority with any such charge as is mentioned in such proposal, the Board of Trade in settling the order shall omit any provision conferring power on the rating authority under this section (*b*).

In this section—

The expression "public body" means any rating authority, also any commissioners, or trustees, or other body or person who manage or undertake the works without any view to the payment of any dividend or profits out of the revenue from such works:

The expression "rating authority" means—

(1) As regards England, any authority being an urban sanitary authority under the Public Health Act, 1875 (*c*), and the Acts amending the same; and (*d*)

38 & 39 Vict. c. 55.

. . . . .

(*a*) The preamble to this section is repealed by the S. L. R A., 1898.

(*b*) Words relating to Scotland only are omitted from this sub-section.

(*c*) See s. 6 of that Act, *ante*, p. 39. This definition is extended by the Public Works Loans Act, 1887, s. 4, *post*, p. 2494, to rural sanitary authorities, quarter sessions, and county councils.

(*d*) The remainder of this section relates to Scotland and Ireland only, and is, therefore, omitted.

Account in case of loan on security of rate. 38 & 39 Vict. c. 89.

8. Where after the passing of this Act any money is advanced by the Public Works Loan Commissioners on the security of a rate as defined by the Public Works Loans Act, 1875, the borrowers shall cause their treasurer to keep a separate account under the title of the Public Works Loan Commissioners Loan Account, or such other title as may be approved by the Local Government Board, and shall cause all the said advances to be carried to the credit of that account, and all orders or other documents directing payments out of such account shall show on the face of them that the payment is to be made out of that account (*a*), and an order or other document for a payment out of the said account shall not be made or given except the payment is for a purpose for which the said advances were made (*b*).

(*a*) This prevents any such order from being a bill of exchange within the meaning of the Bills of Exchange Act, 1882. See s. 3 (3) of that Act.

Note to Section 8.

(*b*) Section 9 repealed the Public Works Loans Act, 1875, s. 13, and the Public Works Loans (Ireland) Act, 1877, s. 11, and is itself repealed by the S. L. R. A., 1898. Section 10 relates to Ireland only, and s. 11 makes provision with regard to certain local loans, and are therefore omitted.

* * * * * *

THE LANDS CLAUSES (UMPIRE) ACT, 1883.

(46 & 47 VICT. c. 15.)

An Act to amend the Lands Clauses Consolidation Act, 1845.
[18th June, 1883.]

Amendment of s. 28 of 8 Vict. c. 18, extending the powers of appointment of umpire by Board of Trade.

1. . . . section twenty-eight of the Lands Clauses Consolidation Act, 1845 (*a*), shall be read and have effect as follows:

> 28. If in either of the cases aforesaid the said arbitrators shall refuse or shall for seven days after request of either party to such arbitration neglect to appoint an umpire, the Board of Trade shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ, or which shall be referred to him under this or the special Act, shall be final.

(*a*) See that section, *ante*, p. 2098. This Act is printed having regard to the repeals in s. 1 effected by the S. L. R. A., 1898.

Short title.

2. This Act may be cited as the Lands Clauses (Umpire) Act, 1883.

THE MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1884.

(47 & 48 VICT. c. 70) (*a*).

An Act for the better Prevention of Corrupt and Illegal Practices at Municipal and other Elections. [14th August, 1884.]

Short title.

1. This Act may be cited as the Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

(*a*) This statute applies to elections of urban district councillors for districts not being municipal boroughs and of rural district councillors under s. 48 (3) of the L. G. A., 1894, *ante*, p. 1012. It is, therefore, set out here. It was made a permanent Act by s. 35 of the Representation of the People Act, 1918. The notes, of course, have reference only to the application of the Acts to elections of sanitary bodies, such as councillors for urban districts not being boroughs, and of rural district councils. For an amending Act of 1911, see *post*, p. 2708.

CORRUPT PRACTICES.

Definition and punishment of corrupt practices at municipal election.

2.—(1) The expression "corrupt practice" in this Act means any of the following offences, namely, treating, undue influence, bribery, and personation as defined by the enactments set forth in Part One of the Third Schedule to this Act, and aiding, abetting, counselling, and procuring the commission of the offence of personation (*a*).

(2) A person who commits any corrupt practice in reference to a municipal election shall be guilty of the like offence, and shall on conviction be liable to the like punishment, and subject to the like incapacities, as if the corrupt practice had been committed in reference to a parliamentary election (*b*).

Note to Section 2.

(*a*) This provision takes the place of a repealed clause in s. 77 of the Municipal Corporations Act, 1882. The offence of aiding, etc. the commission of the offence of personation is new. See further the *East Kerry Case* (1910), 6 O'M. & H. 58.

(*b*) By the Corrupt and Illegal Practices Prevention Act, 1883, s. 6, corrupt practices other than personation, or aiding, etc. in the commission of personation, are declared to be misdemeanors, and any person convicted of any of them is liable to be imprisoned, with or without hard labour, for a term not exceeding two years, or to be fined any sum not exceeding £200. A person who commits the offence of personation or of aiding, etc. the commission of that offence, is guilty of felony, and liable on conviction to be imprisoned, with or without hard labour, for a period not exceeding two years. In addition to these punishments, a person who is convicted on indictment of any corrupt practices shall not be capable for a period of seven years from the date of his conviction (a) of being registered as an elector or voting at any election in the United Kingdom whether it be a parliamentary election or an election for any public office (see *infra*); or (b) of holding any public or judicial office (see *infra*), and if he holds any such office the office shall be vacated. Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction. By s. 64, the expression "public office" means any office under the Crown or under the charter of a city or a municipal borough, or under the Acts relating to municipal corporations, or to the poor law, or under the Elementary Education Act, 1870, or under the P. H. A., 1875, or under any Acts amending the above-mentioned Acts, or under any other Acts for the time being in force (whether passed before or after the commencement of this Act) relating to local government, whether the office is that of mayor, chairman, alderman, councillor, guardian, member of a board, commission, or other local authority in any county, city, borough, union, sanitary district, or other area, or is the office of clerk of the peace, town clerk, clerk or other officer under a council, board, commission, or other authority, or is any other office to which a person is elected and appointed under any such charter or Act as above mentioned, and includes any other municipal or parochial office; and the expressions "election," "election petition," "election court," and "register of electors," shall, where expressed to refer to an election for any such public office, be construed accordingly. The expression "judicial office" includes the office of justice of the peace.

As to the form of indictment for corrupt practices, see *R.* v. *Stroulger* (1886), 17 Q. B. D. 327; 51 J. P. 278.

Each act of bribery is a distinct offence for which separate penalties are incurred (*Milnes* v. *Bale* (1875), L. R. 10 C. P. 327; 39 J. P. 743).

Incapacity of candidate reported guilty of corrupt practice. 45 & 46 Vict. c. 50.

3.—(1) Where upon the trial of an election petition (*a*) respecting a municipal election (*b*) for a borough or ward of a borough it is found by the report of an election court made in pursuance of section ninety-three of the Municipal Corporations Act, 1882 (*c*), that any corrupt practice, other than treating and undue influence, has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever holding a corporate office (*d*) in the said borough, and if he has been elected his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted of a corrupt practice (*e*).

(2) Upon the trial of an election petition (*a*) respecting a municipal election (*b*) for a borough or ward of a borough in which a charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election, and if the report is that any candidate at such election has been guilty by his agents of a corrupt practice in reference to such election, that candidate shall not be capable of being elected to or holding any corporate office (*d*), in the said borough, during a period of three years from the date of the report, and if he has been elected, his election shall be void.

(*a*) As to election petitions in respect of corrupt practices, see the Municipal Corporations Act, 1882, s. 87, *ante*, p. 2418; and in respect of illegal practices, see s. 25 of this

Note to Section 3.

Act, *post*, p. 2472. For the application of these sections to elections of urban district councillors for districts not being boroughs and of rural district councillors, see s. 36, *post*, p. 2478.

(*b*) This includes for the purposes of this Work, the election of urban district councillors for districts not being boroughs and of rural district councillors. See s. 36, *post*, p. 2478, and the Election Orders reproduced in App. II., *post*, pp. 3196 *et seq.*

(*c*) *Ante*, p. 2422.

(*d*) This means the office of an urban or rural district councillor, as the case may be. See s. 36, *post*, p. 2478, and the Election Orders in App. II., *post*, p. 3196. But where he is guilty of a corrupt practice by his agents only and not personally, he is not deprived of his right to vote at a parliamentary election (*Morris* v. *Shrewsbury Town Clerk*, [1909] 1 K. B. 342; 73 J. P. 28).

(*e*) These incapacities are set forth in note (*b*) to s. 2, *ante*, p. 2461. A single act of bribery by an agent will render an election void (*Norwich Election Petition* (1886), 54 L. T. 625; 4 O'M. & H. 84).

ILLEGAL PRACTICES (*a*).

Certain expenditure to be illegal practice.

4.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made—

(a) on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise; or

(b) to an elector on account of the use of any house, land, building, or premises for the exhibition of an address, bill, or notice, or on account of the exhibition of any address, bill, or notice; or

(c) on account of any committee room in excess of the number allowed by this Act (that is to say), if the election is for a borough one committee room for the borough, and if the election is for a ward one committee room for the ward (*b*), and if the number of electors in such borough or ward exceeds two thousand, one additional committee room for every two thousand electors and incomplete part of two thousand electors, over and above the said two thousand.

(2) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after a municipal election (*c*), the person making such payment or contract shall be guilty of an illegal practice, and any person (*d*) receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

(3) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section (*e*).

(*a*) The Act must be "taken to be amended as if the illegal practice defined by" the amending Act of 1911 "had been contained therein." The illegal practice referred to (see the Act, *post*, p. 2708) is the making or publishing of certain false statements with regard to a candidate.

(*b*) In applying this clause to elections of urban district councillors for districts not being boroughs, the word *borough* or *ward* must be read to mean *urban district* or *ward of such district*, or *parish* or *united parishes* in the case of elections of rural district councillors (s. 36 (1) (a), *post*, p. 2478).

(*c*) See note (*b*) to s. 3, *supra*.

(*d*) The word *person* here is presumed to mean elector in cases falling within clause (b), as it does not appear to be illegal to make payments such as those mentioned in that clause to any person other than an elector.

(*e*) This proviso qualifies the provisions of clause (b).

5. [*Expense in excess of maximum to be illegal practice*] (*a*). **Section 5.**

(*a*) This section cannot apply to elections of urban district councillors for districts not being boroughs or of rural district councillors. See s. 37, *post*, p. 2479. So far as it was operative, it was amended by s. 1 of the Local Elections (Expenses) Act, 1919, which substituted "twopence for each elector" for "threepence for each elector."

Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.

6.—(1) If any person votes or induces or procures any person to vote at a municipal election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice (*a*).

(2) Any person who before or during a municipal election knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate shall be guilty of an illegal practice.

(3) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed without his knowledge and consent (*b*).

(*a*) As to the persons prohibited from voting by this Act, see ss. 7, 8, 13, 18, 22, 23, and Sched. III., Part II., *post*. A convicted felon is disqualified to vote at any election until he has undergone his punishment or been pardoned (33 & 34 Vict. c. 23, s. 1).

(*b*) But *quære*, if the illegal practice has been committed by his agents. It would appear from s. 8 (2), *infra*, that the election would be avoided in that event.

Punishment on conviction of illegal practice.

7. A person guilty of an illegal practice in reference to a municipal election shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at an election (whether it be a parliamentary election or an election for a public office (*a*) within the meaning of this Act) held for or within the borough (*b*) in which the illegal practice has been committed.

(*a*) As to what is a public office, see note (*b*) to s. 2, *ante*, p. 2461.

(*b*) See note (*b*) to s. 4, *ante*, p. 2462.

Incapacity of candidate reported guilty of illegal practice.
45 & 46 Vict. c. 50.

8.—(1) An illegal practice within the meaning of this Act shall be deemed to be an offence against Part Four of the Municipal Corporations Act, 1882 (*a*), and a petition alleging such illegal practice may be presented and tried accordingly.

(2) Upon the trial of an election petition respecting a municipal election for a borough or ward of a borough (*b*) in which a charge is made of any illegal practice having been committed in reference to such election, the election court shall report in writing to the High Court whether any of the candidates at such election has been guilty by himself or his agents (*c*) of an illegal practice in reference to such election, and if the report is that a candidate at such election has been guilty by himself or his agents (*c*) of an illegal practice in reference to such election, the candidate shall not be capable of being elected to or of holding any corporate office (*d*) in the said borough during the period for which he was elected to serve, or for which if elected he might have served, and if he was elected, his election shall be void; and, if the report is that such candidate has himself been guilty of such illegal practice, he shall also be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice (*e*).

(*a*) This part of the Municipal Corporations Act, 1882, is set out, *ante*, p. 2417.

(*b*) See note (*b*) to s. 4, *ante*, p. 2462.

(*c*) But in the case of the illegal practice defined by the amending Act of 1911, *post*, a candidate is not necessarily to be held responsible for the act of his agent: see s. 1 (4) *ibid.*, *post*, p. 2708.

(*d*) See note (*d*) to s. 3, *ante*, p. 2462.

(*e*) These incapacities are stated in s. 7, *supra*.

ILLEGAL PAYMENT, EMPLOYMENT, AND HIRING.

Providing of money for illegal practice or payment to be illegal payment.

9. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, *or for any expenses incurred in excess of any maximum amount allowed by this Act* (*a*), or for replacing any money expended in any such payment, except where the same may have been previously allowed in pursuance of this Act to be an exception (*b*), such person shall be guilty of illegal payment (*c*).

(*a*) The provisions of this Act as to maximum expenses do not apply to elections of urban district councillors for districts not being boroughs, or of rural district councillors. See s. 37, *post*, p. 2478.

(*b*) See ss. 19, 20, *post*, pp. 2467, 2468.

(*c*) Employment for payment of persons to keep order at meetings is an illegal employment (*Packard* v. *Collings* (1886), 54 L. T. 619). Gratuitous refreshments to workers render their employment illegal within this section (*Barrow Election Petition* (1886), 54 L. T. 618).

Employment of hackney carriages, or of carriages and horses kept for hire (*a*).

10.—(1) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll at a municipal election, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of illegal hiring.

(2) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does do so he shall be guilty of illegal hiring.

(3) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of conveying him or them to or from the poll.

(4) No person shall be liable to pay any duty or to take out a licence for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

(*a*) See the *Hartlepools Case* (1910), 6 O'M. & H. 1.

Corrupt withdrawal from a candidature.

11. Any person who corruptly induces or procures any other person to withdraw from being a candidate at a municipal election (*a*), in consideration of any payment or promise of payment (*b*), shall be guilty of illegal payment, and any person withdrawing in pursuance of such inducement or procurement shall also be guilty of illegal payment.

(*a*) See note (*b*) to s. 2, *ante*, p. 2641.

(*b*) Note that the consideration must be payment or promise of payment. Withdrawal for other considerations is not within this section. By s. 34, *post*, p. 2477, and s. 64 of the Corrupt and Illegal Practices Prevention Act, 1883, therein referred to, the expression "payment" includes any pecuniary or other reward, and the expressions "pecuniary reward" and "money" include any office, place or employment, and any valuable security or other equivalent for money, and any valuable consideration, and expressions referring to money must be construed accordingly.

Certain expenditure to be illegal payment.

12.—(1) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction (*a*).

(2) Subject to such exception as may be allowed in pursuance of this Act (*b*), if any payment or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment, if he knew that the same was contrary to law (*c*).

(*a*) Cards to be worn in voters' hats bearing a likeness of the candidate and an invitation to vote for him, are marks of distinction within the meaning of this section (*Walsall* (1892), 4 O'M. & H. 126).

(*b*) See ss. 19, 20, *post*, pp. 2467, 2468.

(*c*) Note that ignorance of the law will not be an excuse for the party paying.

Certain employment to be illegal.

13.—(1) No person shall, for the purpose of promoting or procuring the election of a candidate at a municipal election, be engaged or employed for payment, or promise of payment for any purpose or in any capacity whatever (*a*), except as follows (that is to say),

(a) a number of persons may be employed, not exceeding two for a borough or ward (*b*), and if the number of electors in such borough or ward exceeds two thousand one additional person may be employed for every thousand electors and incomplete part of a thousand electors over and above the said two thousand, and such persons may be employed as clerks and messengers, or in either capacity; and

(b) one polling agent may be employed in each polling station:

Provided that this section shall not apply to any engagement or employment for carrying into effect a contract bonâ fide made with any person in the ordinary course of business (*c*).

(2) Subject to such exception as may be allowed in pursuance of this Act (*d*), if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment (*d*), and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed in contravention of this Act (*e*).

(3) *A person legally employed for payment under this section may or may not be an elector, but may not vote* (*f*).

(*a*) *E.g.*, an election agent (*Ex parte Walker* (1889), 22 Q. B. D. 384; 53 J. P. 260). Note, that under the General Orders of the L. G. B., dated January 1st, 1898, relating to elections of urban and rural district councillors (see App. II., *post*, p. 3196), so much of this section as permits one polling agent to be employed in each polling station does not apply, except so far as the employment of polling agents is permitted under the respective rules of such orders relating to polling agents.

(*b*) See note (*b*) to s. 4, *ante*, p. 2462.

(*c*) This appears to be intended to meet the case of a person who contracts for the purposes of the election, *e.g.*, for printing. The employees of such persons are not to be deemed to be employed within the meaning of this section.

(*d*) Note that ignorance of the law will not be an excuse for the party employing.

(*e*) See ss. 19, 20, *post*, pp. 2467, 2468.

(*f*) This sub-section was repealed by s. 47 and the 8th Schedule to the Representation of the People Act, 1918, and by s. 9 (4) of that Act it is provided that a person shall not be disqualified from voting by reason that he is employed for payment so long as the employment is legal.

Name and address of printer on placards.

14. Every bill, placard, or poster having reference to a municipal election (*a*) shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is a candidate, be guilty of an illegal practice, and if he is not the candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds (*b*).

Note to Section 14.

(*a*) See note (*b*) to s. 2, *ante*, p. 2461.

(*b*) The appellant was a candidate for a seat on a local board. The respondent received from his own servant at his residence a printed address and letter having reference to the election, and purporting to be signed by the appellant, but having no printer's name thereon. This document was printed for publication by instructions conveyed to the printer in a letter from the appellant's brother, who resided with him. The printer debited the appellant with the cost of printing, but was not paid:—*Held*, on these facts, that there was no evidence that the appellant had "printed or caused to be printed" the document in question. Placards or posters also without the printer's name and address printed by the instructions of one E., who was advertised in a local newspaper as chairman of a committee for promoting the election of the appellant, and who sent the copy to the printer, were proved to have been posted about the district at E.'s expense. The court doubted whether this was evidence of the printing and posting by an agent of the appellant, but the justices having convicted the appellant in one penalty for both offences, and the conviction being bad as to the first:—*Held*, that it was bad altogether (*Bettesworth* v. *Allingham* (1886), 16 Q. B. D. 44; 50 J. P. 55).

In the above case the court seemed to assume that a circular containing an election address was a bill, placard, or poster within the meaning of the section. In some cases which came before the courts subsequently, it was held that such a circular was not a bill, placard, or poster. See *per* Lord COLERIDGE, C.J., and MANISTY, J., in the cases reported in 5 T. L. R. 160; and *per* FRY, L.J., and MANISTY, J., *ibid.*, 170. In other cases, however, the court granted relief under s. 20 (*e.g.*, *Ex parte Bartlett*, Times, October 30th, 1900), so that the point is still in doubt.

In *Alcott* v. *Emden* (1904), 68 J. P. 434; 20 T. L. R. 487, it was held that a circular sent out in August with reference to the possible candidature in November of a certain alderman for the office of mayor, such circular being headed "Shall he be our new mayor?" and six copies marked private being sent in sealed envelopes to certain persons interested in the election, was a bill with reference to a municipal election within the meaning of this section and should have borne the printer's name and address.

The name and address of the publisher must appear as well as those of the printer if they are different persons. It has not yet been expressly decided whether a candidate is liable to penalties under this section if he publishes a placard, etc. on which his name and address appear, but which does not explicitly describe him as the publisher; but in the year 1889 the High Court excused a number of candidates in respect of such omissions.

A person other than a candidate is not by this section declared to be guilty of an illegal practice, payment, employment, or hiring. He cannot, therefore, be excused under s. 20 (*Ex parte Lenanton* (1889), 53 J. P. 263).

Saving for creditors.

15. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense, in excess of a certain maximum, shall not affect the right of any creditor who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act (*a*).

(*a*) Hence in the case of an expense incurred in contravention of the Act, the illegality of the expense will be no defence to an action by a creditor who, when the expense was incurred, was ignorant of its being in contravention of the Act. This provision is necessary for the protection of creditors who have no means of knowing what other expenses have been incurred by a candidate. The provisions of the Act as to maximum expenses do not, however, apply to elections of district councillors for urban districts not being boroughs or of rural district councillors. See s. 37, *post*, p. 2478. See ss. 19, 20, *post*.

Use of certain premises for committee rooms or meetings to be illegal hiring.

16.—(1) (a) Any premises, which are licensed for the sale of any intoxicating liquor for consumption on or off the premises, or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises (*a*), or

(b) Any premises where any intoxicating liquor is supplied to members of a club, society or association, or any part of any such premises, shall not, for the purpose of promoting or procuring the election of a candidate at a municipal election, be used either as a committee room or for holding a meeting, and if any person hires or uses any such premises or any part thereof in contravention of this section he shall be guilty of illegal hiring, and the person letting or permitting the use of such premises or part thereof, if he knew it was intended to use the same in contravention of this section, shall also be guilty of illegal hiring.

Section 16.

(2) Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

(*a*) It should be noticed that this section applies to any premises on which refreshment is sold for consumption on the premises, or on which liquor is sold, whether for consumption on or off the premises. It applies even where the door of communication between the part used for the election and the part used for the sale of intoxicating liquors is kept locked (*Ex parte Payne*, Times, November 2nd, 1894). Thus a place where sandwiches are sold for consumption at the counter was in one case which came before the court in 1889 held to be within this provision; but the section does not apply to a club unless liquor is supplied in it.

Note, that under the Rural District Councillors Election Order, 1898, in App. II., *post*, p. 3219, r. 26 (7), nothing in this Act shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to the office of rural district councillor on any licensed or other premises not situate in an urban district or in the administrative county of London.

Punishment of illegal payment, employment, or hiring.

17.—(1) A person guilty of an offence of illegal payment, employment, or hiring shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

(2) Where an offence of illegal payment, employment, or hiring is committed by a candidate, or with his knowledge and consent, such candidate shall be guilty of an illegal practice (*a*).

(*a*) And punishable as provided by s. 7, *ante*, p. 2463.

Avoidance of election for extensive illegal practices, etc.

18. Where upon the trial of an election petition respecting a municipal election for a borough or ward of a borough it is found by the election court that illegal practices or offences of illegal payment, employment, or hiring, committed in reference to such election for the purpose of promoting the election of a candidate at that election, have so extensively prevailed (*a*) that they may be reasonably supposed to have affected the result of that election (*b*), the election court shall report such finding to the High Court, and the election of such candidate, if he has been elected, shall be void, and he shall not, during the period for which he was elected to serve, or for which, if elected, he might have served, be capable of being elected to or holding any corporate office (*c*) in the said borough.

(*a*) Note that this section may apply, although the practices in question have been committed by persons other than the candidate or his agents; but in such a case the candidate could protect himself under ss. 19, 20.

(*b*) See also s. 1 (4) of the amending Act of 1911, *post*, p. 2708.

(*c*) See note (*b*) to s. 2, *ante*, p. 2461.

EXCUSE AND EXCEPTION FOR CORRUPT OR ILLEGAL PRACTICE OR ILLEGAL PAYMENT, EMPLOYMENT, OR HIRING.

Report exonerating candidate in certain cases of corrupt and illegal practice by agents.

19. Where, upon the trial of an election petition respecting a municipal election, the election court reports that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences (*a*), in reference to such election, and the election court further report that the candidate has proved to the court—

(a) that no corrupt or illegal practice was committed at such election by the candidate or with his knowledge or consent, and the offences mentioned in the said report were committed without the sanction or connivance of such candidate (*b*); and

(b) that all reasonable means for preventing the commission of corrupt

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and illegal practices at such election were taken by and on behalf of the candidate; and

(c) that the offences mentioned in the said report were of a trivial, unimportant, and limited character; and

(d) that in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents;

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

(*a*) Note that the offences of bribery, personation, and aiding and abetting in the commission of personation are not included here.

(*b*) See also s. 1 (4) of the amending Act of 1911, *post*, p. 2708.

Power of High Court and election court to except innocent act from being illegal practice, etc.

20. Where, on application made, it is shown to the High Court or to a municipal election court by such evidence as seems to the court sufficient—

(a) that any act or omission of a candidate at a municipal election for a borough or ward of a borough, or of any agent or other person, would, by reason of being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment, or hiring (*a*); and

(b) that such act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and

(c) that such notice of the application has been given in the said borough as to the court seems fit;

and under the circumstances it seems to the court to be just that the said candidate, agent and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this Act which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission (*b*).

(*a*) Note that corrupt practices are not mentioned here.

(*b*) Relief may be given under this section by the High Court, on application for that purpose, or by an election court. As to the election court, see s. 92 of the Municipal Corporations Act, 1882, *ante*, p. 2421.

From the refusal of the High Court to grant relief under this section appeal lies to the Court of Appeal. See *Ex parte Walker* (1889), 22 Q. B. D. 384; 53 J. P. 260. See also *Ex parte Thomas* (1889), 60 L. T. 728; 5 T. L. R. 234; *Ex parte Birtwhistle* (1889), 5 T. L. R. 321.

In order to support an application under this section, it will not be sufficient that notice of intention to make the application has been advertised in the local papers, but such notice should be published in such a manner as will ensure a reasonable certainty that persons interested had notice; and it will also be insufficient if the affidavits upon which the application is made merely state that the act in respect of which the relief is sought arose from inadvertence, and not from any want of good faith, without showing some reasonable excuse for such inadvertence (*Ex parte Perry* (1884), 48 J. P. 824). In the cases which came before the court in 1889 it was laid down that "inadvertence" meant negligence or carelessness where the circumstances showed an absence of bad faith. The court also required notice to be given to the opposing candidates and to the returning officer. The court also required that notices should be posted up throughout the district, and advertised in the local papers, that application would be made for relief. Notice need not, however, be given to the Attorney-General (*Ex parte Lenanton* (1889), 53 J. P. 263; 5 T. L. R. 173). Where an application for relief under similar circumstances is made by several candidates, a joint affidavit of the facts upon which the application is based ought to be made by all the applicants (*Re Andrews Re Streatham Vestry Election* (1899), 68 L. J. Q. B. 683).

There have been numerous applications to the High Court for excuse under this section, especially in the beginning of the year 1889, with reference to the first elections of county councillors. These cases will be found reported in 5 T. L. R., pp. 173, 183, 195, 198, 203,

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206, 220, and 272. They must not, however, be regarded as precedents, for the court granted relief almost as a matter of course where it was shown that the applicant had acted in ignorance of the law, but at the same time expressed an opinion that such an excuse would not afterwards be accepted. See the observations in *Ex parte Darlington* (1889), 53 J. P. 71; *Ex parte Lenanton, supra*. Since then see *Ex parte Payne*, Times, November 2nd, 1894; *Ex parte Hughes*, Times, November 24th, 1900. As to the ignorance of an agent reference may be made to *Ex parte Polson* (1923), 39 T. L. R. 231.

Among the cases reported before 1889 may be mentioned the following: *Ex parte Clark* (1884), 52 L. T. 260, where placards had been issued without the printer's name; *Ex parte Perry* (1884), 48 J. P. 824, where a room in a club had been used contrary to s. 16; *South Shropshire Election* (1886), 2 T. L. R. 347, where payments were made after the proper time (and see *Ipswich Election* (1887), 3 T. L. R. 397); *Ex parte Robson* (1887), 18 Q. B. D. 336; 51 J. P. 199, where a candidate who had incurred no expenses was allowed to make a return and declaration under s. 21 after the prescribed time; *Ex parte Matthews* (1886), 2 T. L. R. 548, where a candidate had acted as his own agent, and had omitted to make a declaration of expenses. See also *Ex parte Groom* (1920), 42 M. C. C. 175. In *Ex parte Touche* (1915), 37 M. C. C. 219, relief was granted where the statutory maximum of expenses allowed in a case where there was no poll was exceeded in the expectation that there would be a poll for election of sheriffs. In the case of *Essex (South-West Division) Election* (1886), 2 T. L. R. 388, where a person voted, and afterwards accepted payment for services rendered as an agent, the court refused to relieve him. *Ex parte Robson, supra*, was followed in *Ex parte Pennington* (1884), 46 W. R. 415.

In *Ex parte Gale* (1905), 69 J. P. 281, the candidate had postcards printed and issued, asking for the support of the electors, in ignorance that this was an illegal expense under s. 5 of the Act of 1884. He was relieved under this section.

Where a person had obtained an excuse for a late return of expenses, and subsequently on the same day, but after the order had been drawn up, a voter appeared to oppose the application, it was held that the application of the voter must be dismissed in the absence of any sufficient explanation of the delay (*Wigan Election* (1886), 2 T. L. R. 159).

If the application is made by a person against whom a petition is pending, the court will order the application to stand over till after the trial of the petition (*Ex parte Wilks* (1886), 16 Q. B. D. 114; 50 J. P. 487; *Ex parte Evans* (1889), 5 T. L. R. 207). But this course will not be followed merely because a petition is threatened (*Ex parte Stephens* (1889), *ibid.*, 203). Even where a petition is pending, if the facts are not in dispute and the subject-matter of the application for relief was the sole ground of the petition, the application will be dealt with immediately (*Ex parte Forster* (1903), 67 J. P. 322; 89 L. T. 18).

Relief will not be granted to a successful candidate unless he satisfies the court that the illegal practice cannot have affected the result of the election (*Re Droitwich Borough (Election of Auditors)* (1907), 71 J. P. 236; 23 T. L. R. 372).

Sending in claims and making payments for election expenses.

21. (*a*)—(1) Every claim against any person in respect of any expenses incurred by or on behalf of a candidate at an election of a councillor on account of or in respect of the conduct or management of such election (*b*) shall be sent in within fourteen days after the day of election, and if not so sent in shall be barred and not paid, and all expenses incurred as aforesaid shall be paid within twenty-one days after the day of election, and not otherwise, and any person who makes a payment in contravention of this section, except where such payment is allowed as provided by this section, shall be guilty of an illegal practice (*c*), but if such payment was made without the sanction or connivance of the candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

(2) Every agent of a candidate at an election of a councillor shall, within twenty-three days after the day of election, make a return to the candidate in writing of all expenses incurred by such agent on account of or in respect of the conduct or management of such election, and if he fails to do so shall be liable, on summary conviction, to a fine not exceeding fifty pounds.

(3) Within twenty-eight days after the day of election of a councillor every candidate at such election shall send to the town clerk (*d*) a return of all expenses incurred by such candidate or his agents on account of or in respect of the conduct or management of such election, vouched (except in the case of sums under twenty shillings) by bills stating the particulars

Section 21. and receipts, and accompanied by a declaration by the candidate made before a justice in the form set forth in the Fourth Schedule to this Act, or to the like effect.

(4) After the expiration of the time for making such return and declaration the candidate, if elected, shall not, until he has made the return and declaration (in this Act referred to as the return and declaration respecting election expenses), or until the date of the allowance of such authorised excuse, as is mentioned in this Act, sit or vote in the council, and if he does so shall forfeit fifty pounds for every day on which he so sits or votes to any person who sues for the same (*e*).

(5) If the candidate without such authorised excuse as is mentioned in this Act fails to make the said return and declaration he shall be guilty of an illegal practice (*c*), and if he knowingly makes the said declaration falsely he shall be guilty of an offence, (*g*) . . . and such offence shall also be deemed to be a corrupt practice within the meaning of this Act.

(6) The county court for the district in which the election was held, or the High Court, or an election court, may, on application either of the candidate or a creditor, allow any claim to be sent in and any expense to be paid after the time limited by this section, and a return of any sum so paid shall forthwith after payment be sent to the town clerk (*h*).

(7) If the candidate applies to the High Court or an election court, and shows that the failure to make the said return and declaration, or either of them, or any error or false statement therein, has arisen by reason of his illness or absence, or of the absence, death, illness, or misconduct of any agent, clerk, or officer, or by reason of inadvertence, or of any reasonable cause of a like nature and not by reason of any want of good faith on the part of the applicant, the court may, after such notice of the application and on production of such evidence of the grounds stated in the application, and of the good faith of the applicant, and otherwise as the court seems fit, make such order for allowing the authorised excuse for the failure to make such return and declaration, or for an error or false statement in such return or declaration, as the court seems just (*i*).

(8) The order may make the allowance conditional upon compliance with such terms as to the court seems calculated for carrying into effect the objects of this Act, and the order shall relieve the applicant from any liability or consequences under this Act in respect of the matters excused by the order.

(9) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

(10) The return and declaration sent in pursuance of this Act to the town clerk shall be kept at his office, and shall at all reasonable times during the twelve months next after they are received by him be open to inspection by any person (*k*) on payment of the fee of one shilling, and the town clerk shall, on demand, furnish copies thereof or of any part thereof at the price of twopence for every seventy-two words.

(11) After the expiration of the said twelve months the town clerk may cause the return and declaration to be destroyed, or if the candidate so require shall return the same to him.

(*a*) This section does not apply to elections of urban district councillors for districts not being boroughs or of rural district councillors. See s. 37, *post*, p. 2479.

(*b*) Money paid by an agent of a candidate for the employment of persons to keep order at meetings connected with the election is within this provision (*Packard* v. *Collings* (1886), 54 L. T. 619).

(*c*) And therefore punishable as provided by s. 7, *ante*, p. 2463.

(*d*) This return and declaration must be made even in the case of an unopposed election, when the candidate has incurred no expenses. In such a case, however, the

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court granted relief under s. 20, *ante*, p. 2468 (*Ex parte Robson*, *ante*, p. 2469; *Ex parte Pennington*, *ante*, p. 2469). If the return is posted to the town clerk within the twenty-eight days, it is sufficient, although it does not reach him until after the expiration of that time (*Mackinnon* v. *Clark*, [1898] 2 Q. B. 251).

(*e*) Note that any person may sue. See *Nichol* v. *Fearby*; *Nichol* v. *Robinson* (1922), 86 J. P. 204. The Crown cannot remit the penalties. See *Todd* v. *Robinson*, *ante*, p. 483.

(*g*) Some words were repealed by the Perjury Act, 1911.

(*h*) Notice of application to the court must probably be given to the other candidates, to the returning officer, and to the public by advertisements (*Re Ludlow Election* (1886), 54 L. T. 129; 34 W. R. 352). An application for leave to pay the hire of a brougham used without authority by the clerk of a candidate was refused in *Re Chelsea Election* (1886), 2 T. L. R. 374.

For procedure in the county court, see County Court Rules, Order L., r. 16. Note that the county court is not mentioned in sub-ss. (7), (8), but it would probably be guided by them.

(*i*) The illness of an agent was accepted as an excuse in *Re Ipswich Election* (1887), 3 T. L. R. 397. See also *Nichol* v. *Fearby*, [1923] 1 K. B. 480; 87 J. P. 70, when relief was granted although application for same was not made until after the issue of the writ claiming penalties.

(*k*) Any person, not any person interested.

DISQUALIFICATION OF ELECTORS.

Prohibition of persons guilty of offences from voting.

22. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at a municipal election (*a*) is prohibited from voting at such election, and if any such person votes his vote shall be void, and shall be struck off on a scrutiny.

(*a*) See note (*b*) to s. 2, *ante*, p. 2461.

Application of ss. 37 and 38 of 46 & 47 Vict. c. 51.

23. So much of sections thirty-seven and thirty-eight of the Corrupt and Illegal Practices Prevention Act, 1883, as is set forth in Part Two of the Third Schedule to this Act, shall apply as part of this Act.

List in burgess roll of persons incapacitated for voting by corrupt or illegal practices.

24.—(1) The town clerk in every municipal borough shall annually in July make out a list containing the names and description of all persons who, though otherwise qualified to be enrolled as burgesses of such borough, have under this Act, or under the Corrupt and Illegal Practices Prevention Act, 1883, or under any other Act for the time being in force relating to a parliamentary election or an election to any public office, become after the commencement of this Act, by reason of conviction of a corrupt or illegal practice, or of the report of any election court or election commissioners, incapable of voting at a municipal election in such borough or any ward thereof, and the town clerk shall state in the list (in this Act referred to as the corrupt and illegal practices list), the offence of which each person has been found guilty.

(2) For the purpose of making out such list he shall examine the report of any election court or election commissioners who have respectively tried an election petition or inquired into an election where the election (whether a parliamentary election or an election to any public office) was held in the said borough or in the county in which the said borough is situate.

(3) The town clerk of any municipal borough shall, not less than fourteen days before the first day appointed by law for the publication of the parish burgess lists in such borough, send the corrupt and illegal practices list to the overseers (*a*) of every parish wholly or partly within the borough, and the overseers shall publish that list together with the parish burgess lists, and shall also, in the case of every person in the corrupt and illegal practices list, omit his name from the list of persons entitled to be enrolled as burgesses or to be elected councillors, or, as circumstances require, add "objected" before his name in the list of claimants published by them, in like manner as is required by law in any other cases of disqualification.

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(4) Any person named in the corrupt and illegal practices list may claim to have his name omitted therefrom, and any person entitled to object to any parish burgess list may object to the omission of the name of any person from such first-mentioned list. Such claims and objections shall be sent in within the same time and be dealt with in like manner, and any such objection shall be served on the person referred to therein in like manner, as nearly as circumstances admit, as other claims and objections under the enactments relating to the enrolment of burgesses.

(5) The revising authority shall determine such claims and objections and shall revise such list in like manner, as nearly as circumstances admit, as in the case of other claims and objections and of any parish burgess list and list of persons entitled to be elected councillors.

(6) Where it appears to the revising authority that a person not named in the list is subject to have his name inserted in the corrupt and illegal practices list, he shall (whether an objection to the omission of such name from the list has or has not been made, but) after giving such person an opportunity of making a statement to show cause to the contrary, insert his name in that list and expunge his name from any list of burgesses or of persons entitled to be elected councillors.

(7) A revising authority in acting under this section shall determine only whether a person is incapacitated by conviction or by the report of any election court or election commissioners, and shall not determine whether a person has or has not been guilty of any corrupt or illegal practice.

(8) The corrupt and illegal practices list shall be appended to the burgess roll, and shall be printed and published therewith wherever the same is printed or published.

45 & 46 Vict. c. 50.

(9) Any town clerk or overseer who fails to comply with the provisions of this section shall be liable to the like fine as he is liable to under section seventy-five of the Municipal Corporations Act, 1882, for any neglect or refusal in relation to a parish burgess list as therein mentioned.

(*a*) Now to the rating authority (Overseers Order, 1927, Art. 3, in App. II., *post*, p. 3681).

PROCEEDINGS ON ELECTION PETITIONS.

Petition for illegal practice.

25.—(1) A municipal election petition complaining of the election on the ground of an illegal practice (*a*) may be presented at any time before the expiration of fourteen days after the day on which the town clerk receives the return and declaration respecting election expenses by the candidate to whose election the petition relates, or where there is an authorised excuse for failing to make the return and declaration then within the like time after the date of the allowance of the excuse (*b*).

Time for presentation of petition alleging illegal practices.

(2) A municipal election petition, complaining of the election on the ground of an illegal practice, and specifically alleging a payment of money or other act made or done since the election by the candidate elected at such election, or by an agent of the candidate, or with the privity of the candidate, in pursuance or in furtherance of such illegal practice, may be presented at any time within twenty-eight days after the date of such payment or act, whether or not any other petition against that person has been previously presented or tried.

45 & 46 Vict. c. 50.

(3) Any election petition presented within the time limited by the Municipal Corporations Act, 1882, may, for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice can, under this section, be presented (*c*).

(4) This section shall apply notwithstanding the illegal practice is also a corrupt practice.

Note to Section 25.

(*a*) A petition may be presented for a corrupt practice under the Municipal Corporations Act, 1882, s. 87, *ante*, p. 2418.

(*b*) Under the Urban District Councillors Election Order, 1898, and Rural District Councillors Election Order, 1898 (App. II., *post*, p. 3196), an election petition complaining of the election of an urban or rural district councillor on the ground of an illegal practice, may be presented at any time within six weeks after the day of election.

(*c*) A judge who is not on the rota for the trial of parliamentary election petitions cannot make an order giving leave to amend under this section. Such an order ought not to be made *ex parte* (*Shaw* v. *Reckitt*, [1893] 1 Q. B. 779). That question being a question of law, no appeal lies to the Court of Appeal from a decision of a Divisional Court thereon without leave of the Divisional Court (*Shaw* v. *Reckitt*, [1893] 2 Q. B. 59; 57 J. P. 805).

Withdrawal of election petition.

26. (*a*)—(1) Before leave for the withdrawal of a municipal election petition is granted, there shall be produced affidavits by all the parties to the petition and their solicitors, but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds to be just so to do.

(2) Each affidavit shall state that, to the best of the deponent's knowledge and belief, no agreement or terms of any kind whatsoever has or have been made, and no undertaking has been entered into, in relation to the withdrawal of the petition; but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement, and shall make the foregoing statement subject to what appears from the affidavit.

(3) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.

(4) If any person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms, or undertaking is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat shall at any time be vacated, or in consideration of the withdrawal of any other election petition, or is or are (whether lawful or unlawful) not mentioned in the aforesaid affidavits, he shall be guilty of a misdemeanor, and shall be liable on conviction on indictment to imprisonment for a term not exceeding twelve months, and to a fine not exceeding two hundred pounds.

(5) Copies of the said affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the court may hear the Director of Public Prosecutions or his assistant or other representative (appointed with the approval of the Attorney-General) in opposition to the allowance of the withdrawal of the petition, and shall have power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant, or other representative may consider material.

(6) Where in the opinion of the court the proposed withdrawal of a petition is the result of any agreement, terms, or undertaking prohibited by this section, the court shall have the same power with respect to the security as under section ninety-five of the Municipal Corporations Act, 1882, where the withdrawal is induced by a corrupt consideration (*b*).

45 & 46 Vict. c. 50.

(7) In every case of the withdrawal of an election petition, by leave of the election court such court shall report in writing to the High Court whether, in the opinion of such election court, the withdrawal of such petition was the result of any agreement, terms, or undertaking, or was in consideration of any payment, or in consideration that the seat should at any time be vacated, or in consideration of the withdrawal of any other election petition, or for any other consideration, and if so, shall state the circumstances attending the withdrawal.

(8) Where more than one solicitor is concerned for the petitioner or

Section 26. respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.

(*a*) See also the Municipal Corporations Act, 1882, s. 95, *ante*, p. 2424.
(*b*) See this section, *ante*, p. 2424.

Continuation of trial of election petition.

27. The trial of every municipal election petition shall, so far as is practicable consistently with the interests of justice in respect of such trial, be continued de die in diem on every lawful day until its conclusion.

Attendance of Director of Public Prosecutions on trial of election petition, and prosecution by him of offenders.

28.—(1) On every trial of a municipal election petition the Director of Public Prosecutions shall by himself or by his assistant, or by such representative as hereinafter mentioned, attend at the trial, and it shall be the duty of such Director to obey any directions given to him by the election court with respect to the summoning and examination of any witness to give evidence on such trial, and with respect to the prosecution by him of offenders, and with respect to any person to whom notice is given to attend with a view to report him as guilty of any corrupt or illegal practice.

(2) It shall also be the duty of such Director, without any direction from the election court, if it appears to him that any person is able to give material evidence as to the subject of the trial, to cause such person to attend the trial, and with the leave of the court to examine such person as a witness.

(3) It shall also be the duty of the said Director, without any direction from the election court, if he thinks it expedient in the interests of justice so to do, to prosecute, either before the said court or before any other competent court, any person who has not received a certificate of indemnity (*a*) and who appears to him to have been guilty of a corrupt or illegal practice at a municipal election.

(4) Where a person is prosecuted before an election court for any corrupt or illegal practice, and such person appears before the court, the court shall proceed to try him summarily for the said offence, and such person, if convicted thereof upon such trial, shall be subject to the same incapacities as he is subject to under this or any other Act, upon conviction, whether on indictment or in any other proceeding for the said offence; and further, may be adjudged by the court, if the offence is a corrupt practice, to be imprisoned, with or without hard labour, for a term not exceeding six months or to pay a fine not exceeding two hundred pounds, and if the offence is an illegal practice, to pay such fine as is fixed by this Act for the offence:

Provided that in case of a corrupt practice, the court, before proceeding to try summarily any person, shall give such person the option of being tried by a jury.

(5) Where a person is so prosecuted for any such offence, and either he elects to be tried by a jury or he does not appear before the court, or the court thinks it in the interests of justice expedient that he should be tried before some other court, the court, if of opinion that the evidence is sufficient to put the said person upon his trial for the offence, shall order such person to be prosecuted on indictment or before a court of summary jurisdiction, as the case may require, for the said offence (*b*); and in either case may order him to be prosecuted before such court as may be named in the order; and for all purposes preliminary and of and incidental to such prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.

(6) Upon such order being made,

(a) If the accused person is present before the court, and the offence is an indictable offence, the court shall commit him to take his trial, or cause him to give bail to appear, and take his trial for the said offence; and

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(b) If the accused person is present before the court, and the offence is not an indictable offence, the court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted, or cause him to give bail to appear before that court; and

(c) If the accused person is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction, and that court, if the offence is an indictable offence, shall, on proof only of the summons or warrant and the identity of the accused, commit him to take his trial, or cause him to give bail to appear and take his trial for the said offence, or if the offence is punishable on summary conviction, shall proceed to hear the case, or if such court be not the court before whom he is directed to be prosecuted shall order him to be brought before that court.

(7) Any order or act of an election court under this section shall not be subject to be discharged or varied under sub-section six of section ninety-two of the Municipal Corporations Act, 1882 (*c*). 45 & 46 Vict. c. 50.

(8) The Director of Public Prosecutions may nominate, with the approval of the Attorney-General, any barristers or solicitors of not less than ten years standing, one of whom shall, when required, act as the representative for the purposes of this section of such Director, and when so acting shall receive such remuneration as the Treasury may approve. There shall be allowed to the Director and his assistant or representative, for the purposes of this section, such allowance for expenses as the Treasury may approve.

(9) The costs incurred in defraying the expenses of the Director of Public Prosecutions under this section (including the remuneration of his representatives) shall, in the first instance, be paid by the Treasury, and so far as they are not in the case of any prosecution paid by the defendant, shall be deemed to be expenses of the election court, and shall be paid as the expenses of that court are directed by section one hundred and one of the Municipal Corporations Act, 1882, to be paid; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of the said costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct (*d*). 45 & 46 Vict. c. 50.

(*a*) See the Municipal Corporations Act, 1882, s. 92, *ante*, p. 2421.

(*b*) The evidence which is to satisfy the court before it makes the order means the evidence given during the trial of the petition, and, therefore, a commissioner for the trial of municipal election petitions acted within his jurisdiction in ordering the prosecution of a person to whom he had refused a certificate of indemnity, and who did not appear, without re-hearing the evidence affecting him, and also acted within his jurisdiction in issuing a summons under sub-s. (6), *post*, for his attendance before a court of summary jurisdiction, for the purpose of being formally committed for trial (*R.* v. *Shellard* (1889), 23 Q. B. D. 273; 53 J. P. 821). The commissioner for the trial of municipal election petitions ordered certain persons, prosecuted before him for a corrupt practice committed at a municipal election in Nottingham, to be prosecuted on indictment for the offence at the ensuing assizes at Derby:—*Held*, that the commissioner had jurisdiction to order the trial at Derby; that his order was sufficient without describing the corrupt practice; that the Derbyshire grand jury could find, and the judge of assize had jurisdiction to try, the indictment; that "Derbyshire, to wit," in the margin of the indictment was sufficient, although the body of it disclosed offences in Nottingham only; that the words "a corrupt practice," in the commissioner's order, were reasonably interpreted "some corrupt practice," and that the prosecution were not precluded from preferring a number of charges of bribery in the indictment (*R.* v. *Ripley; R.* v. *Campion* (1891), 59 L. J. M. C. 122; 55 J. P. 21).

(*c*) *Ante*, p. 2422.

(*d*) If a petition is utterly unfounded the petitioner may be ordered to pay the costs of the Director of Public Prosecutions (*Kennington Election Petition* (1886), 54 L. T. 628). This section applies only to the trial of a petition. The costs of the Public Prosecutor cannot be ordered where the petition is withdrawn (*Pascoe* v. *Puleston* (*Devonport Election Petition*) (1886), 50 J. P. 135; 54 L. T. 733).

Section 29.

Power to election court to order payment by borough or individual of costs of election petition.

29.—(1) Where upon the trial of a municipal election petition it appears to the election court that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and that such respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make one or more orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as follows:

(a) If it appears to the court that corrupt practices extensively prevailed in reference to the said election, the court may order the whole or part of the costs to be paid by the borough (*a*); and

(b) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to such election, the court may, after giving such person or persons an opportunity of being heard by counsel or solicitor and of examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them (*b*), and may order that if the costs cannot be recovered from one or more of such persons they shall be paid by some other of such persons or by either of the parties to the petition.

(2) Where any person appears to the court to have been guilty of the offence of a corrupt or illegal practice, the court may, after giving such person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct (*b*).

45 & 46 Vict. c. 50.

(3) The rules and regulations of the Supreme Court of Judicature with respect to costs to be allowed in actions, causes, and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part Four of the Municipal Corporations Act, 1882, and this Act, and the taxing officer shall not allow any costs, charges, or expenses on a higher scale than would be allowed in any action, cause or matter in the High Court on the higher scale, as between solicitor and client.

(*a*) That is, by the urban district council for a district not being a borough, or by the rural district council (s. 36, *post*, p. 2478).

(*b*) As to the recovery of these costs, see s. 32, *post*, p. 2477.

MISCELLANEOUS.

General provisions as to prosecution of offences under this Act.

30. Subject to the other provisions of this Act, the procedure for the prosecution of a corrupt or illegal practice or any illegal payment, employment, or hiring committed in reference to a municipal election, and the removal of any incapacity incurred by reason of a conviction or report relating to any such offence, and the duties of the Director of Public Prosecutions in relation to any such offence, and all other proceedings in relation thereto (including the grant to a witness of a certificate of indemnity), shall be the same as if such offence had beem committed in reference to a parliamentary election; and sections forty-five and forty-six and sections fifty to fifty-seven (both inclusive), and sections fifty-nine and sixty of the Corrupt and Illegal Practices Prevention Act, 1883, shall apply accordingly (*a*) as if they were re-enacted in this Act with the necessary modifications, and with the following additions:

46 & 47 Vict. c. 51.

(a) Where the Director of Public Prosecutions considers that the circumstances of any case require him to institute a prosecution before any court other than an election court for any offence other than a corrupt practice committed in reference to a municipal election in any borough (*b*), he may, by himself or his assistant, institute such prosecution before any court of summary jurisdiction in the county in which the said borough is situate or to which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of such court; and

Section 30.

(b) General rules for the purposes of Part Four of the Municipal Corporations Act, 1882, shall be made by the same authority as rules of court under the said sections (*c*); and

45 & 46 Vict. c. 50.

(c) The giving or refusal to give a certificate of indemnity to a witness by the election court shall be final and conclusive.

Section 94 (7).

(*a*) Therefore, where a private prosecutor prefers an indictment charging the commission of a corrupt practice the defendant, if acquitted, is entitled to recover from the prosecutor the costs sustained by reason of the indictment (*R.* v. *Law*, [1900] 1 Q. B. 605).

(*b*) See s. 36, *post*, p. 2478.

(*c*) That is, by the same authority by whom rules of court for procedure and practice in the Supreme Court of Judicature can be made. See the Corrupt and Illegal Practices Prevention Act, 1883, s. 56.

Person incapacitated by conviction or report to vacate seat or office.

31. If a person in consequence of conviction or of the report of an election court under this Act becomes not capable of being elected to or sitting in the House of Commons, or of being elected to or holding any public or judicial office (*a*), and such person, at the date of the said conviction or report, has been so elected or holds any such office, then his seat or office, as the case may be, shall be vacated as from that date.

(*a*) See *ante*, p. 2461, s. 2, note (*b*).

Payment and recovery of costs.

32.—(1) Where any costs of a petition are, under an order of a municipal election court, to be paid by a borough, such costs shall be paid out of the borough fund or borough rate (*a*).

(2) Where any costs or other sums are, under the order of an election court or otherwise under this Act, to be paid by any person, those costs shall be a simple contract debt due from such person to the person or persons to whom they are to be paid, and if payable to the Treasury shall be a debt to her Majesty, and in either case may be recovered accordingly.

(*a*) The general rate fund and general rate are substituted for the borough fund and borough rate by the R. and V. Act, 1925, *ante*, p. 1633. The expenses of the urban district council for a district not being a borough, or of the rural district council, are now payable out of the general rate (s. 36, *post*, p. 2478, and the R. and V. Act, 1925, *ante*, p. 1633).

Service of notices.

33. Where any summons, notice, or document is required to be served on any person with reference to any proceeding respecting a municipal election in any borough or ward of a borough (*a*), whether for the purpose of causing him to appear before the High Court or any election court, or otherwise, or for the purpose of giving him an opportunity of making a statement, or showing cause, or being heard by himself, before any such court for any purpose of this Act, such summons, notice, or document may be served either by delivering the same to such person, or by leaving the same at, or sending the same by post by a registered letter to, his last known place of abode in the said borough, or, if the proceeding is before any court, in such other manner as the court may direct, and in proving such service by post it shall be sufficient to prove that the letter was prepaid, properly addressed and registered with the post office.

(*a*) See s. 4, note (*b*), *ante*, p. 2462.

Definitions. 45 & 46 Vict. c. 50.

34. In this Act expressions have the same meaning as in the Municipal Corporations Act, 1882, and in the Corrupt and Illegal Practices Prevention Act, 1883; except that the words "borough," "election petition," "election

Section 34.

46 & 47 Vict. c. 51.

court," and "candidate," shall, unless the context otherwise requires, have the meaning given by the Municipal Corporations Act, 1882 ; and not the meaning given by the Corrupt and Illegal Practices Prevention Act, 1883 ; and except that "election" shall, unless the context otherwise requires, mean a municipal election.

For the purposes of this Act the number of electors shall be taken according to the enumeration of the electors in the burgess roll (*a*).

(*a*) That is, in relation to an election of urban or rural district councillors, the register of local government electors. See App. II., *post*, p. 3196, for the relevant Orders.

35. [*Application to City of London of Act and of Part IV. of* 45 *&* 46 *Vict. c.* 50.]

APPLICATION OF ACT TO OTHER ELECTIONS.

Application of this Act and Part IV. of 45 & 46 Vict. c. 50, to other elections.

36.—(1) Subject as hereinafter mentioned, the provisions of this Act and of Part Four of the Municipal Corporations Act, 1882 (*a*), as amended by this Act, shall extend to elections for the offices mentioned in the first column of the First Schedule (*b*) to this Act as if re-enacted herein and in terms made applicable thereto, and petitions may be presented and tried, and offences prosecuted and punished, and incapacities incurred in reference to each such election accordingly.

Provided that in the application of the said provisions to any such election :

(a) The area, officer, and rate mentioned opposite to the office in the second, third, and fourth columns of the said Schedule, shall be deemed to be substituted for the borough or ward, town clerk, and borough fund or rate respectively.

(b) The expression "corporate office" in the said provisions shall mean an office mentioned in the said Schedule, *and in relation to the election of a guardian of a union includes any such office in the union* (c), and "a municipal election" shall mean an election to such office, and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.

(c) No corrupt and illegal practices list shall be made for any such election.

(d) Vacancies created by the decision of an election court shall be filled by a new election (*d*).

(e) *A petition relating to the election of a guardian of a union may be tried at any place within the union* (c).

(f) Nothing in the said provisions shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to any office mentioned in the said Schedule on any licensed or other premises not situate in an urban sanitary district (*e*) or in the metropolis (*f*).

. . . . . .

(2) The judges for the time being on the rota for the trial of parliamentary election petitions, or any two of those judges, may annually appoint as many barristers, not exceeding five, as they may think necessary to be commissioners for the trial of election petitions under Part Four of the Municipal Corporations Act, 1882, and this Act, and shall from time to time assign the petitions (whether relating to a municipal election or to any other election to which this Act extends) to be tried by each commissioner.

(*a*) This Part is set out, *ante*, p. 2417.

(*b*) And also rural district council elections ; see the L. G. A., 1894, s. 48 (3), *ante*, p. 1012.

(*c*) Words in italics repealed by L. G. A., 1929, Sched. XII., *ante*.

(*d*) Hence a casual vacancy will not happen.

(*e*) See the P. H. A., 1875, s. 6, *ante*, p. 39.

(*f*) As the polls at elections of district councils are no longer taken by means of voting papers, clause (g) is no longer applicable to them. Clause (h) is expressly repealed by the L. G. A., 1894.

Section 37.

Exemption from provisions as to maximum expenses.

37. The provisions of this Act which prohibit the payment of any sum, and the incurring of any expense by or on behalf of a candidate at an election, on account of, or in respect of, the conduct or management of the election, and those which relate to the time for sending in and paying claims, and those which relate to the maximum amount of election expenses, or the return or declaration respecting election expenses, shall not apply to any of the elections mentioned in the First Schedule to this Act (a).

(a) By s. 48 (3) of the L. G. A., 1894, *ante*, p. 1012, this section shall apply to every election regulated by rules framed under that Act as if the election were an election mentioned in the First Schedule to this Act. And by the Election Orders in App. II., *post*, p. 3196, this section must be read as if a reference to an election of urban or rural district councillors respectively was substituted for a reference to any of the elections mentioned in the First Schedule to the Act. The result is that this exemption from provisions as to maximum expenses, etc., applies to elections of rural district councillors and of urban district councillors for districts not being boroughs.

REPEAL.

38. [*Repeal of Acts*] (a).

(a) Repealed with the Second Schedule by the S. L. R. A., 1898.

39. [*Commencement of Act, October 1st, 1884*] (a).

(a) Repealed with the Second Schedule by the S. L. R. A., 1898.

EXTENT OF ACT.

Act not to extend to Scotland or Ireland.

40. This Act shall not extend to Scotland or Ireland.

41. [*Duration of Act*] (a).

(a) Repealed by the S. L. R. A., 1898. This Act was made permanent by s. 35, Representation of People Act, 1918, *ante*, p. 1254.

SCHEDULES.

Section 36.

FIRST SCHEDULE.

ELECTIONS TO WHICH THIS ACT EXTENDS (a).

In England.

Office.	Area.	Officer.	Rate.
Member of local board, as defined by the Public Health Act, 1875.	Local Government district or ward of such district.	Clerk to the local board, or person performing like duties.	The general district rate.
Member of Improvement Commissioners, as defined by the Public Health Act, 1875.	Improvement Act district or ward of such district.	Clerk to the Improvement Commissioners, or person performing like duties.	The general district rate or other rate out of which the expenses of the Improvement Commissioners are payable.
* *	* *	* *	* *
Member of school board.	School district or division of the metropolis.	Returning officer of school board.	The school fund.

(a) As to school boards, see now the Education Act, 1902, ss. 5, 25, and Sched. III. (1), (2). As to rates, see now the R. and V. Act, 1925, *ante*, p. 1633. This schedule in so far as it applied to guardians was repealed by L. G. A., 1929, Sched. XII., *ante*.

* * * * * *

Sched. III.

Section 2.

THIRD SCHEDULE.

PART I.

Enactments defining Corrupt Practices—Enactments defining the Offence of Bribery.

The Corrupt Practices Prevention Act, 1854 (17 & 18 Vict. c. 102), ss. 2, 3.

Bribery defined.

S. **2.** The following persons shall be deemed guilty of bribery, and shall be punishable accordingly (*a*):

(1) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or endeavour to procure, any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce any voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election.

(2) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting, or shall corruptly do any such act as aforesaid on account of any voter having voted or refrained from voting at any election.

(3) Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(4) Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election.

(5) Every person who shall advance or pay, or cause to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election: Provided always, that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for on account of any legal expenses bonâ fide incurred at or concerning any election.

(*a*) It is beyond the scope of the present Work to enter into a detailed discussion of the law relating to bribery and other corrupt practices. For information on this subject the reader is referred to works on the law of elections. One or two decisions may, however, be mentioned.

As to corrupt employment, see *Harding* v. *Stokes* (1836), 1 M. & W. 354; 2 M. & W. 233; giving money after election, *R.* v. *Thwaites* (1853), 1 El. & Bl. 704; 22 L. J. Q. B. 238.

Y. canvassed M., a voter at a municipal election, for his party, and on M. expressing an intention not to vote, told M. he would be remunerated for loss of time:—*Held*, that this was bribery (*Simpson* v. *Yeend* (1869), L. R. 4 Q. B. 626; 33 J. P. 677).

"In order to make the payment of a rate for the purpose of enabling voters to be registered affect the election, you must prove that it was done corruptly; that it was done thereby to influence their votes, which in my judgment means to induce them to vote for the person on whose behalf the payment was made": *per* MARTIN, B., in *Cheltenham Election* (1869), 1 O'M. & H. 63. In order to make a third party responsible for the payment of a rate, it must be proved that he gave authority to the person to do the act. The common law rules of agency, therefore, and not those of election law, apply to this case (*Wigan Election* (1869), 1 O'M. & H. 190; Ward's Practice at Elections, p. 158).

A single case of bribery by an agent avoids an election (*Norwich Election Petition* (1886), 54 L. T. 625).

To offer a voter his travelling expenses if he will come and vote for a particular candidate is bribery (*Packard* v. *Collings* (1886), 54 L. T. 619).

In an indictment for bribery where the date of the offence, that is of the offer of the bribe, is given in the indictment, the date of the election need not also be alleged, and even if necessary might be inserted by way of amendment (*R.* v. *Yeoman* (1905), 20 T. L. R. 266).

S. **3.** The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly:

Bribery further defined.

(1) Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or from refraining or agreeing to refrain from voting at any election.

(2) Every person who shall, after any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election.

The Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 49.

Corrupt payment of rates to be punishable as bribery.

S. **49.** Any person, either directly or indirectly, corruptly paying any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at the future election, and any candidate or other person, either directly or indirectly, paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, shall be guilty of bribery, and be punishable accordingly; and any person on whose behalf and with whose privity any such payment as in this section is mentioned is made, shall also be guilty of bribery, and punishable accordingly (*a*).

(*a*) See the preceding note.

Enactment defining the Offence of Personation.

The Ballot Act, 1872 (35 & 36 Vict. c. 33), s. 24.

Personation defined.

S. **24.** A person shall, for all purposes of the laws relating to parliamentary and municipal elections, be deemed to be guilty of the offence of personation who, at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name (*a*).

(*a*) H. obtained a voting paper signed by B., who was entitled to vote in an election of councillors, and gave it to F., requesting F. to go with it to the poll and vote for two candidates, and stating that F. would run no risk in doing so. F. went and handed in the paper, but on being questioned admitted that he was not B., and the vote was not received:—*Held*, that H. was properly convicted under 22 Vict. c. 35, s. 9, of inducing F. to personate a voter. *Held*, further, that it was sufficient for the conviction to state that H. induced F. to personate B., and that it need not set out the details of the process by which F. carried out the personation (*Hague* v. *Brown* (1864), 33 L. J. M. C. 81; 28 J. P. 231).

If a man applies to the presiding officer for a ballot paper in a name other than his name of origin, or in the name by which he is generally known, but in a name which appears on the register, and which was inserted by the overseers in the belief that it was the name of the applicant, and for the purpose of putting him on the register, he is entitled to vote, and is not a person who "applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person" (*R.* v. *Fox* (1887), 16 Cox C. C. 166).

In order to sustain a conviction for personation it is not necessary to state in the indictment, or to prove at the trial, that the presiding officer at the booth where the offence was committed was duly appointed. *Semble*, the appointment of a presiding officer need not be in writing (*R.* v. *Garvey* (1887), 16 Cox C. C. 252 (C. C. R. Ir.)).

Enactments defining the Offences of Treating and Undue Influence.

The Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), ss. 1, 2.

What is treating.

S. **1.** Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing any meat, drink, entertainment, or provision to or for any person for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such

Sched. III. person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.

And every elector who corruptly accepts or takes any such meat, drink, entertainment or provision, shall also be guilty of treating (*a*).

(*a*) Treating is not the entertainment of equals by equals, but of an inferior by a superior, with the object of securing the goodwill of the inferior (*Norwich Election Petition* (1886), 54 L. T. 625). Giving a school feast was held not to be treating in the *Aylesbury Election Petition* (1886), 4 O'M. & H. 59. It must be proved that the voter got his refreshment on account of his having polled or being about to poll (*per* MANISTY, J., in *Hargreaves* v. *Simpson* (1878), 4 Q. B. D. 403; 43 J. P. 767).

What is undue influence.

S. **2.** Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

Enactment defining the Offences of Bribery, Treating, Undue Influence, and Personation.

The Municipal Corporations Act, 1882 (45 & 46 Vict. c. 50), s. 77.

Definitions.

S. **77.** "Bribery," "treating," "undue influence," and "personation" include respectively anything done before, at, after, or with respect to a municipal election, which, if done before, at, after, or with respect to a parliamentary election, would make the person doing the same liable to any penalty, punishment, or disqualification for bribery, treating, undue influence, or personation, as the case may be, under any Act for the time being in force with respect to parliamentary elections.

Section 23.

PART II.

Enactments relating to Disqualification of Electors.

The Corrupt and Illegal Practices Prevention Act, 1883 (46 & 47 Vict. c. 51), ss. 37, 38.

Prohibition of disqualified persons from voting.
35 & 36 Vict. c. 60.
45 & 46 Vict. c. 50.

S. **37.** Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at any election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

Hearing of person before he is reported guilty of corrupt or illegal practice, and incapacity of person reported guilty.

S. **38.**—(1) Before a person, not being a party to an election petition nor a candidate on behalf of whom the seat is claimed by an election petition, is reported by an election court . . . to have been guilty, at an election, of any corrupt or illegal practice, the court . . . shall cause notice to be given to such person, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported (*d*).

. . . . . .

(5) Every person who, after the commencement of this Act, is reported by any election court . . . to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty. . . .

(6) Where a person who is a justice of the peace is reported by any election court . . . to have been guilty of any corrupt practice in reference to any election, whether he has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to report the case to the Lord High Chancellor of Great Britain,

with such evidence as may have been given of such corrupt practice, and where any such person acts as a justice of the peace by virtue of his being or having been mayor of a borough, the Lord High Chancellor shall have the same power to remove such person from being a justice of the peace as if he was named in a commission of the peace.

(7) Where a person who is a barrister or a solicitor, or who belongs to any profession the admission to which is regulated by law, is reported by any election court . . . to have been guilty of any corrupt practice in reference to an election, whether such person has obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring the matter before the Inn of Court, High Court, or tribunal having power to take cognizance of any misconduct of such person in his profession, and such Inn of Court, High Court, or tribunal may deal with such person in like manner as if such corrupt practice were misconduct by such person in his profession.

(8) With respect to a person holding a licence or certificate under the Licensing Acts (in this section referred to as a licensed person) the following provisions shall have effect:

(a) If it appears to the court by which any licensed person is convicted of the offence of bribery or treating that such offence was committed on his licensed premises, the court shall direct such conviction to be entered in the proper register of licences:

(b) If it appears to an election court . . . that a licensed person has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises, such court . . . (subject to the provisions of this Act as to a person having an opportunity of being heard by himself and producing evidence before being reported) shall report the same: and, whether such person obtained a certificate of indemnity or not, it shall be the duty of the Director of Public Prosecutions to bring such report before the licensing justices from whom or on whose certificate the licensed person obtained his licence, and such licensing justices shall cause such report to be entered in the proper register of licences:

(c) Where an entry is made in the register of licences of any such conviction of or report respecting any licensed person as above in this section mentioned, it shall be taken into consideration by the licensing justices in determining whether they will or will not grant to such person the renewal of his licence or certificate, and may be a ground, if the justices think fit, for refusing such renewal.

(*a*) This section excludes the right of a person charged with any corrupt or illegal practice at a municipal election to be heard by his counsel or solicitor (*R.* v. *Mansel Jones* (1889), 23 Q. B. D. 29; 53 J. P. 739). But such a person must have an opportunity of being heard at least by himself (*R.* v. *Mansel Jones* (1894), 10 T. L. R. 515). Where after the trial of a municipal election petition the commissioner has reported persons as having been guilty of corrupt practices, the High Court has no jurisdiction to set aside or amend his report on the ground that the notice prescribed by this section was not given to the persons reported (*Preece* v. *Harding* (1890), 24 Q. B. D. 119; *Re Wigan Municipal Election Petition, Ex parte Johnson* (1894), 38 Sol. J. 386).

* * * * * *

FOURTH SCHEDULE.

Section 21.

FORM OF DECLARATION BY CANDIDATE AS TO EXPENSES.

I,   , having been a candidate at the election of councillor for the borough [*or* ward] of   , on the   day of   [and my agents do hereby solemnly and sincerely declare that I have paid   ] for my expenses at the said election, and that, except as aforesaid, I have not, and to the best of my knowledge and belief, no person, nor any club, society, or association, has on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that, except as aforesaid, no money, security, or equivalent for money, has to my knowledge or belief been paid, advanced, given, or deposited by anyone to or in the hands of myself, or any other person, for the

Sched. IV. purpose of defraying any expenses incurred on my behalf on accouut of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not at any future time make or be a party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

Signature of declarant *C. D.*

Signed and declared by the above-named declarant on the day of , before me.

(Signed) *E. F.*
Justice of the Peace for .

THE DISUSED BURIAL GROUNDS ACT, 1884.

(47 & 48 VICT. c. 72) (*a*).

An Act for preventing the erection of Buildings on Disused Burial Grounds.
[14th August, 1884.]

Short title.

1. This Act may be cited as the Disused Burial Grounds Act, 1884.

(*a*) The preamble to this Act, reciting 15 & 16 Vict. c. 85, and 16 & 17 Vict. c. 134, and a few words in s. 3, are repealed by the S. L. R. A., 1898.

Interpretation clause.

2. In this Act a "disused burial ground" shall mean a burial ground in respect of which an Order in Council has been made for the discontinuance of burials therein in pursuance of the provisions of the said recited Acts (*a*).

a) For the definition of a burial ground as used in this Act, see the Open Spaces Act, 1887, s. 4, *post*, p. 2493, which section is to that extent not repealed by the Open Spaces Act, 1906. That definition includes land "set apart for the purposes of interment," even though it has been so set apart in contravention of an Order in Council made under s. 1 of the Burial Act, 1853, and consequently can never be lawfully used for the purposes of interment (*Re Bosworth and Gravesend Corporation*, [1905] 2 K. B. 426; 69 J. P. 339, following *Ward* v. *Portsmouth Corporation*, [1898] 2 Ch. 191; 62 J. P. 820). These cases were discussed in *Nicholl* v. *Llantwit Major Parish Council*, [1924] 2 Ch. 214; 131 L. T. 634, and doubt was expressed by TOMLIN, J., as to the correctness of the decisions. In the last-mentioned case it was held that land acquired for use as a burial ground but found unsuitable for the purpose and never used for interment was not a "disused burial ground." The case of *Nicholl* v. *Llantwit Major Parish Council* was distinguished and the earlier cases followed in *London C. C.* v. *Greenwich B. C.*, [1929] 1 Ch. 305; 93 J. P. 123. See note (*b*), *post*, p. 2494, s. 103 (4) of the Housing Act, 1925, *ante*, p. 1465, and Sched. III., Pt. II., r. 4, of the Town Planning Act, 1925, *ante*, p. 1514.

No buildings to be erected upon disused burial grounds, except for enlargement, etc.

3. It shall not be lawful to erect any buildings upon any disused burial ground, except for the purpose of enlarging a church, chapel, meeting-house, or other places of worship (*a*).

(*a*) A. agreed to sell to B. a chapel and adjoining ground, in which human remains were interred. Both A. and B. knew of the interments, and also that B. intended to use the ground for building. After the contract was entered into, and before completion, the above Act was passed, rendering building on "disused burial grounds" illegal. It was admitted that the land sold was a disused burial ground within the meaning of the Act:—*Held*, that B. was, nevertheless, bound to complete his contract (*Bolesworth* v. *Davis* (1886), 3 T. L. R. 214). A perpetual injunction was granted against a vestry for erecting a band stand on a disused burial ground which had been thrown open to the public as an open space (*Att.-Gen.* v. *St. Pancras Vestry* (1894), 58 J. P. 22). And see *In re Ecclesiastical Commissioners and New City of London Brewery Co.'s Contract*, [1895] 1 Ch. 702. The erection of a screen by a local authority for the purpose of preventing an adjoining landowner, who had built on his land houses overlooking a disused churchyard, from acquiring any right of light, is not a building under this section and cannot be restrained by injunction (*Paddington Corporation* v. *Att.-Gen.*, [1906] A. C. 1; 70 J. P. 41).

A faculty was refused for the construction of an underground electricity transformer in a "disused burial ground" on the ground that it was within the prohibition in s. 3 in the text (*St. Nicholas Acons* (*Rector and Churchwardens*) v. *L. C. C.*, [1928] A. C. 469; 44 T. L. R. 656). Where an application was made for a faculty to authorise, under the Open Spaces Act, 1906, the conversion of a disused burial ground into an open space and its laying out for such purpose including the erection of urinals and a toolshed, the urinals were excluded from the grant of the faculty as "buildings," but the toolshed was held not to be a "building" within the Acts (*Bermondsey B. C.* v. *Mortimer*, [1926] P. 87).

So far as this section relates to churches it only permits buildings to be erected which are in physical communication with the church and enlarge it for the main and primary purpose of religious worship. It would not therefore permit the erection of a separate building to be used as a vestry hall and for Sunday schools and other parochial purposes (*London C. C.* v. *Dundas*, [1904] P. 1).

Savings for buildings already sanctioned.

4. Nothing in this Act shall prevent the erection of any building on a disused burial ground for which a faculty has been obtained before the passing of this Act.

Saving of burial ground sold by Act of Parliament.

5. Nothing in this Act contained shall apply to any burial ground which has been sold or disposed of under the authority of any Act of Parliament (*a*).

(*a*) This section applies to dispositions made after the Act (*In re Ecclesiastical Commissioners and New City of London Brewery Co.'s Contract*, [1895] 1 Ch. 702; *Att.-Gen.* v. *London Parochial Charities Trustees*, [1896] 1 Ch. 541). Under s. 24 of the Burial Act, 1857, power to let and sell the unconsecrated parts of disused burial grounds was given to the trustees thereof, the proceeds to be applied in discharge of incumbrances and the balance for the benefit of the parish as the vestry should direct. For a decision as to the present right to direct the application of the proceeds in such a case, see *St. George, Hanover Square* (*Rector and Churchwardens*) v. *Westminster Corporation*, [1910] A. C. 225; 74 J. P. 153. The trustees of a disused chapel and burial ground had applied to the Charity Commissioners for their sanction to the sale of the premises as a building site. It was held that such a sale by order of the Commissioners would not be a "sale or disposition under the authority of any Act of Parliament" within the meaning of this section (*In re Howard Street Congregational Chapel, Sheffield*, [1913] 2 Ch. 690). A sale of a disused burial ground by the Admiralty under their general powers of sale of surplus lands under the Admiralty Lands and Works Act, 1864, is not a sale under the authority of an Act of Parliament within this section (*London C. C.* v. *Greenwich Corporation*, [1929] 1 Ch. 305).

THE CANAL BOATS ACT, 1884.

(47 & 48 VICT. c. 75) (*a*).

An Act to amend the Canal Boats Act, 1877. [14th August, 1884.]

Certificate of registry made void by structural alterations.

1. A certificate of registration granted under the principal Act (*b*) shall cease to be in force in the event of any structural alterations having been made in the canal boat affecting the conditions upon which the certificate of registration has been obtained.

(*a*) The preamble to this Act is repealed by the S. L. R. A., 1898.

(*b*) See the Canal Boats Act, 1877, s. 3, *ante*, p. 2396.

Penalty for contravention of regulations under Canal Boats Acts.

2. If default is made in complying with any of the regulations made or to be made by the Local Government Board (*a*) and Education Department under the principal Act (*b*) or this Act, and for the time being in force, the master of the boat with respect to which the default is made, and also the owner of the boat, if in default, shall for each default be liable on summary conviction to a fine not exceeding twenty shillings.

(*a*) Here and throughout this Act, for Local Government Board, read Minister of Health, who succeeded to the powers of the Board under the Ministry of Health Act, 1919.

(*b*) *Ibid.*, s. 2, *ante*, p. 2396.

Enforcement of Act by registration

3. It shall be the duty of every registration or sanitary authority within whose district any canal, or any part of a canal is situate, to enforce within

Section 3.

and sanitary authority, and report to be made.

such district the provisions of the principal Act and this Act, and any regulations made thereunder by the Local Government Board (*a*); and every such authority shall, within twenty-one days after the thirty-first day of December in every year, make a report (*b*) to the Local Government Board (*a*) as to the execution of the principal Act and this Act, and of the regulations made thereunder as aforesaid, and as to the steps taken by such authority during the year to give effect to the provisions of the said Acts and regulations.

(*a*) See note (*a*) to s. 2, *ante*, p. 2485.
(*b*) As to the information to be included in this report, see Circular of the L. G. B., dated December 20th, 1902, App. II., *post*, p. 3095.

Inquiries and reports by Local Government Board.

4. The Local Government Board (*a*) shall in every year present a report to both Houses of Parliament as to the execution of the principal Act and this Act, and the observance of the regulations made by them thereunder, and shall cause inquiries to be made from time to time by an inspector or inspectors to be appointed by them for that purpose.

Such inspectors shall for the purpose of any inquiry under this Act have in relation to witnesses and their examination, the production of papers, and inspection of places and matters required to be inspected, similar powers to those which poor law inspectors have under the Acts relating to the relief of the poor for the purposes of those Acts (*b*), and may enter any canal boat at any time by day (*c*), and examine the same and every part thereof, and may, if need be, for the purpose of such inquiry detain the boat, but for no longer time than is necessary.

The master of the boat shall, if required by any such inspector, produce to him the certificate of registry, if any, of the boat, and permit him to examine and copy the same, and shall furnish him with such assistance and means as such inspector may require for the purpose of his entry and examination of and departure from the boat in pursuance of this section.

A refusal to comply with the requisition of such inspector under this section shall be deemed to be an obstruction of such inspector.

If such inspector is obstructed in the performance of his duty under this Act, the person obstructing him shall be liable to a fine not exceeding forty shillings.

(*a*) See note (*a*) to s. 2, *ante*, p. 2485.
(*b*) See note (*b*) to P. H. A., 1875, s. 296, *ante*, p. 629.
(*c*) See s. 9, *post*, p. 2487.

Power to make regulations as to school certificates, etc.

5. The power to make regulations given to the Local Government Board (*a*) by the principal Act and this Act shall include power to the Education Department to make regulations with respect to the form of certificates or pass books as to attendance at school to be used by children in canal boats.

(*a*) See note (*a*) to s. 2, *ante*, p. 2485.

Annual report by Education Department. 33 & 34 Vict. c. 75. 36 & 37 Vict. c. 86. 39 & 40 Vict. c. 79. 43 & 44 Vict. c. 23.

6. The Education Department shall every year report to Parliament as to the manner in which the Elementary Education Acts, 1870 and 1873, 1876 and 1880, are enforced with respect to children in canal boats, and shall for that purpose direct her Majesty's Inspector of Schools to communicate with the school boards and school attendance committees in their district.

Lettering and numbering of canal boats.

7. A canal boat shall not be deemed to be lettered, marked, and numbered in conformity with section three of the principal Act (*a*), unless it is so lettered, marked, and numbered on both sides of the canal boat, or in some suitable position on the stern of the boat, so that the lettering, marking, and numbering may be plainly visible from both sides of the canal whereon the boat may be.

(*a*) *Ante*, p. 2396.

8. Every fine recovered under the principal Act or this Act shall be paid in the case of a prosecution by any registration or sanitary authority or person authorised by any such authority to such authority or person, and if paid to such person shall be paid by him to such authority, and shall be applied towards the expenses of executing the principal Act and this Act, any Act to the contrary notwithstanding.

Application of fines.

9. The expression "by day" in the principal Act and this Act shall be deemed to include the hours between six o'clock in the morning and nine o'clock at night.

Definition of term "by day."

10. If it shall at any time appear to the Local Government Board (*a*) on the representation of any registration or sanitary authority or of any inspector appointed under this Act, that the principal Act and this Act ought to apply to any vessel or class of vessels which would be within the definition of canal boat contained in section fourteen of the principal Act, if such vessel or class of vessels were not registered under the Merchant Shipping Act, 1854, and the Acts amending the same, the Local Government Board (*a*) may declare that the principal Act and this Act shall apply to such vessel or class of vessels, although the same may be registered as aforesaid, and thereupon the same shall be deemed to be a canal boat or canal boats within the meaning of the principal Act and this Act, and the definition contained in section fourteen of the principal Act shall be amended accordingly (*b*).

Amendment of definition of canal boat.

(*a*) See note (*a*) to s. 2, *ante*, p. 2485.

(*b*) An order was made under this section by the M. of H. on July 10th, 1922. See the Order in App. II., *post*, p. 3096. The definition of canal boat in the Canal Boats Act, 1877, s. 14, *ante*, p. 2400, is amended accordingly.

11. This Act may be cited as the Canal Boats Act, 1884, and shall be construed as one with the Canal Boats Act, 1877, which Act and this Act may be cited together as the Canal Boats Acts, 1877 and 1884.

Short title and construction of Act.
40 & 41 Vict. c. 60.

THE LOCAL LOANS SINKING FUNDS ACT, 1885.

(48 & 49 VICT. 30) (*a*).

An Act to amend the Local Loans Act, 1875, *as regards the Establishment of a Sinking Fund.* [22nd July, 1885.]

1. This Act may be cited for all purposes as the Local Loans Sinking Funds Act, 1885.

Short title.

(*a*) This Act amends the Local Loans Act, 1875, *ante*, p. 2343. Section 13 of that Act, *ante*, p. 2347, which provides for the discharge of loans, enacts that such discharge shall be secured by one or more of certain prescribed methods. Of these methods one relates to a sinking fund, and is in these words: "*Where a sinking fund is prescribed, but not otherwise* [such discharge shall be secured], by the establishment of a sinking fund, and the application thereof in manner in this Act mentioned." The amending Act in effect repeals the words printed in italics, and enables a loan to be discharged by means of a sinking fund, although it has not been prescribed by the special Act authorising the loan. The preamble to this Act and s. 3 are repealed by the S. L. R. A., 1898. Reference should be made to s. 4 of the Local Authorities (Financial Provisions) Act, 1921, for the power given to suspend sinking-fund payments in case of money borrowed for revenue producing works.

2. This Act shall not extend to Scotland or Ireland.

Limits of Act.

3. [*Commencement of Act, September 1st,* 1885.]

Discharge of loans by sinking funds. 38 & 39 Vict. c. 83.

4. Notwithstanding anything contained in the Local Loans Act, 1875, every loan borrowed in manner provided by that Act may be discharged by the establishment of a sinking fund as therein mentioned, notwithstanding that a sinking fund may not have been prescribed by the special Act authorising the loan.

THE QUARRY (FENCING) ACT, 1887.

(50 & 51 VICT. c. 19.)

An Act to provide for the Fencing of Quarries. [19th July, 1887.]

Short title.

1. This Act may be cited as the Quarry (Fencing) Act, 1887.

2. [*Commencement of Act, January 1st,* 1888.]

Fencing of quarries.

3. Where any quarry dangerous to the public is in open or uninclosed land, within fifty yards of a highway or place of public resort dedicated to the public, and is not separated therefrom by a secure and sufficient fence, it shall be kept reasonably fenced for the prevention of accidents, and unless so kept shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by the Public Health Act, 1875 (*a*).

(*a*) An unfenced quarry which is within this section is, therefore, a nuisance within the meaning of s. 91 of the P. H. A., 1875, *ante*, p. 174. Proceedings may consequently be taken against the owner or occupier under that and the succeeding sections. Notice must be given to the owner or occupier under s. 94 requiring the nuisance to be abated by the erection of a proper fence. If the notice is disregarded complaint may be made to justices under s. 96, and the local authority may themselves abate the nuisance and recover the expenses under s. 97. But members of a district council are not liable to a charge of manslaughter in case anyone is killed by falling into an unfenced quarry merely because that council have omitted to exercise their powers under the above-mentioned enactments (*R.* v. *Clerk of Assize of Oxford Circuit*, [1897] 1 Q. B. 370; 61 J. P. 197). See also as to the common law obligation on the possessor of a dangerous excavation by the side of the highway to keep it fenced off (*Att.-Gen.* v. *Roe*, [1915] 1 Ch. 235).

It should be noticed that this Act applies to quarries which are being worked as well as to those which have ceased to be worked. In this respect it differs from the somewhat similar provisions of the Coal Mines Act, 1911, *post*, p. 2710, and the Metalliferous Mines Regulation Act, 1872, *ante*, p. 2329.

As to the repair and enclosing of dangerous places, and the fencing of lands adjoining streets, see ss. 30 and 31 of the P. H. A., 1907, *ante*, pp. 1122, 1124.

The plaintiff was in the occupation of the surface of a field, and the defendants were in the occupation of a quarry in the same field, which they had enlarged. Both held under the same landlord. The quarry was entirely unfenced. One of the plaintiff's bullocks fell into the quarry and was killed :—*Held*, that the plaintiff was entitled to recover damages from the defendants for the loss of the bullock (*Hawken* v. *Shearer and Another*, W. N. (1887) 89; 56 L. J. Q. B. 284).

A proprietor is under no obligation to fence a disused quarry on his property which is at a distance of upwards 150 yards from the nearest point of the public road. A person on a dark night left the public road, and was found in the morning in a dying state at the bottom of the face of a disused quarry, eighteen feet in height. The quarry was more than 150 yards from the nearest point of the public road. A path, which had served as an access to the quarry when it was in use eight years before, left the public road about 200 yards from the quarry, and continued towards the quarry, which was overgrown with long grass and willows. The path was occasionally used by inhabitants of the district, but, against the remonstrances of the proprietor and his tenant, passed within six yards of the edge of the quarry face. The person who had fallen in was a stranger in the district, and was unable to give any account of how he had reached the spot where he fell. In an action for damages against the proprietor by the representatives of the deceased, a jury found for pursuers. A new trial was granted on the ground that the evidence disclosed no fault on the part of the defender (*Prentice* v. *Assets Co., Ltd.* (1890), 17 Ct. of Sess. Cas. (4th ser.) 484).

4. In this Act—

The term "quarry" includes every pit or opening made for the purpose of getting stone, slates, lime, chalk, clay, gravel, or sand, but not any natural opening. Interpretation.

5. This Act shall not extend to Scotland and Ireland. Extent of Act.

THE WATER COMPANIES (REGULATION OF POWERS) ACT, 1887.

(50 & 51 VICT. c. 21.)

An Act to limit the Powers of the Water Companies to cut off the Tenant's Water Supply where the Rate is paid by the Landlord. [8th August, 1887.]

1. This Act may be cited as "The Water Companies (Regulation of Powers) Act, 1887." Short title.

2. This Act shall not extend to Scotland or Ireland. Extent of Act.

3. This Act shall apply to every water company which is a trading company supplying water for profit (*a*), and to which any of the provisions of the Waterworks Clauses Act, 1847, have been or shall be made applicable by any special Act or Provisional Order confirmed by Parliament, and every such special Act or Provisional Order shall be deemed to be amended by this Act, and shall be construed accordingly (*b*). Application of Act.

(*a*) See *Metropolitan Water Board* v. *Berton*, [1921] 1 Ch. 299.

(*b*) From this section it appears that it does not apply to a local authority supplying water by virtue of the powers contained in the P. H. A., 1875, as such an authority is not a trading company supplying water for profit. The Provisional Order here referred to is an Order obtained under the Gas and Water Works Facilities Act, 1870, *ante*, p. 2272, and the Gas and Water Works Facilities Act, 1870, Amendment Act, 1873, *ante*, p. 2339.

4. Where the owner and not the occupier is liable by law (*a*) or by agreement with the water company to the payment of the water rate in respect of any dwelling-house or part of a dwelling-house occupied as a separate tenement no water company shall cut off the water supply for non-payment of the water rate (*b*), but such water rate, without prejudice to the other remedies of the company for enforcing payment thereof from such owner (*c*), shall, together with interest thereon at the rate of five pounds per centum per annum, computed from the expiration of one month from the time when the same has been claimed by the company until receipt thereof by the company, be a charge on such dwelling-house in priority to all other charges affecting the premises (*d*); and (without prejudice to such charge) the amount may be recovered, with the costs incurred, from the owner or from the occupier for the time being in the same manner as water rates may by law be recovered (*c*): Provided always, that proceedings shall not be taken against the occupier until notice shall have been given to him or left at his dwelling-house to pay the amount due for water rate out of the rent then due or that may thereafter become due from him, and he shall have omitted so to pay such water rate; and provided also, that no greater sum shall be recovered at any one time from any such occupier than the amount of rent owing by him, or which shall have accrued due from him since such notice shall have been given or left as aforesaid, and that every such occupier shall be entitled to deduct from the rent payable by him the sum so recovered from him or which he shall have paid on demand (*e*). Water not to be cut off where the water rate is payable by the owner.

Note to Section 4.

(*a*) The owner of a house not exceeding £10 rent is liable to pay water rates by virtue of the Waterworks Clauses Act, 1847, s. 72, *ante*, p. 2199. The words "is liable" refer to a liability at the date when the water rate became due, and if there was at that date an occupier other than the owner, and the owner and not the occupier was liable for the payment of that rate, the section prohibits the water company from cutting off the supply for non-payment of the rate, even after the occupier has given up possession and the premises have become vacant (*Metropolitan Water Board* v. *Bibbey*, [1911] 2 K. B. 74; 75 J. P. 322).

(*b*) The power to cut off the supply of water for non-payment of water rate is given by 10 & 11 Vict c. 17, s. 74, *ante*, p. 2200.

(*c*) These remedies are given by the Waterworks Clauses Act, 1847, s. 74, *ante*, p. 2200, and the Waterworks Clauses Act, 1863, s. 16, *ante*, p. 2267. The owner of a block of flats which were respectively of an annual value not exceeding £20 entered into an agreement with a water company for the supply of water to the flats by meter. The owner subsequently mortgaged the premises, and upon his getting into financial difficulties, the mortgagees appointed the defendant to act as receiver of the rents on their behalf. At the date of the defendant's appointment there were arrears owing to the plaintiffs (successors to the company) for water supplied to the flats under the agreement. CHANNELL, J., held that the defendant was not the owner of the premises within the meaning of this section and was not liable as such for the arrears existing at the time of his appointment (*Metropolitan Water Board* v. *Brooks*, [1910] 2 K. B. 134; 74 J. P. 233). The Court of Appeal reversed the decision of CHANNELL, J., but not on this ground ([1911] 1 K. B. 289; 75 J. P. 41).

(*d*) See the notes to the corresponding provisions of s. 257 of the P. H. A., 1875, *ante*, p. 567. This charge will not, however, be a "local land charge" to be registered under s. 15 of the Land Charges Act, 1925, *ante*, p. 1519. The words "in priority to all other charges" appear to be superfluous, as the charge under the Act would affect the property in the hands of a mortgagee. See *Birmingham Corporation* v. *Baker* (1881), 17 Ch. D. 782; 46 J. P. 52.

(*e*) A landlord gave a tenant notice to quit, and on the tenant continuing to remain in possession gave notice to a water company to cut off the supply, which they did:—*Held*, that, as the cutting off had not been for non-payment of the water rate, the above Act did not apply (*Chelsea Waterworks Co.* v. *Paulet* (1887), 4 T. L. R. 239).

The effect of the above section is, that a purchaser of the freehold of a dwelling-house is liable to a personal action at the suit of the waterworks company to recover arrears of water rate which accrued due before the date of the purchase (*East London Waterworks Co.* v. *Kellerman*, [1892] 2 Q. B. 72; 56 J. P. 773).

Penalty on cutting off of supply in contravention of the Act.

5. In the event of any such supply being cut off in contravention of this Act, the company cutting off the same shall be liable to a penalty not exceeding five pounds for each day during which the water shall remain cut off, which penalty shall be recoverable summarily from the company by, and shall be paid to, the person aggrieved (*a*).

(*a*) Although *primâ facie* the tenant would be the person aggrieved, the landlord may also be "aggrieved" (*Metropolitan Water Board* v. *Bibbey*, *supra*). And see *South West Suburban Water Co.* v. *Hardy* (1913), 77 J. P. 283; 109 L. T. 169.

THE MARKETS AND FAIRS (WEIGHING OF CATTLE) ACT, 1887.

50 & 51 VICT. C. 27) (*a*).

An Act to amend the Law with respect to weighing Cattle in Markets and Fairs. [8th August, 1887.]

10 & 11 Vict. c. 14.

Whereas it is expedient to afford the like facilities for weighing cattle in markets and fairs as are afforded for weighing goods and carts under the Markets and Fairs Clauses Act, 1847, *in markets and fairs to which that Act applies* (*b*) *:*

Short title.

1. This Act may be cited as "The Markets and Fairs (Weighing of Cattle) Act, 1887."

Note to Section 1.

(*a*) This Act is amended in some important respects by the Markets and Fairs (Weighing of Cattle) Act, 1891, *post*, p. 2534. In particular its application is extended to auction marts. Further amendments are made by the Markets and Fairs (Weighing of Cattle) Act, 1926, *post*, p. 2908.

(*b*) The provisions of the Markets and Fairs Clauses Act, 1847, here referred to, are the 10 & 11 Vict. c. 14, ss. 21—30. These provisions are incorporated with the P. H. A., 1875, by s. 167 of that Act, *ante*, p. 404, and are set out, *ante*, p. 2154.

Application of Act.

2. This Act, save as is hereinafter provided, shall apply to all markets and fairs in which tolls are for the time being authorised to be taken and actually are taken in respect of cattle by any company, corporation, or person and every such company, corporation, or person is in this Act called "the market authority" (*a*).

(*a*) This Act will, therefore, apply to local authorities which possess or have the control of markets, whether by virtue of the P. H. A. or otherwise, if their tolls include tolls for cattle, and such tolls are actually taken.

Interpretation.

3. In this Act the word "cattle" includes (*a*) ram, ewe, wether, lamb, and swine.

(*a*) See the observations on the word "includes," *ante*, p. 7, note (*b*). Its effect is to extend the meaning of the term with reference to which it is used, so that the word "cattle" in this Act will include not only the animals ordinarily described as "cattle," but also the animals enumerated in the section.

Accommodation for weighing cattle to be provided.

4. In or near (*a*) to every market or fair to which this Act applies, the market authority shall provide and maintain sufficient and proper buildings or places for weighing cattle brought for sale within the market or fair, and shall keep therein or near thereto weighing machines and weights for the purpose of weighing cattle, and shall appoint proper persons to have charge of such machines and weights, and to afford the use of such machines and weights to the public for weighing cattle as may be from time to time required.

The market authority shall have the accuracy of such weighing machines and weights tested at least twice every year by the local inspector of weights and measures of and for the county, borough, or place where the market is situate, and the cost of such testing shall be borne by such market authority.

If the market authority fail to comply with the provisions of this section, it shall not be lawful for them to demand, receive, or recover any toll whatever in respect of any cattle brought to the market or fair for sale so long as such failure continues, but this enactment shall not apply till after the first day of January one thousand eight hundred and eighty eight (*b*).

Any person who demands or receives any toll in respect of cattle in any market or fair to which for the time being this Act applies (*c*), but in which the market authority have not complied with the provisions of this Act, shall be liable on summary conviction (*d*) to a fine not exceeding five pounds.

(*a*) Observe that the necessary accommodation need not be actually in the market. It may be *near* it, *i.e.*, in some convenient place outside, but not far from the market.

(*b*) It will be necessary for every market authority to which this Act applies (see note (*a*) to s. 2, *supra*), to provide the weighing accommodation required by the Act, otherwise tolls for cattle cannot be demanded or taken until the Act is complied with.

The Markets and Fairs (Weighing of Cattle) Act, 1891, s. 2, *post*, p. 2534, provides that the market authority of every market or fair shall, unless exempted by Order of the Minister of Agriculture, provide and maintain to the satisfaction of the Minister sufficient and suitable accommodation for weighing cattle, and that default of so doing shall be deemed default in complying with the above section. Where a weighing machine is provided under these Acts all fat cattle sold by auction in the market or fair must be weighed and their weight disclosed to intending purchasers at the time of offer for sale (Markets and Fairs (Weighing of Cattle) Act, 1926, s. 1, *post*, p. 2908).

In December, 1887, the plaintiffs, as the market authority under the above section, took steps to provide a weighing machine for cattle upon a site in their market-place, which, according to the plaintiff's contention, consisted of two long and narrow strips in the market

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town separated by the highway. The defendants interfered, their contention being that the market-place was not distinct from the highway; and that the entire space upon which the markets were held was a public highway dedicated to the use of the public, subject only to the right of the owner of the soil for the time being, or her lessees, to hold markets thereon, and that the market-place, as a highway, was vested in them, the defendants as an urban authority, under the P. H. A., 1875, and that the proposed weighing machine, would be a public nuisance, and interfere with their rights in such highway, and with the public right of passage thereon: *Held*, that the above section was an imperative section, and the market authority was not only at liberty, but was bound, to provide a proper weighing machine for their market, which, according to the Act, must be a permanent structure, and not a movable machine:—*Held*, also, that the defendants were entirely wrong in their contention, and that they must, therefore, be restrained from interfering with the plaintiff (*McIntosh* v. *Romford L. B.* (1889), 61 L. T. 185; 5 T. L. R. 643).

A portion of a cattle market was let by the market authority to auctioneers for exclusive use by them as a saleyard, such portion consisting of a covered shed separated from the rest of the market. All animals sold in this yard had to pass through the market gates and to pay toll to the market authority. There were no facilities for weighing cattle in the yard, but a weigh-bridge was provided in the market at which cattle sold in the saleyard could be weighed. It was held that there being within the market facilities for weighing cattle, there were facilities for weighing cattle in or near to the auctioneer's mart to satisfy the requirements of s. 4 (*Knott* v. *Stride* (1913), 77 J. P. 222; 109 L. T. 181).

(*c*) See note (*a*) to s. 2, *ante*, p. 2491.

(*d*) The effect of this provision is that the fine must be recovered pursuant to the S. J. Acts. See the S. J. A., 1879, s. 51 (1), which regulates the application of the S. J. Acts to future Acts. There are no restrictions on the recovery of this fine, and it may be recovered at the instance of a common informer. The informer will not, however, receive any part of the fine, which is payable to the treasurer of the county or borough, as the case may be, as an unappropriated penalty under the S. J. A., 1848, s. 31.

Cattle to be weighed at option of seller or buyer.

5. Every person selling, offering for sale, or buying any cattle in a market or fair provided with accommodation for weighing cattle may require such cattle to be weighed, and the tolls payable in respect of the weighing shall be paid by the person requiring the cattle to be weighed to the person authorised by the market authority, to receive the tolls.

Penalty for refusal to weigh cattle or to give ticket, etc.

6. Every person appointed by the market authority to weigh cattle sold in the market or fair, who—

(a) refuses or neglects to weigh the same when required; or

(b) refuses or neglects to deliver to the seller or buyer a ticket specifying the true weight of the cattle weighed; or

(c) gives to any person a false ticket or account of any cattle weighed (*a*);

shall be liable on summary conviction (*b*) to a fine not exceeding forty shillings and not less than half a crown.

(*a*) No doubt the same person will be appointed to fulfil the duties imposed by this Act as is appointed to perform the similar duties imposed by the Markets and Fairs Clauses Act, 1847, s. 21, *ante*, p. 2160. The duty of such person will be to weigh any cattle brought to the market for sale at the request of either the buyer or the seller, and after weighing to deliver a ticket specifying the true weight of the cattle weighed.

(*b*) See note (*d*) to s. 4, *supra*.

Penalty for fraud.

7. Every person who knowingly acts or assists in committing any fraud respecting the weighing of any cattle weighed in pursuance of this Act, shall for every such offence be liable on summary conviction (*b*) to a fine not exceeding five pounds.

(*a*) See note (*d*) to s. 4, *supra*.

Tolls for weighing cattle.

8. The market authority may from time to time (unless otherwise expressly provided by any Act) demand and receive in respect of the weighing of cattle tolls not exceeding the amounts specified in the Schedule to this Act (*a*), or such other amounts as may be authorised by the Local Government Board (*b*) to be taken by the market authority; and sections thirty-six to forty-one (both included) of the Markets and Fairs Clauses Act, 1847 (*c*), shall apply to the

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tolls mentioned in this section, as if this Act were the special Act, and the market authority were the undertakers.

(a) The amounts in the schedule were increased by s. 3 and Schedule to the Markets and Fairs (Weighing of Cattle) Act, 1926, *post*, p. 2908.

(b) Now Minister of Health.

10 & 11 Vict. c. 14.

(c) See these sections, *ante*, p. 2163. They relate, *inter alia*, to the recovery of the tolls, and require a list of the tolls to be set up in conspicuous places.

Power to exempt certain markets and fairs from provisions of Act.

9.—(1) The market authority of any market or fair may at any time apply to the Local Government Board (a) to be exempted from the provisions of this Act *on the ground that the sale of cattle at such market or fair is or is likely to be so small as to render it inexpedient to enforce the provisions and maintenance of a place for weighing cattle and of a weighing machine under this Act* (b)*;* and thereupon the Local Government Board (a) may by Order declare that this Act shall not apply to such market or fair until after the expiration of a time not exceeding three years to be limited by such Order. Any Order made under this section may at any time be wholly or partially rescinded, altered, or extended by any subsequent Order of the Local Government Board (a).

(2) This Act shall not apply to any market or fair to which any Order under this section applies so long as it is declared by such Order that this Act shall not apply thereto (c).

(a) The powers of the L. G. B. under this section were transferred to the Board (now Minister) of Agriculture and Fisheries by 54 & 55 Vict. c. 70, s. 1, *post*, p. 2534; and see ss. 2, 4 of that Act as to exemptions by the Minister. Any applications for orders of exemptions should be accompanied by full particulars as to the nature and extent of the sales of cattle in the market, fair, or mart during the previous three years, and as to the amounts of toll levied (Circular Letter of the Board of Agriculture, dated November 25th, 1891).

(b) The words in italics cease to have effect by reason of s. 2 of the Markets and Fairs (Weighing of Cattle) Act, 1926, *post*, p. 2908. That section empowers the Minister to grant exemption where the circumstances are in his opinion such as to render the enforcement of the requirement of the section inexpedient.

(c) This section contains the only exception to the application of the Act to local authorities who have markets in which tolls are charged for the sale of cattle.

10. [*Application of Act to Scotland and Ireland.*]

THE SCHEDULE.

	Not exceeding
For every head of cattle other than sheep or swine	[Sixpence]
For sheep or swine, every five or less number	[Threepence] (a)

(a) The amounts in brackets were substituted for 2*d.* and 1*d.* respectively by s. 3 and Schedule of the Markets and Fairs (Weighing of Cattle) Act, 1926, *post*, p. 2908.

THE OPEN SPACES ACT, 1887.

(50 & 51 VICT. c. 32) (a).

An Act for extending certain Provisions of the Metropolitan Open Spaces Acts, 1877 *and* 1881, *with Amendments, to Sanitary Districts throughout England, Wales, and Ireland; and for other purposes.*

[23rd August, 1887.]

* * * * * *

Amendment of 47 & 48 Vict. c. 72.

4. In the Disused Burial Grounds Act, 1884 (b), and in this Act, the expression "burial ground" shall have the same meaning as in the Metropolitan Open Spaces Act, 1881, as amended by this Act, and the

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expression "disused burial ground" shall mean any burial ground which is no longer used for interments, whether or not such ground shall have been partially or wholly closed for burials under the provisions of any statute or Order in Council, and the expression "building" shall include any temporary or movable building (*c*).

(*a*) This Act extended to urban and rural districts, the provisions of the Acts in force in the metropolis relating to open spaces, viz., 40 & 41 Vict. c. 35, and 44 & 45 Vict. c. 34, and this Act was extended by 53 & 54 Vict. c. 15. It is now, however, repealed, except so much of s. 4 as amends the Disused Burial Grounds Act, 1884, *ante*, p. 2484, by s. 23, and Schedule of the Open Spaces Act, 1906, which also wholly repeals 40 & 41 Vict. c. 35, and 44 & 45 Vict. c. 34, and 53 & 54 Vict. c. 15.

(*b*) *Ante*, p. 2484. See *In re Ecclesiastical Commissioners and New City of London Brewery Co.'s Contract*, [1895] 1 Ch. 702. The Metropolitan Open Spaces Act, 1881, as amended by this Act (now consolidated in the Open Spaces Act, 1906, *post*, p. 2676), defined "burial ground" as any ground whether consecrated or not which has been at any time *set apart* for the purposes of interment. As to the meaning of the words "set apart," see *Re Ponsford and Newport School Board*, [1894] 1 Ch. 454. If at the time land was so set apart there was in force an Order in Council prohibiting the opening of any new burial ground in the district so that it could never lawfully be used for the purposes for which it was set apart, such land was, nevertheless, a "disused burial ground" within this definition (*Re Bosworth and Gravesend Corporation*, [1905] 2 K. B. 426; 69 J. P. 337). Doubt was, however, expressed as to the correctness of these two decisions in *Nicholl* v. *Llantwit Major Parish Council*, [1924] 2 Ch. 214; 131 L. T. 634. In that case it was held that land purchased for use as a burial ground but found unfit and so never fenced off, or consecrated or used for interment had not been "set apart" for the purposes of interment. This last named case was, however, distinguished and the earlier cases followed in *London C. C.* v. *Greenwich B. C.*, [1929] 1 Ch. 305; 93 J. P. 123.

(*c*) Urinals were held to be buildings, but a tool shed for use in connection with the maintenance of the disused burial ground as an open space was held not to be a building within this definition (*Bermondsey B. C.* v. *Mortimer*, [1926] P. 87. An underground transformer chamber was held to be a building so as to infringe s. 4 of the 1884 Act (*St. Nicholas Acons* v. *London C. C.*, [1928] A. C. 469; 44 T. L. R. 656). See also the cases cited in note (*a*) to s. 3 of the Act of 1884, *ante*, p. 2484.

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THE PUBLIC WORKS LOANS ACT, 1887.

(50 & 51 VICT. c. 37) (*a*).

An Act to grant money for the purpose of certain Local Loans; and for other purposes relating to Local Loans. [16th September, 1887.]

Short title.

1. This Act may be cited as "The Public Works Loans Act, 1887."

(*a*) A list of the other Public Works Loans Acts will be found, *ante*, p. 2357. The rest of this Act relates to the grant of moneys by Parliament for the year and to purely local matters. Italicised words repealed by the S. L. R. A., 1908.

* * * * * *

Power for certain local authorities to guarantee harbour loans.
45 & 46 Vict. c. 62.

4. *Whereas under section seven of the Public Works Loans Act*, 1882 (*a*), *provision may be made for enabling any rating authority as therein defined to charge any fund or rate under their control for the purpose of aiding a public body in raising a loan for the construction of a harbour, pier, or other similar works, and it is expedient to extend the provisions of that section to certain other rating authorities: Be it therefore enacted that* the expression "rating authority" as defined in that section shall include:

(1) As regards England—

38 & 39 Vict. c. 55.

(a) Any authority being a rural sanitary authority under the Public Health Act, 1875, and the Acts amending the same; and

(b) *any justices in quarter sessions assembled* and any representative county body *which may be hereafter* created by Act of Parliament.

(*a*) See this section, *ante*, p. 2458.

* * * * * *

THE ELECTRIC LIGHTING ACT, 1888.

(51 & 52 VICT. c. 12) (*a*).

An Act to amend the Electric Lighting Act, 1882. [28th June, 1888.]

Consent of local authority generally required to Provisional Order for supply of electricity.

1. Notwithstanding anything in the Electric Lighting Act, 1882, no Provisional Order (*b*) authorising the supply of electricity by any undertakers within the district of any local authority shall be granted by the Board of Trade (*c*) except with the consent of such local authority, unless the Board of Trade (*c*), in any case in which the consent of such local authority is refused, are of opinion that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in such case they shall make a special report, stating the grounds upon which they have dispensed with such consent. The grant of authority to any undertakers to supply electricity within any area, whether granted by licence or by means of a Provisional Order, shall not in any way hinder or restrict the granting of a licence or Provisional Order to the local authority, or to any other company or person within the same area (*d*).

(*a*) This Act amends the Electric Lighting Act, 1882, *ante*, p. 2437. See also the Electric Lighting Clauses Act, 1899, *post*, p. 2569, the Electric Lighting Act, 1909, *post*, p. 2695, and the Electricity (Supply) Acts, 1919, 1922, 1926 and 1928, *post*, pp. 2782, 2835, 2909, 3019. All these Acts with the exception of the Electric Lighting Clauses Act, 1899, are to be read as one and may be referred to as the Electricity Supply Acts, 1882–1928. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

(*b*) Anything which could be effected by a Provisional Order may now be effected by a special Order or (in the case of a joint electricity authority) by an Order, and references in this Act to Provisional Orders now include references to such a special Order or Order except as regards paragraphs (1) to (4) of s. 4 of the Act of 1882 (see s. 26 of the Electricity (Supply) Act, 1919, *post*, p. 2799).

(*c*) Now the Ministry of Transport (see note (*a*) to s. 1 of the 1882 Act, on p. 2437).

(*d*) The first part of this section amended s. 4 of the Act of 1882, which enabled the Board of Trade (now Minister of Transport) to authorise any local authority, company, or person to supply electricity within any area without requiring such consents as are required to the granting of a licence. These consents are enumerated in s. 3 of the Act of 1882, and included the consent of the local authority; but save as is provided by the Electricity (Supply) Act, 1919, *q.v.* p. 2782, *post*, the consent of the local authority will now be necessary in every case, unless dispensed with by the Minister of Transport for special reasons. As to the "local authority," see the Schedule to the Act of 1882, and s. 4 (5), *post*, p. 2498. The latter part of the section provides, in effect, that a licence or Provisional Order shall not confer a monopoly to supply electricity. *Cf. Hull Electric Co.* v. *Ottawa Electric Co.*, [1902] A. C. 237, but see s. 23 of the Electric Lighting Act, 1909, *post*, p. 2798, prohibiting competition by unauthorised undertakers; and see now the provisions of the Electricity (Supply) Acts, 1919, 1922 and 1926, *post*, pp. 2782, 2835, 2909.

Repeal of 45 & 46 Vict. c. 56, s. 27.

2. *Section twenty-seven of the Electric Lighting Act*, 1882, *is hereby repealed, and in lieu thereof the following provisions shall have effect; that is to say*, (*a*)

Purchase of undertaking by local authority.

Where any undertakers are authorised by a Provisional Order or a special Act to supply electricity within any area, any local authority within whose jurisdiction such area or any part thereof is situated may, within six months after the expiration of a period of forty-two years (*b*), or such shorter period as is specified in that behalf in the Provisional Order or in the special Act, from the date of the passing of the Act confirming such Provisional Order, or of such special Act, and within six months after the expiration of every subsequent period of ten years (*c*), or such shorter period as is specified in that behalf in the Provisional Order or in the special Act, by notice in writing require such undertakers to sell, and thereupon such undertakers shall sell to them their undertaking, or so much of the same as is within such jurisdiction, upon terms of paying the then value of all lands, buildings, works, materials, and plant of such undertakers suitable to and used by them for the purposes of their undertaking within such jurisdiction, such value to be in case of difference determined by arbitration: Provided that the value of such lands, buildings, works, materials, and plant shall be deemed to be their fair market value at the time of the purchase, due regard being had to the nature and then condition of such buildings, works, materials, and plant, and to the state of repair thereof, and to the circumstance that they are in such a position as to be ready for immediate working (*d*), and to the suitability of the same to the purposes of the undertaking, and, where a part only of the undertaking is purchased, to any loss occasioned by severance; but without any addition in respect of compulsory purchase, or of goodwill, or of any profits which may or might have been or be made from the undertaking, or of any similar considerations (*e*). The Board of Trade (*f*) may determine any other questions which may arise in relation to such purchase, and may fix the date from which such purchase is to take effect, and from and after the date so fixed, or such other date as may be agreed upon between the parties, all lands, buildings, works, materials, and plant so purchased as aforesaid shall vest in the local authority which has made the purchase, freed from any debts, mortgages, or similar obligations of such undertakers or attaching to the undertaking, and the powers of such undertakers in relation to the supply of electricity under this Act or such Provisional Order or special Act as aforesaid within such area or part thereof as aforesaid shall absolutely cease and determine, and shall vest in the local authority aforesaid (*g*).

(*a*) Italicised words repealed by the S. L. R. A., 1908.

(*b*) In the repealed section, this period was twenty-one years.

(*c*) In the repealed section, this period was seven years.

(*d*) These words from "and to the circumstance" are an addition to the words of the repealed section. See as to the principle of this addition the judgment of Lord HERSCHELL in the analogous case of the purchase of a water supply undertaking in *Stockton and Middlesbrough Water Board* v. *Kirkleatham L. B.*, [1893] A. C. 444, at pp. 449, 450; 57 J. P. 772. This case was distinguished in a colonial case, *Perth Gas Co., Ltd.* v. *Perth Corporation*, [1911] A. C., at p. 514.

(*e*) As to capital expenditure subsequent to the notice to treat, see *Metropolitan Electric Supply* v. *Marylebone Borough Council* (1903), 67 J. P. 382; 1 L. G. R. 673.

(*f*) Now the Minister of Transport, see note (*a*) on p. 2437, *ante*.

(*g*) The undertakers' powers vest in the purchasers by virtue of this provision and not as a result of any transfer from the undertakers (*Edinburgh Street Tramways Co.* v. *Lord Provost of Edinburgh*, [1894] A. C. 456). Section 39, Electricity (Supply) Act, 1926, *post*, p. 2931, makes provision for the purchase of companies with large areas of supply and excludes this and the following section. See also ss. 40 and 41 of that Act which alter the terms of purchase in respect of a company taking a bulk supply under the Act and in all cases authorises an alteration of the statutory terms of purchase by agreement. See s. 7 of the Electric Lighting Act, 1909, *post*, p. 2698, as to the purchase of generating stations, works and mains situated outside the district or districts supplied by the undertakers. See the same section as to one authority transferring its powers of purchase to another authority supplied by the undertakers. See now also ss. 12 (2) and 13 of the Electricity (Supply) Act, 1919, *post*, p. 2788, and s. 14 of the Electricity (Supply) Act, 1922, *post*, p. 2842. A Provisional Order gave a corporation power to purchase compulsorily the undertaking of an electric lighting company, upon the terms of issuing to the company such an amount of corporation stock as would produce in dividends an annuity of 5 per cent. upon the capital properly expended by the company. By another Provisional Order the power of the corporation to issue irredeemable stock was taken away. The Acts confirming these Orders received the Royal Assent on the same day:—*Held*, that the stock to be issued to the company was irredeemable stock; that the corporation had no longer, even by implication, power to issue such stock; and that consequently their power of compulsory purchase could not be enforced (*Sheffield Corporation* v. *Sheffield Electric Light and Power Co.*, [1898] 1 Ch. 203; 62 J. P. 87). As to stamp duty on a purchase of an electric light undertaking, see *Eastbourne Corporation* v. *Att.-Gen.*, [1904] A. C. 155; 68 J. P. 393.

Power to vary terms of sale contained in last section.

3. Notwithstanding anything in the last preceding section contained, the Board of Trade (*a*) may by any Provisional Order to be made by them under the Electric Lighting Act, 1882, if they think fit, vary the terms upon which any local authority may require the undertakers to sell, and upon which the undertakers shall be required to sell to such local authority their undertaking or so much of the same as is within the jurisdiction of such local authority under the said section, in such manner as may have been agreed upon between such local authority and the undertakers (*b*).

(*a*) Now the Minister of Transport, see note (*a*) on p. 2437, *ante*.

(*b*) See also s. 6 of Electricity (Supply) Act, 1919, *post*, p. 2784; s. 14 of the Electricity (Supply) Act, 1922, *post*, p. 2842; and ss. 39 & 41 of the Electricity (Supply) Act, 1926, *post*, pp. 2931, 2933, and note (*g*) to s. 2, *ante*, p. 2496.

Restrictions as to placing of electric lines, etc,

4.—(1) Where in any case any electric line or other work may have been laid down or erected in, over, along, across, or under any street, for the purpose of supplying electricity, or may have been laid down or erected in any other position for such purpose in such a manner as not to be entirely enclosed within any building or buildings, or where any electric line or work so laid down or erected may be used for such purpose otherwise than under and subject to the provisions of a licence, order, or special Act, the Board of Trade (*a*), if they think fit, may, by notice in writing under the hand of one of the secretaries or assistant secretaries of the Board of Trade (*a*), to be served upon the body or person owning or using or entitled to use such electric line or work, require that such electric line or work shall be continued and used only in accordance with such conditions and subject to such regulations for the protection of the public safety and of the electric lines and works of the Postmaster-General (*b*), and of other electric lines and works lawfully placed in any position and used for telegraphic communication (*c*), as the Board of Trade (*a*) may by or in pursuance of such notice prescribe, and in case of non-compliance with the said regulations, then the Board of Trade (*a*) may require such body or person to remove such electric line or work: Provided that nothing in this sub-section shall apply to any electric line or work laid down or erected by any body or person for the supply of electricity generated upon any premises occupied by such body or person to any other part of such premises (*d*).

(2) Where in any case any electric line or work is used for the supply of electricity in such a manner as to injuriously affect any telegraphic line of the Postmaster-General (*b*), or to affect the telegraphic communication through any such line, the Postmaster-General may, by notice to be served upon the body or person owning or using or entitled to use such electric line or work, require that such supply be continued only in accordance with such conditions and regulations for the protection of the telegraphic lines of the Postmaster-General and the telegraphic communication through the same as he may by or in pursuance of such notice prescribe, and in default of compliance with such conditions and regulations the Postmaster-General may require that the supply of electricity through such electric line or work shall be forthwith discontinued: Provided that nothing in this sub-section shall apply to the supply of electricity through any electric line or work laid down or erected under and subject to the provisions of any licence, order, or special Act, or which may be used in accordance with any conditions or regulations prescribed by the Board of Trade (*a*) by or in pursuance of any notice given by them under this section.

(3) If any body or person fails to comply with the requirements of any notice which may be served upon them or him under this section, such body or person shall be liable to a penalty not exceeding twenty pounds for every such offence, to be recovered summarily, and any court of summary jurisdiction, on complaint made, may make an order directing and authorising the removal of any electric line or work specified in such notice by such person and upon such terms as they may think fit.

(4) Any notice authorised to be served under this section upon any body or person may be served by the same being addressed to such body or person,

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and being left at or transmitted through the post to any office of such body or the usual or last known place of abode of such person; and any notice so served by post shall be deemed to have been served at the time when the letter containing the notice would be delivered in the usual course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post.

45 & 46 Vict, c. 56.

(5) In this section terms and expressions to which by the Electric Lighting Act, 1882, meanings are assigned shall have the same respective meanings, provided that the term "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place whatever, and the expression "telegraphic line" shall have the meaning assigned to it by the Telegraph Act, 1878 (*e*).

41 & 42 Vict. c. 76.

(6) Nothing in this section shall apply to any electric line or work of the Postmaster-General, or to any other electric line or work used or to be used solely for telegraphic purposes, except by way of protection, as in this section provided.

(*a*) Now the Minister of Transport, see note (*a*) on p. 2437, *ante*.

(*b*) As to the protection of the Postmaster-General, see also s. 26 of the Electric Lighting Act, 1882, *ante*, p. 2451, as amended by s. 25 of the Electricity (Supply) Act, 1919, *post*, p. 2798, and Sched. (14) (79) of the Electric Lighting Clauses Act, 1899, *post*, pp. 2576, 2599.

(*c*) As to electric trams, see *National Telephone Co.* v. *Baker*, *ante*, p. 2448.

(*d*) This sub-section is limited in its application to wires laid down by any company or person without statutory authority. The Electricity Commission have made regulations under it, and these regulations will be found in App. II., *post*, p. 3257. The wires to which this sub-section relates would, apparently, be subject to Part II. of the P. H. A., 1890, *ante*, p. 872, or s. 25 of the P. H. A., 1925, *ante*, p. 1564.

(*e*) See the interpretation clauses in the Act of 1882, ss. 31, 32, *ante*, p. 2453.

The Telegraph Act, 1878, s. 2, defines a telegraphic line to mean telegraph posts, and any work (within the meaning of the Telegraph Act, 1863), and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever, used for the purpose of transmitting telegraphic messages or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by that Act. By s. 3 of the Telegraph Act, 1863, the term "work" includes telegraphs and posts.

Short title.

5. This Act may be cited as the Electric Lighting Act, 1888; and the Electric Lighting Act, 1882, and this Act shall be read and construed together as one Act, and may be cited together for all purposes as the Electric Lighting Acts, 1882 and 1888.

THE GLEBE LANDS ACT, 1888.

(51 & 52 VICT. c. 20) (*a*).

An Act to facilitate the sale of Glebe Lands. [7th August, 1888.]

Short title and extent.

1. This Act may be cited as the Glebe Lands Act, 1888.

This Act shall not extend to Scotland or Ireland.

* * * * * *

Supplemental provisions as to sale.

8.—(1) For the purpose of facilitating the acquisition of land by cottagers, labourers, and others, it shall be the duty of the Land Commissioners (*b*) in giving their approval of a sale under this Act (*c*), either to require as a condition thereof that the land or some part thereof shall be offered for sale in small parcels, or to the sanitary authority of a sanitary district for the purposes of the Allotments Act, 1887, or to satisfy themselves that such offer is not practicable without diminishing the price which can be obtained for the glebe land on a sale (*d*).

50 & 51 Vict. c. 48.

(2) Before approving of a sale under this Act of glebe land of any benefice, the Land Commissioners (*b*) shall require such notice of the

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proposed sale to be given as they think sufficient to give information thereof to the parishioners (*e*).

(3) The approval of the Land Commissioners (*b*) of a sale under this Act may be signified in the prescribed manner, and shall be conclusive evidence that the requirements of this Act with respect to the sale have been complied with.

(4) Subject to the provisions of this Act, the provisions of the Settled Land Act, 1882, with respect to the sale of land by a tenant for life shall, so far as circumstances admit, apply to a sale under this Act by an incumbent in like manner as if he were the tenant for life of the land, and accordingly he shall have the like power with respect to contracts as a tenant for life under that Act, and may do all things necessary and proper for carrying into effect a sale under this Act (*f*). 45 & 46 Vict. c. 38.

(*a*) This Act is included in the present Work only by reason of the provision in s. 8 relating to the sale of some of the land to which it applies to sanitary authorities for the purpose of allotments.

(*b*) Now the Minister of Agriculture and Fisheries. See note (*a*), *ante*, p. 2375.

(*c*) This refers to a sale of glebe land under the Act.

(*d*) See Sale of Glebe Land Rules, 1897, rr. 5, 7, and Stat. R. & O., 1897, p. 9.

(*e*) See Sale of Glebe Land Rules, 1897, r. 1 and Form 4, Stat. R. & O., 1897, pp. 8, 14.

(*f*) The Settled Land Act, 1882, is now replaced by the Settled Land Act, 1925. As to the powers of a tenant for life under that Act, see Part II., *ibid.*

* * * * * *

THE RAILWAY AND CANAL TRAFFIC ACT, 1888.

(51 & 52 VICT. c. 25) (*a*).

An Act for the better regulation of Railway and Canal Traffic, and for other purposes. [10th August, 1888.]

1. This Act may be cited as the Railway and Canal Traffic Act, 1888. Short title and construction.

This Act shall be construed as one with the Regulation of Railways Act, 1873, and the Acts amending it; and those Acts and this Act may be cited together as the Railway and Canal Traffic Acts, 1873 and 1888. 36 & 37 Vict. c. 48.

(*a*) This Act confers certain powers of making complaints upon sanitary authorities. See ss. 7, 16, 29, 31, 45 (1), (7). Only such parts of the Act as bear directly upon such complaints have been here inserted. The Act has been extended by the Railway and Canal Traffic Act, 1894. And see also the powers given to local authorities by the Railways Act, 1921. By that Act the jurisdiction of the Railway and Canal Commissioners in respect of certain matters connected with railway rates has been transferred to the Railway Rates Tribunal. See s. 78 of the Act of 1921, which makes provision for applications by public authorities in certain cases, and *Southend Corporation* v. *L. M. & S. Rail.* (1928), 19 Rly. & Can. Tr. Cas. 216, decided under that Act.

PART I.

COURT AND PROCEDURE OF RAILWAY AND CANAL COMMISSIONERS.

Establishment of Railway and Canal Commission.

* * * * * *

7.—(1) Any of the following authorities, that is to say— Provision for complaints by public authority in certain cases.

(a) any of the following local authorities, namely, any harbour board, or conservancy authority, the Common Council of the City of London, any council of a city or borough, any representative county body *which may be* created by *an Act passed in the present or any future session* of Parliament, *any justices in quarter sessions assembled, the*

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Commissioners of Supply of any county in Scotland, the Metropolitan Board of Works (*b*) or any urban sanitary authority not being a council as aforesaid, or any rural sanitary authority (*b*); or

. . . . . .

may make to the Commissioners any complaint which the Commissioners have jurisdiction to determine (*c*), and may do so without proof that such authority is aggrieved by the matter complained of, and any of such authorities may appear in opposition to any complaint which the Commissioners have jurisdiction to determine in any case where such authority, or the persons represented by them, appear to the Commissioners to be likely to be affected by any determination of the Commissioners upon such complaint.

. . . . . .

(*a*) Italicised words repealed by S. L. R. A., 1908.

(*b*) For an example of a complaint by a local authority, see *Maidstone Town Council* v. *S. E. Rail. Co. and L. C. & D. Rail. Co.* (1891), 7 Rail. C. 99. See also *West Sussex C. C.* v *L. B. & S. C. Rail. Co.*, Times, February 24th, 1892.

(*c*) As to the complaints which the Commissioners have power to determine, see s. 8 and succeeding sections, especially s. 9, and ss. 1 and 4 of the Railway and Canal Traffic Act, 1894. See also *Darlaston L. B.* v. *L. & N. W. Rail. Co.*, [1894] 2 Q. B. 694; overruling *Winsford L. B.* v. *Cheshire Lines Committee* (1890), 24 Q. B. D. 456. See also s. 54, *post*, p. 2514, as to the costs of local authorities.

Jurisdiction.

Jurisdiction of railway commissioners transferred to the commission.

8. There shall be transferred to and vested in the Commissioners all the jurisdiction and powers which at the commencement of this Act were vested in, or capable of being exercised by the Railway Commissioners, whether under the Regulation of Railways Act, 1873, or any other Act, or otherwise, and any reference to the Railway Commissioners in the Regulation of Railways Act, 1873, or in any other Act (*a*), or in any document, shall, *from and after the commencement of this Act* (*b*), be construed to refer to the Railway and Canal Commission established by this Act.

(*a*) Especially the Railway and Canal Traffic Act, 1854.

(*b*) Italicised words repealed by S. L. R. A., 1908.

Jurisdiction of Commissioners under special Acts. 17 & 18 Vict. c. 31.

9. Where any enactment in a special Act—

(a) contains provisions relating to traffic facilities, undue preference, or other matters mentioned in section two of the Railway and Canal Traffic Act, 1854 (*a*), or

(b) requires a company to which this Part of this Act applies to provide any station, road, or other similar work for public accommodation, or

(c) otherwise imposes on a company to which this Part of this Act applies any obligation in favour of the public or any individual,

or where any Act contains provisions relating to private branch railways or private sidings, the Commissioners shall have the like jurisdiction to hear and determine a complaint of a contravention of the enactment as the Commissioners have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

(*a*) See this section recited at length in s. 25, *post*, p. 2505.

Jurisdiction over tolls and rates.

10. Where any question or dispute arises, involving the legality of any toll, rate, or charge, or portion of a toll, rate, or charge, charged or sought to be charged for merchandise traffic by a company to which this Part of this Act applies, the Commissioners shall have jurisdiction to hear and determine the same, and to enforce payment of such toll, rate, or charge, or so much thereof as the Commissioners decide to be legal (*a*).

(*a*) See as to the jurisdiction of the commissioners under this section, *Ward* v. *Midland Rail. Co.* (1916), 33 T. L. R. 4, affirmed, [1917] 2 K. B, 278, 33 T. L. R. 283.

Jurisdiction to order traffic facilities, notwithstanding agreements.

11. Nothing in any agreement, whether made before or after the passing of this Act, which has not been confirmed by Act or by the Board of Trade, or by the Commissioners under the Regulation of Railways Acts, 1873, or this Act, shall render a company to which this Part of this Act applies unable to afford, or shall authorise such company to refuse, such reasonable facilities for traffic as may in the opinion of the Commissioners be required in the interests of the public, or shall prevent the Commissioners from making or enforcing any order with respect to such facilities.

Power to award damages.

12. Where the Commissioners have jurisdiction to hear and determine any matter, they may, in addition to or in substitution for any other relief, award to any complaining party who is aggrieved such damages as they find him to have sustained; and such award of damages shall be in complete satisfaction of any claim for damages, including repayment of overcharges, which, but for this Act, such party would have had by reason of the matter of complaint:

Provided that such damages shall not be awarded unless complaint has been made to the Commissioners within one year from the discovery by the party aggrieved of the matter complained of.

The Commissioners may ascertain the amount of such damages either by trial before themselves, or by directing an inquiry to be taken before one or more of themselves or before some officer of their court.

No damages where rates published under certain conditions.

13. In cases of complaint of undue preference no damages shall be awarded if the Commissioners shall find that the rates complained of have, for the period during which such rates have been in operation, been duly published in the rate books of the railway company kept at their stations in accordance with section fourteen of the Regulation of Railways Act, 1873, as amended by this Act (*a*), unless and until the party complaining shall have given written notice to the railway company requiring them to abstain from or remedy the matter of complaint, and the railway company shall have failed, within a reasonable time, to comply with such requirements in such a manner as the Commissioners shall think reasonable.

(*a*) Section 34 of this Act amends s. 14 of the Act of 1873 as to the place of publication of rates in respect of traffic at places other than stations. Section 14 of the Regulation of Railways Act, 1873, is extended by s. 3 of the Railway and Canal Traffic Act, 1894.

* * * * * *

Power to apportion expenses between railway company and applicants for works.

16.—(1) Where the Board of Trade (*a*) or the Commissioners, in the exercise of any power given by any general or special Act, on application order a company to which this Part of this Act applies, to provide a bridge, subway, or approach, or any work of a similar character, the Board of Trade (*a*) or the Commissioners, as the case may be, may require as a condition of making the order that an agreement to pay the whole or a portion of the expenses of complying with the order shall be entered into by the applicants or some of them, or such other persons as the Board of Trade (*a*) or Commissioners think fit, and any of the following local authorities, namely, any sanitary authority (*b*), highway board, surveyor of highways acting with the consent of the vestry of his parish, or any other authority having power to levy rates, shall have power, if such authority think fit, to enter into any such agreement as is sanctioned by the Board of Trade (*a*) or Commissioners for the purpose of the order.

(2) In such case any question respecting the persons by whom or the proportions in which the expenses of complying with the order are to be defrayed may, on the application of any party to the application, or on a certificate of the Board of Trade (*a*), be determined by the Commissioners.

(3) In this section the expression "parish" shall have the same meaning as the same expression has in the Acts relating to highways; and the

Section 16. expression "the consent of the vestry of his parish" shall, in any place where there is no vestry meeting, mean the consent of a meeting of inhabitants contributing to the highway rates, provided that the same notice shall have been given of such a meeting as would be required by law for the assembling of a meeting in vestry.

(*a*) The powers of the Board of Trade are now vested in the Ministry of Transport (Ministry of Transport Act, 1919).

(*b*) See also powers conferred on urban sanitary authorities under s. 147 of the P. H. A., 1875, *ante*, p. 283. Reference should also be made to the Bridges Act, 1929, *ante*, p. 2055.

Appeals.

Appeals on certain questions to superior court of appeal.

17.—(1) No appeal shall lie from the Commissioners upon a question of fact (*a*), or upon any question regarding the locus standi of a complainant.

(2) Save as otherwise provided by this Act, an appeal shall lie from the Commissioners to a superior court of appeal.

(3) An appeal shall not be brought except in conformity with such rules of court as may from time to time be made in relation to such appeals by the authority having power to make rules of court for the superior court of appeal (*b*).

(4) On the hearing of an appeal the court of appeal may draw all such inferences as are not inconsistent with the facts expressly found, and are necessary for determining the question of law, and shall have all such powers for that purpose as if the appeal were an appeal from a judgment of a superior court, and may make any order which the Commissioners could have made, and also any such further or other order as may be just, and the costs of and incidental to an appeal shall be in the discretion of the court of appeal, but no Commissioner shall be liable to any costs by reason or in respect of any appeal.

(5) The decision of the superior court of appeal shall be final: Provided that where there has been a difference of opinion between any two of such superior courts of appeal, and superior court of appeal in which a matter affected by such difference of opinion is pending may give leave to appeal to the House of Lords, on such terms as to costs as such court shall determine.

(6) Save as provided by this Act, an order or proceeding of the Commissioners shall not be questioned or reviewed, and shall not be restrained or removed by prohibition, injunction, certiorari, or otherwise, either at the instance of the Crown or otherwise.

(*a*) See *Vickers* v. *Midland Rail. Co.* (1901), 18 T. L. R. 769; *National Telephone Co., Ltd.* v. *Postmaster-General*, [1913] A. C. 546.

(*b*) See R. S. C., Order LVIII., r. 19A, applying R. S. C., Order LVIII.

Supplemental.

General powers and enforcement of orders.

18.—(1) For the purposes of this Act the Commissioners shall have full jurisdiction to hear and determine all matters whether of law or of fact, and shall as respects the attendance and examination of witnesses, the production and inspection of documents, the enforcement of their orders, the entry on and inspection of property, and other matters necessary or proper for the due exercise of their jurisdiction under this Act, or otherwise for carrying this Act into effect, have all such powers, rights, and privileges as are vested in a superior court: Provided that no person shall be punished for contempt of court, except with the consent of an ex-officio Commissioner.

(2) The Commissioners may review and rescind or vary any order made by them; but, save as is by this Act provided, every decision or order of the Commissioners shall be final.

Section 19.

19. The costs of and incidental to every proceeding before the Commissioners shall be in the discretion of the Commissioners, who may order by whom and to whom the same are to be paid, and by whom the same are to be taxed and allowed (*a*). Costs.

(*a*) But see the Railway and Canal Traffic Act, 1894, s. 2; and see *Cheshire Lines Committee* v. *Butler & Co., Ltd.* (1917), 33 T. L. R. 565.

20.—(1) The Commissioners may from time to time, with the approval of the Lord Chancellor and the President of the Board of Trade, make, rescind, and vary general rules for their procedure and practice under this Act, and generally for carrying into effect this Part of this Act. Power to make rules.

(2) All rules made under this section shall be laid before Parliament within three weeks after they are made, if Parliament is then sitting, and if Parliament is not then sitting within three weeks after the beginning of the then next session of Parliament, and shall be judicially noticed, and shall have effect as if they were enacted by this Act (*a*).

(*a*) See the Railway and Canal Commission Rules, 1924 (S. R. & O., 1924, No. 1400).

* * * * * *

23. This Part of this Act shall apply to any railway company, and to any canal company, and to any railway and canal company. Company to which Part applies.

PART II.

TRAFFIC (*a*).

24.—(1) Notwithstanding any provision in any general or special Act, every railway company shall submit to the Board of Trade a revised classification of merchandise traffic, and a revised schedule of maximum rates and charges applicable thereto, proposed to be charged by such railway company, and shall fully state in such classification and schedule the nature and amounts of all terminal charges proposed to be authorised in respect of each class of traffic, and the circumstances under which such terminal charges are proposed to be made. In the determination of the terminal charges of any railway company regard shall be had only to the expenditure reasonably necessary to provide the accommodation in respect of which such charges are made, irrespective of the outlay which may have been actually incurred by the railway company in providing that accommodation. Revised classification of traffic and schedule of rates.

(2) The classification and schedule shall be submitted within six months from the passing of this Act, or such further time as the Board of Trade may, in any particular case, permit, and shall be published in such manner as the Board of Trade may direct (*b*).

(3) The Board of Trade shall consider the classification and schedule, and any objections thereto, which may be lodged with them on or before the prescribed time, and in the prescribed manner, and shall communicate with the railway company and the persons (if any) who have lodged objections, for the purpose of arranging the differences which may have arisen.

(4) If, after hearing all parties whom the Board of Trade consider to be entitled to be heard before them respecting the classification and schedule, the Board of Trade come to an agreement with the railway company as to the classification and schedule, they shall embody the agreed classification and schedule in a Provisional Order, and shall make a report thereon, to be submitted to Parliament, containing such observations as they think fit in relation to the agreed classification and schedule.

(5) When any agreed classification and schedule have been embodied in

Section 24. a Provisional Order, the Board of Trade, as soon as they conveniently can after the making of the Provisional Order (of which the railway company shall be deemed to be the promoters), shall procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the schedule to the Bill.

(6) In any case in which a railway company fails within the time mentioned in this section to submit a classification and schedule to the Board of Trade, and also in every case in which a railway company has submitted to the Board of Trade a classification and schedule, and after hearing all parties whom the Board of Trade consider to be entitled to be heard before them, the Board of Trade are unable to come to an agreement with the railway company as to the railway company's classification and schedule, the Board of Trade shall determine the classification of traffic which, in the opinion of the Board of Trade, ought to be adopted by the railway company, and the schedule of maximum rates and charges, including all terminal charges proposed to be authorised applicable to such classification which would, in the opinion of the Board of Trade, be just and reasonable, and shall make a report, to be submitted to Parliament, containing such observations as they may think fit in relation to the said classification and schedule, and calling attention to the points therein on which differences which have arisen have not been arranged.

(7) After the commencement of the session of Parliament next after that in which the said report of the Board of Trade (*b*) has been submitted to Parliament, the railway company may apply to the Board of Trade (*b*) to submit to Parliament the question of the classification and schedule which ought to be adopted by the railway company, and the Board of Trade (*b*) shall on such application, and in any case may embody in a Provisional Order such classification and schedule as in the opinion of the Board of Trade (*b*) ought to be adopted by the railway company, and procure a Bill to be introduced into either House of Parliament for an Act to confirm the Provisional Order, which shall be set out at length in the schedule to the Bill.

(8) If, while any Bill to confirm a Provisional Order made by the Board of Trade (*b*) under this section is pending in either House of Parliament, a petition is presented against the Bill or any classification and schedule comprised therein, the Bill, so far as it relates to the matter petitioned against, shall be referred to a select committee, or if the two Houses of Parliament think fit so to order, to a joint committee of such Houses, and the petitioner shall be allowed to appear and oppose as in the case of a private Bill (*c*).

(9) In preparing, revising, and settling the classifications and schedules of rates and charges, the Board of Trade (*b*) may consult and employ such skilled persons as they may deem necessary or desirable; and they may pay to such persons such remuneration as they may think fit and as the Treasury may approve.

(10) The Act of Parliament confirming any Provisional Order made under this section shall be a public general Act, and the rates and charges mentioned in a Provisional Order as confirmed by such Act shall, from and after the Act coming into operation, be the rates and charges which the railway company shall be entitled to charge and make.

(11) At any time after the confirmation of any Provisional Order under this section any railway company may, and any person, upon giving not less than twenty-one days notice to the railway company may, apply in the prescribed manner to the Board of Trade (*b*) to amend any classification and schedule by adding thereto any articles, matters, or things, and the Board of Trade (*b*) may hear and determine such application, and classify and deal with the articles, matters, or things referred to therein in such manner as

the Board of Trade (*b*) shall think right (*d*). Every determination of the Board of Trade (*b*) under this sub-section shall forthwith be published in the London Gazette, and shall take effect as from the date of the publication thereof.

(12) Nothing in this section shall apply to any remuneration payable by the Postmaster-General to any railway company for the conveyance of mails, letter bags, or parcels under any general or special Act relating to the conveyance of mails, or under the Post Office (Parcels) Act, 1882.

45 & 46 Vict. c. 74.

(13) Nothing in this section shall apply to any remuneration payable by the Secretary of State for War to any railway company for the conveyance of War Office stores under the powers conferred by the Cheap Trains Act, 1883.

46 & 47 Vict. c. 34.

(*a*) The jurisdiction over questions of classification of merchandise is now vested in the Railway Rates Tribunal, see ss. 27 and 28 of the Railways Act, 1921. See also s. 136 and Sched. XI. of the L. G. A., 1929, *ante*, p. 2001, as to the obligation upon railway companies to pass on the relief obtained by them in respect of rates under Pt. V., *ibid.*, by means of rebates to selected traffic.

(*b*) Under s. 35 the Board of Trade had power to make rules as to the submission and publication of such classification and schedule, and made rules accordingly. See Parl. Papers, 1888 (402), as to railways, and (436) as to canals. The Board of Trade has now as regards railways, been superseded by the Ministry of Transport.

(*c*) The Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891, *post*, p. 2528, provides that every governing body within the meaning of the Borough Funds Act, 1872, *ante*, p. 2331, and every county council shall be entitled to be a petitioner, and to appear and oppose any Provisional Order made under this section, and to provide or contribute towards providing the expenses of the appearance out of rates under their control, as if the Bill were a local or personal Bill within the meaning of the Borough Funds Act, 1872. The Railway and Canal Traffic Act, 1892, *post*, p. 2542, provides that a Provisional Order may be made, and a Bill to confirm it may be introduced at any time after hearing the parties as provided in sub-s. (4).

(*d*) For an example of the exercise of this power by the Board of Trade, see *Ex parte L. & N. W. Rail. Co.* (1909), 100 L. T. 998.

Provisions as in through traffic.

25. (*a*) *Whereas by section two of the Railway and Canal Traffic Act, 1854, it is enacted that every railway company and canal company, and railway and canal company shall, according to their respective powers, afford all reasonable facilities* (*b*) *for the receiving and forwarding and delivering of traffic upon and from the several railways and canals belonging to or worked by such companies respectively, and for the return of carriages, trucks, boats, and other vehicles; and that no such company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever, or shall subject any particular person or company, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; and that every railway company and canal company and railway and canal company having or working railways or canals which form part of a continuous line of railway, or canal or railway, and canal communication* (*c*), *or which have the terminus station or wharf of the one near the terminus station or wharf of the other, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways or canals all the traffic arriving by the other, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage as aforesaid, and so that no obstruction may be offered to the public desirous of using such railways or canals or railways and canals as a continuous line of communication, and so that all reasonable accommodation may by means of the railways and canals of the several companies be at all times afforded to the public in that behalf:*

And whereas it is expedient to explain and amend the said enactment:

Be it therefore enacted, that—

Subject as hereinafter mentioned, the said facilities to be so afforded are hereby declared to and shall include the due and reasonable

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receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any other such company, of through traffic to and from the railway or canal of any other such company at through rates, tolls, or fares (in this Act referred to as through rates) (*d*); and also the due and reasonable receiving, forwarding, and delivering by every railway company and canal company and railway and canal company, at the request of any person interested in through traffic, of such traffic at through rates (*dd*): Provided that no application shall be made to the Commissioners by such person until he has made a complaint to the Board of Trade (*e*) under the provisions of this Act as to complaints to the Board of Trade (*e*) of unreasonable charges, and the Board of Trade (*e*) have heard the complaint in the manner herein provided.

Provided as follows:

(1) The company or person requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding company, stating both its amount and the route by which the traffic is proposed to be forwarded; and when a company gives such notice it shall also state the apportionment of the through rate. The proposed through rate may be per truck or per ton:

(2) Each forwarding company shall, within ten days, or such longer period as the Commissioners may from time to time by general order prescribe, after the receipt of such notice, by written notice inform the company or persons requiring the traffic to be forwarded, whether they agree to the rate and route; and if they object to either, the grounds of the objection:

(3) If at the expiration of the prescribed period no such objection has been sent by any forwarding company, the rate shall come into operation at such expiration:

(4) If an objection to the rate or route has been sent within the prescribed period, the matter shall be referred to the Commissioners for their decision:

(5) If an objection be made to the granting of the rate or to the route, the Commissioners shall consider whether the granting of a rate is a due and reasonable facility in the interest of the public, and whether, having regard to the circumstances, the route proposed is a reasonable route, and shall allow or refuse the rate accordingly, or fix such other rate as may seem to the Commissioners just and reasonable (*f*):

(6) Where, upon the application of a person requiring traffic to be forwarded, a through rate is agreed to by the forwarding companies, or is made by order of the Commissioners, the apportionment of such through rate, if not agreed upon between the forwarding companies, shall be determined by the Commissioners (*g*):

(7) If the objection be only to the apportionment of the rate, the rate shall come into operation at the expiration of the prescribed period, but the decision of the Commissioners, as to its apportionment, shall be retrospective; in any other case the operation of the rate shall be suspended until the decision is given:

(8) The Commissioners, in apportioning the through rate, shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance, or working of the route, or any part of the route, as well as any special charges which any company may have been entitled to make in respect thereof:

(9) It shall not be lawful for the Commissioners in any case to compel any company to accept lower mileage rates than the mileage rates which such company may for the time being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route (*h*).

Where a railway company or canal company use, maintain, or work, or are party to an arrangement for using, maintaining, or working steam vessels for the purpose of carrying on a communication between any towns or ports, the provisions of this section shall extend to such steam vessels, and to the traffic carried thereby.

When any company, upon written notice being given as aforesaid, refuses or neglects without reason to agree to the proposed through rates, or to the route, or to the apportionment, the Commissioners, if an order is made by them upon an application for through rates, may order the respondent company or companies to pay such costs to the applicants as they think fit.

(*a*) This recital is repealed by the S. L. R. A., 1908.

(*b*) See *Darlaston L. B.* v. *L. & N. W. Rail. Co.*, [1894] 2 Q. B. 694. In *West Ham Corporation* v. *G. E. Rail. Co.* (1895), 64 L. J. Q. B. 340; 72 L. T. 395, it was held (Sir F. PEEL dissenting) that the provision of water-closets at railway stations for the use of passengers, free of charge, was not a reasonable facility for forwarding traffic which could be ordered by the Railway and Canal Commissioners under s. 2 of the Railway and Canal Traffic Act. But cloak-rooms are reasonable facilities (*Singer Manufacturing Co.* v. *L. & S. W. Rail. Co.*, [1894] 1 Q. B. 833).

(*c*) See *London and India Docks Co.* v. *G. E. Rail. Co. and Midland Co.*, [1902] 1 K. B. 568.

(*d*) See *Didcot, Newbury and Southampton Rail. Co.* v. *G. W. Rail. Co.*, [1897] 1 Q. B. 33; *Port of London Authority* v. *Midland Rail. Co.* (No. 2), 15 Ry. & Can. Traffic Cas. 23; *Dearne Valley Ry.* v. *G. N. Ry.*, 15 Ry. & Can. Traffic Cas. 202.

(*dd*) This section from this point to the end is now applicable only to canals (Railways Act, 1921, s. 86 (2), and Sched. IX., Pt. II.).

(*e*) See now s. 28 of the Railways Act, 1921, for the jurisdiction now vested in the Railway Rates Tribunal in connection with through rates.

(*f*) The applicants asked the court to allow a through rate of 1*s*. 2*d*. per ton for slack from certain collieries to their works to be forwarded in quantities of not less than 600 tons per week. The mean distance from the collieries to the works by the route proposed was twenty-four miles, while the route by which the traffic was in fact sent was thirty-four miles, and the rate charged by either route was the same, namely, 1*s*. 11*d*. per ton. It was held that in the absence of evidence to show that the proposed rate would afford any benefit to the public, the application must be refused (*Brunner, Mond & Co., Ltd.* v. *Cheshire Lines Committee and L. & N. W. Rail. Co.* (1909), 25 T. L. R. 618). See also on this sub-section *L. & Y. Rail. Co.* v. *Hull and Barnsley Rail. Co.*, 15 Ry. & Can. Traffic Cas. 59.

(*g*) Where there is an agreed through rate for through traffic over the lines of two railway companies and an agreed apportionment between the two companies which has not been cancelled, the Commissioners have no jurisdiction to make a fresh apportionment of that agreed rate, or of one of the same amount at the instance of one of the companies; the duty and power of apportionment being incidental only to the fixing of reasonable facilities for the conveyance of through traffic from one point to another (*Manchester Ship Canal Co.* v. *L. & N. W. Rail. Co.*, [1911] 1 K. B. 657). As to through land and sea rates, see *Great Southern & Western Ry.* v. *City of Cork Steam Packet Co.*, 15 Ry. & Can. Traffic Cas. 67.

(*h*) See hereon *L. & Y. Rail. Co.* v. *Hull & Barnsley Rail. Co.*, 15 Ry. & Can. Traffic Cas. 59.

Powers of Commissioners as to through rates.

26. Subject to the provisions in the last preceding section contained, the Commissioners shall have full power to decide that any proposed through rate is just and reasonable, notwithstanding that a less amount may be allotted to any forwarding company out of such through rate than the maximum rate such company is entitled to charge, and to allow and apportion such through rate accordingly (*a*).

(*a*) See as to through rates, s. 28 of the Railways Act, 1921. This section is now applicable only to canals (s. 86 (2) and Sched. IX., Pt. II., *ibid.*).

Undue preference in case of unequal tolls,

27.—(1) Whenever it is shown that any railway company charge one trader or class of traders, or the traders in any district, lower tolls, rates, or rates, and charges, and unequal services performed.

charges for the same or similar merchandise, or lower tolls, rates, or charges for the same or similar services, than they charge to other traders, or classes of traders, or to the traders in another district, or make any difference in treatment in respect of any such trader or traders, the burden of proving that such lower charge or difference in treatment does not amount to an undue preference shall lie on the railway company (*a*).

(2) In deciding whether a lower charge or difference in treatment does or does not amount to an undue preference, the court having jurisdiction in the matter, or the Commissioners, as the case may be, may, so far as they think reasonable, in addition to any other considerations affecting the case, take into consideration whether such lower charge or difference in treatment is necessary for the purpose of securing in the interests of the public the traffic in respect of which it is made, and whether the inequality cannot be removed without unduly reducing the rates charged to the complainant: Provided that no railway company shall make, nor shall the court, or the Commissioners, sanction any difference in the tolls, rates or charges made for, or any difference in the treatment of, home and foreign merchandise, in respect of the same or similar services (*b*).

(3) The court or the Commissioners shall have power to direct that no higher charge shall be made to any person for services in respect of merchandise carried over a less distance than is made to any other person for similar services in respect of the like description and quantity of merchandise carried over a greater distance on the same line of railway.

(*a*) The effect of this section is not to limit the court in dealing with questions of alleged undue preference to the consideration whether or not the lower charge is necessary in the interests of the public (*Liverpool Corn Trade Association* v. *L. and N. W. Rail. Co.*, [1891] 1 Q. B. 120. And see *Lever Brothers, Ltd.* v. *Midland Rail. Co.* (1909), 25 T. L. R. 491, 768; *Holwell Iron Co., Ltd.* v. *Midland Rail.* Co., [1910] 1 K. B. 296). As to the parties to be brought before the court see *Read, Holliday & Sons, Ltd.* v. *Midland Rail. Co.*, [1915] 3 K. B. 616.

(*b*) See *Mansion House Association on Railway Traffic* v. *L. and S. W. Rail. Co.*, [1895] 1 Q. B. 927.

Extension of enactments as to undue preference to goods carried by sea.

28. The provisions of section two of the Railway and Canal Traffic Act, 1854, and of section fourteen of the Regulation of Railways Act, 1873, and any enactments amending and extending those enactments, shall apply to traffic by sea in any vessels belonging to or chartered or worked by any railway company, or in which any railway company procures merchandise to be carried, in the same manner and to the like extent as they apply to the land traffic of a railway company.

Group rates to be chargeable by railway companies.

29.—(1) (*a*) Notwithstanding any provision in any general or special Act (*b*), it shall be lawful for any railway company, for the purpose of fixing the rates to be charged for the carriage of merchandise to and from any place on their railway, to group together any number of places in the same district, situated at various distances from any point of destination or departure of merchandise, and to charge a uniform rate or uniform rates of carriage for merchandise to and from all places comprised in the group from and to any point of destination or departure.

(2) Provided that the distances shall not be unreasonable, and that the group rates charged and the places grouped together shall not be such as to create an undue preference (*c*).

(3) Where any group rate exists or is proposed, and in any case where there is a doubt whether any rates charged or proposed to be charged by a railway company may not be a contravention of section two of the Railway and Canal Traffic Act, 1854, and any Acts amending the same, the railway company may, upon giving notice in the prescribed manner, apply to the Commissioners, and the Commissioners may, after hearing the parties inter-

ested and any of the authorities mentioned in section seven of this Act, determine whether such group rate or any rate charged or proposed to be charged as aforesaid does or does not create an undue preference. Any persons aggrieved, and any of the authorities mentioned in section seven of this Act (*d*), may, at any time after the making of any order under this section, apply to the Commissioners to vary or rescind the order, and the Commissioners, after hearing all parties who are interested, may make an order accordingly.

(*a*) See as to the jurisdiction of the Railway Rates Tribunal over group rates, s. 28 of the Railways Act, 1921.

(*b*) See *Davis* v. *Taff Vale Rail. Co.* (1895), 64 L. J. Q B. 488; 72 L. T. 632.

(*c*) See *Spillers and Bakers* v. *Taff Vale Rail. Co.* (1904), 90 L. T. 713; 20 T. L. R. 101; *Millom and Askham Hematite Iron Co.* v. *Furness Rail. Co.* (1907), 12 Ry. & Can. Traff. Cas. 1; *Abram Coal Co.* v. *G. C. Rail. Co.* (1905), 21 T. L. R. 264.

(*d*) Sanitary authorities, urban and rural, are mentioned in s. 7. See the section, *ante*, p. 2499. See also as to applications by public authorities in certain cases of s. 78 of the Railways Act, 1921.

Power to dock companies and harbour boards to complain of undue preference.

30. Any port or harbour authority or dock company which shall have reason to believe that any railway company is by its rates or otherwise placing their port, harbour, or dock, at an undue disadvantage as compared with any other port, harbour, or dock to or from which traffic is or may be carried by means of the lines of the said railway company, either alone or in conjunction with those of other railway companies, may make complaint thereof to the commissioners, who shall have the like jurisdiction to hear and determine the subject-matter of such complaint as they have to hear and determine a complaint of a contravention of section two of the Railway and Canal Traffic Act, 1854, as amended by subsequent Acts.

Complaints to Board of Trade of unreasonable charges by railway companies.

31 (*a*).—(1) Whenever any person receiving or sending or desiring to send goods by any railway is of opinion that the railway company is charging him an unfair or an unreasonable rate of charge, or is in any other respect treating him in an oppressive or unreasonable manner, such person may complain to the Board of Trade.

(2) The Board of Trade, if they think there is reasonable ground for the complaint, may thereupon call upon the railway company for an explanation, and endeavour to settle amicably the differences between the complainant and the railway company.

(3) For the purpose aforesaid, the Board of Trade may appoint either one of their own officers or any other competent person to communicate with the complainant and the railway company, and to receive and consider such explanations and communications as may be made in reference to the complaint; and the Board of Trade may pay to such last-mentioned person such remuneration as they may think fit, and as may be approved by the Treasury.

(4) The Board of Trade shall from time to time submit to Parliament reports of the complaints made to them under the provisions of this section, and the results of the proceedings taken in relation to such complaints, together with such observations thereon as the Board of Trade shall think fit.

(5) A complaint under this section may be made to the Board of Trade by any of the authorities mentioned in section seven of the Act (*b*), in any case in which, in the opinion of any of such authorities, they or any traders or persons in their district are being charged unfair or unreasonable rates by a railway company; and all the provisions of this section shall apply to a complaint so made as if the same had been made by a person entitled to make a complaint under this section.

(*a*) This section is now applicable only to canals (Railways Act, 1921, s. 86 (2), and Sched. IX., Pt. II.).

(*b*) See note (*d*) to s. 29, *supra*.

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PART III.

CANALS.

Part II. to extend to canal companies.

36. All the provisions of Part II. of this Act relating to any railway company shall, so far as applicable, apply to every canal company, and to every railway and canal company; and in Part II. of this Act, unless the context otherwise requires, the expression "railway company" shall include a canal company and a railway and canal company, and the expression "railway" shall include a canal, and the expression "rate" shall include tolls and dues of every description chargeable for the use of any canal or by any canal company.

Application of 36 & 37 Vict. c. 48, to canals.

37.—(1) Section fifteen of the Regulation of Railways Act, 1873, shall apply to the terminal charges of a canal company.

(2) The Railway and Canal Traffic Act, 1854, as amended by the Regulation of Railways Act, 1873, shall extend to any person whose consent is required to any variation of the rates, tolls, or dues charged for the use of any canal, or by any canal company, in like manner as if such person were a canal company, and the expressions "canal company" and "railway and canal company" in the said Acts and this Act shall be construed accordingly to include such person.

(3) The provisions of the Railway and Canal Traffic Act, 1854, and the Regulation of Railways Act, 1873, with respect to rates, shall apply to tolls and dues of every description chargeable for the use of any canal or by any canal company. And nothing in any agreement, whether made before or after the passing of this Act, and whether confirmed by Act of Parliament or not, and nothing in this Act shall prevent the Commissioners from making or enforcing any order for a through rate or toll which may in their opinion be required in the interest of the public.

(4) Any company allowing traffic to pass from a canal on to any other canal or any railway, or from a railway on to a canal, shall be deemed to be a forwarding company, and the allowing of traffic so to pass shall be deemed to be the forwarding of traffic within the meaning of the above-mentioned Acts.

(5) The provisions of the Railway and Canal Traffic Act, 1854, and of the Regulation of Railways Act, 1873, and of this Act, with respect to through rates, shall extend to any canals which, in connection with any river or other waterway, form part of a continuous line of water communication, notwithstanding that tolls may not be leviable by authority of Parliament upon such river or other waterway.

Powers of Commissioners over canals, tolls, rates, and charges where a railway company or its officers own or control the traffic of a canal.

38. Where a railway company, or the directors or officers of a railway company, or any of them or any persons on their behalf, have the control over, or the right to interfere in or concerning the traffic conveyed, or the tolls, rates, or charges levied on the traffic of or for the conveyance of merchandise on a canal, or any part of a canal, and it is proved to the satisfaction of the Commissioners that the tolls, rates, or charges levied on the traffic of or for the conveyance of merchandise on the canal are such as are calculated to divert the traffic from the canal to the railway, to the detriment of the canal or person sending traffic over the canal or other canals adjacent to it—

(1) The Commissioners may, on the application of any person interested in the traffic of the canal, make an order requiring the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal, to be altered and adjusted in such a manner that

the same shall be reasonable as compared with the rates and charges for the conveyance of merchandise on the railway:

(2) If within such time as may be prescribed by the order of the Commissioners, the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal are not altered and adjusted as required by such order, the Commissioners may themselves by an order make such alterations in and adjustment of the tolls, rates, and charges levied on the traffic of or for the conveyance of merchandise on the canal as they shall think just and reasonable, and the tolls, rates, and charges as altered and adjusted by the order of the Commissioners shall be binding on the company or persons owning or having the control over the traffic of, or the tolls, rates, and charges levied on the traffic of, or for the conveyance of merchandise on the canal.

(3) No application shall be made to the Commissioners under this section until the Board of Trade (*a*) have certified that the applicant is a fit person to make the application, and that the application is a proper one to be submitted for the adjudication of the Commissioners; and no order shall be made by the Commissioners under this section unless notice of the application has been served upon such company and persons, and in such manner as the Board of Trade (*b*) may direct:

(4) The Commissioners may at any time, upon the application of any company or person affected by any order made under this section, and after notice to and hearing such companies and persons as the Commissioners may by any general rules or special order prescribe, rescind or vary any order made under this section.

(*a*) Now the Ministry of Transport.

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Byelaws of canal companies.

40.—(1) Every canal company shall, before such date as the Board of Trade (*a*) may prescribe, forward to the Board of Trade true copies, certified in such manner as the Board of Trade direct, of any byelaws or regulations of such company which are in force at the commencement of this Act; and the byelaws of any canal company, copies of which are not forwarded to the Board of Trade as provided by this section, shall from and after the said date cease to have any operation, *save in so far as any penalty may have been already incurred under the same* (*b*).

(2) A byelaw or regulation of any canal company hereafter to be made under any power which has *before or at the time of the passing of this Act* (*b*) been, or which may hereafter be, conferred on any canal company, shall not have any force or effect until two months after a true copy of such byelaw or regulation, certified in such manner as the Board of Trade direct, has been forwarded to the Board of Trade, unless the Board of Trade before the expiration of such period have signified their approbation thereof.

(3) The Board of Trade may, at any time after any existing or future byelaws or regulations of a canal company have been forwarded to them, notify to the company their disallowance thereof, or of any of them, and in case such byelaws or regulations are in force at the time of the disallowance, the time at which the said byelaws or regulations shall cease to be in force. A byelaw or regulation disallowed by the Board of Trade shall not after such disallowance have any force or effect whatever, save (as regards any byelaw or regulation which may be in force at the time of the disallowance thereof) in so far as any penalty may have been then already incurred under the same.

(4) The Board of Trade may from time to time make, rescind, and vary

such regulations as they think fit with respect to the publication by canal companies of their byelaws and regulations, and with respect to the publication by canal companies of their intention to apply to the Board of Trade for the allowance of any intended byelaws and regulations. Any regulations so made which are for the time being in force, shall have effect as if they had been enacted in this Act.

(*a*) For "Board of Trade" throughout this section read "Ministry of Transport" (M. of T. Act, 1919).
(*b*) Italicised words repealed by S. L. R. A., 1908.

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Canal companies may agree for through tolls, etc.

43.—(1) Any canal company may make and enter into contracts and arrangements with any other canal company or canal companies for the passage over and along their respective canals, or any of them, of boats, barges, vessels, and other through traffic, and, for the use by such traffic, of the wharves, landing places, and other works of any such canal, upon payment of such through tolls, rates, and charges, and subject to such conditions and restrictions as may be agreed upon between such companies; and for the collection and recovery by any one of the companies on behalf of themselves and the other companies interested of the tolls, rates, and charges payable in respect of such through traffic; and for the division and apportionment of the tolls, rates, and charges; and any such contract may contain provisions for the erection and maintenance of or otherwise for providing warehouses, offices, and other buildings and conveniences, and any other provisions for the purpose of carrying into effect any such arrangement, and any company may apply their funds or moneys for the same purpose.

(2) Notwithstanding any enactments providing for the charge of equal tolls, rates, and charges, such through tolls, rates, and charges as above mentioned may respectively be computed at a lower toll or rate per mile than the tolls, rates, or charges charged for the passage over land along the same canals of like traffic, not being through traffic, without necessitating on occasioning any reduction of the last-mentioned tolls, rates, or charges.

(3) Any like contracts and arrangements existing at the passing of this Act shall be, and from the respective dates of the making thereof shall be deemed to have been, as valid as if the same had been made after the commencement of this Act.

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Abandonment of canal.

45.—(1) Where, on the application of a canal company, it appears to the Board of Trade (*a*) that any canal or part of a canal belonging to the applicants (hereinafter referred to as an unnecessary canal) is at the time of making the application unnecessary for the purposes of public navigation, or where, on the application of any local authority (*b*), or of three or more owners of lands adjoining or near to any canal or part of a canal, it appears to the Board of Trade that that canal or part of a canal (hereinafter referred to as a derelict canal) has for at least three years previously to the making of the application been disused for navigation, or, by reason of the default of the proprietors thereof, has become unfit for navigation, or that the lands adjoining or near thereto have suffered injury by water that has escaped from the derelict canal, and that the proprietors of the derelict canal decline or are unable to effect the repairs necessary to prevent further injury, the Board of Trade may by warrant signed by their secretary authorise the abandonment by the existing proprietors of such unnecessary canal or such derelict canal, and after the granting of the warrant, and the due publication as required by the Board of Trade of a notice of the granting thereof, the Board of Trade may make an order releasing the canal company or other the proprietors of the unnecessary or derelict canal from all liability to maintain the same canal, and from all statutory and other obligations in respect thereof, or of or consequent on the abandonment thereof.

(2) In the case of an unnecessary canal no warrant of abandonment shall be granted unless the Board of Trade are satisfied—

(a) That it is unnecessary for the purposes of public navigation;

(b) That the application has been expressly authorised by a resolution of a majority of the shareholders of the canal company owning the canal present and voting at an extraordinary or special general meeting of that company;

(c) That such public and other notices of the application have been given as the Board of Trade may require;

(d) That compensation (the amount thereof to be determined in case of difference as the Board of Trade may prescribe) has been made to all persons entitled to compensation by reason of the proposed abandonment of the canal.

(3) In the case of a derelict canal the warrant may be granted on the condition that the canal or any part thereof, with all or any of the powers relating thereto, be transferred to any person, body of persons, or local authority, and where any such condition is imposed the Board of Trade may, if they think fit, frame and embody in a Provisional Order a scheme for the management of the canal or any part thereof.

(4) The Provisional Order may provide for the constitution of a body to manage the canal or any part thereof, for the transfer to that body or any local authority of the canal or any part thereof, and of all or any of the powers relating thereto, for the limitation or discharge of any liabilities affecting the canal or the owners thereof for the time being, and for any other matters which may appear to the Board of Trade to be necessary or proper for carrying this section into effect.

(5) The Board of Trade may submit to Parliament for confirmation any Provisional Order made by it in pursuance of this section, but any such Order shall be of no force unless and until it is confirmed by Act of Parliament.

(6) If while the Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to the Order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

(7) In this section the expression "local authority" means any one of the local authorities mentioned in section seven of this Act (*c*).

(8) For the purpose of giving effect to the provisions of this section, the Board of Trade may require the applicants to furnish any evidence in their possession or under their control relative to the application, and may at the expense of the applicants appoint and send an officer to inspect the canal referred to in the application, and to obtain information and evidence in the neighbourhood thereof relative to the proposed abandonment, and may from time to time make regulations as to the mode of making applications, and the nature and mode of publication of notices, and generally as to the conduct of proceedings.

(*a*) For "Board of Trade" here and throughout this section read "Ministry of Transport" (M. of T. Act, 1919).

(*b*) See sub-s. (7), p. 2513, *post*.

(*c*) See the section, *ante*, p. 2499. The expression "local authority" includes an urban or rural district council.

Definition of "canal company."

46. In this Part of this Act the expression "canal company" shall include a "railway and canal company," so far as relating to any canal of any such last-mentioned company.

PART IV.

MISCELLANEOUS.

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Evidence on rating appeals.

48. On any rating appeal (*a*), and before any court, where it may be material to show the receipts or profits of a railway company or canal company, or railway and canal company, it shall be lawful for the company to prove the same by written statements or returns verified by the affidavit or statutory declaration of the manager or other responsible officer, and any such statements or returns shall be primâ facie evidence of the facts therein stated with respect to such receipts or profits : Provided that the person by whom any such affidavit or statutory declaration is made shall in every case, if required, attend to be cross-examined thereon.

(*a*) See the definition of this expression in s. 55, *post*, p. 2515.

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Parties may appear in person or by counsel, etc.

50. In any proceedings under this Act any party may appear before the Commissioners either by himself in person or by counsel or solicitor.

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Saving of powers conferred on Commissioners and Board of Trade.

52. The powers and jurisdiction conferred by this Act on the Commissioners or Board of Trade shall be in addition to and not in substitution for any powers and jurisdiction vested in the Commissioners or Board of Trade by any statute.

Proceedings of Board of Trade.

53.—(1) All documents purporting to be rules, orders, or certificates made or issued by the Board of Trade (*a*), and to be sealed with the seal of the Board, or to be signed by a secretary or assistant secretary of the Board, or any person authorised in that behalf by the President of the Board, shall be received in evidence, and deemed to be such orders, rules, or certificates without further proof, unless the contrary is shown.

(2) A certificate signed by the President of the Board of Trade that any order made, certificate issued, or act done, is the order, certificate, or act of, the Board of Trade, shall be conclusive evidence of the fact so certified.

(*a*) The Board of Trade has now been superseded by the Ministry of Transport (M. of T. Act, 1919).

Expenses of local authorities.

54.—(1) Where any local authority having power under this Act to make or oppose any complaint to the Commissioners, or the Board of Trade, or to enter into any agreement to pay the whole or a portion of the expenses of complying with an order of the Commissioners or the Board of Trade, or to make any application for the abandonment or acquisition of a canal under this Act, incur any expenses in or incidental to such complaint, opposition, agreement, or application, such expenses may be defrayed out of the rates or funds out of which the expenses incurred by such authority in the execution of their ordinary duties are defrayed, and if such authority is a rural sanitary authority in England, shall be defrayed as general expenses, unless the Local Government Board direct that they shall be defrayed as special expenses (*a*).

(2) A local authority may enter into any contract involving the payment by themselves and their successors of any expenses authorised by this section to be defrayed.

(3) Where any such local authority have no power to borrow money for the purpose of defraying any expenses authorised by this section, such authority, if other than a surveyor of highways, may, with the consent of

the Board of Trade in the case of any harbour board or conservancy authority, and with the consent of the Local Government Board in the case of any other authority, borrow money in manner provided by the Local Loans Act, 1875 (*b*), on the security of the rates or funds out of which the expenses are authorised to be defrayed, and the prescribed period for the loan shall be such period as the board giving such consent may approve.

38 & 39 Vict. c. 83.

(4) On the request of any board whose consent is required for such loan, the Board of Trade or Commissioners shall certify such particulars respecting the amount of the said expenses and the propriety of incurring the same and of borrowing for the payment thereof as may be requested by such board (*c*).

. . . . . .

(*a*) The expenses in the case of an urban authority will, in general, be paid out of the general rate fund. See s. 207 of the P. H. A., 1875, *ante*, p. 495. As to special expenses, see s. 229 of the same Act, *ante*, p. 514, and the R. and V. Act, 1925, *ante*, p. 1633.

(*b*) The text of this Act is set out, *ante*, p. 2343.

(*c*) The remainder of this section relates only to Ireland.

55. In this Act, unless the context otherwise requires,—

Definitions.

Terms defined by the Regulation of Railways Act, 1873, have the meanings thereby assigned to them:

The term "conservancy authority" means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of conserving, maintaining, or improving the navigation of any tidal or inland water or navigation:

The term "harbour board" means any persons who are otherwise than for private profit intrusted with the duty or invested with the power of constructing, improving, managing, regulating, and maintaining a harbour, whether natural or artificial, or any dock:

The term "undue preference" includes an undue preference, or an undue or unreasonable prejudice or disadvantage, in any respect, in favour of or against any person or particular class of persons or any particular description of traffic:

The term "terminal charges" includes charges in respect of stations, sidings, wharves, depôts, warehouses, cranes, and other similar matters, and of any services rendered thereat:

The term "merchandise" includes goods, cattle, live-stock, and animals of all descriptions:

The term "trader" includes any person sending, receiving, or desiring to send merchandise by railway or canal:

The term "home" in relation to merchandise, includes the United Kingdom, the Channel Islands, and the Isle of Man:

The term "rating appeal" means an appeal against any valuation list or against any poor rate or any other local rate (*a*).

. . . . . .

The term "superior court" means, as regards England, the High Court . . .

The term "superior court of appeal" means, as regards England, her Majesty's Court of Appeal . . .

(*a*) The expression "local rate" would include a general rate. Parts of the remainder of this section relating to Scotland and Ireland only are here omitted.

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THE MORTMAIN AND CHARITABLE USES ACT, 1888.

(51 & 52 VICT. C. 42) (*a*).

An Act to consolidate and amend the Law relating to Mortmain and to the disposition of Land for Charitable Uses. [13th August, 1888.]

(*a*) The P. H. A., 1875, s. 7, *ante*, p. 41, provided that local boards and improvement commissioners may hold lands without licence in mortmain for the purposes of that Act. And by s. 85 (5) of the L. G. A., 1894, *ante*, p. 1045, the change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers. By s. 24 (7) of the L. G. A., 1894, *ante*, p. 985, every district council for a rural district may hold land for the purposes of their powers and duties without licence in mortmain. By s. 7 of the Commons Act, 1899, *post*, p. 2604, any district council may acquire and hold property in a common regulated by scheme under that Act, without such licence. By s. 114 of the Housing Act, 1925, *ante*, p. 1470, a local authority may accept a donation of land or other property for any of the purposes of the Act without the necessity of enrolling any assurance as to such property under this Act. See also a similar provision in Sched. I., r. 14, of the Town Planning Act, 1925, *ante*, p. 1510. As to the powers of the corporation of a borough, see the Municipal Corporations Act, 1882, s. 107, and *Truro Corporation* v. *Rowe*, [1902] 2 K. B. 708 ; 66 J. P. 821. The powers of a sanitary authority to hold lands for purposes other than those mentioned in these statutes depend upon this statute as amended by the Working Classes Dwellings Act, 1890, the Mortmain and Charitable Uses Act, 1891, and the Mortmain and Charitable Uses Act Amendment Act, 1892, *post*, pp. 2527, 2536, 2538. A " trust corporation " which includes " in relation to charitable . . . and public trusts . . . any local or public authority " prescribed by the Lord Chancellor (Law of Property (Amendment) Act, 1926, s. 3) may now hold land as a sole trustee under ss. 30 and 94 of the Settled Land Act, 1925, and may act as a personal representative under s. 14 of the Administration of Estates Act, 1925.

PART I.

MORTMAIN.

Forfeiture on unlawful assurance or acquisition in mortmain.

1.—(1) Land shall not be assured to or for the benefit of, or acquired by or on behalf of, any corporation in mortmain, otherwise than under the authority of a licence from her Majesty the Queen, or of a statute for the time being in force (*a*), and if any land is so assured otherwise than as aforesaid the land shall be forfeited to her Majesty from the date of the assurance, and her Majesty may enter on and hold the land accordingly :

(2) Provided as follows :

(i) If the land is held directly of a mesne lord under her Majesty, that mesne lord may enter on and hold the land at any time within twelve months from the date of the assurance :

(ii) If the land is held of more than one mesne lord in gradation under her Majesty, the superior of those mesne lords may enter on and hold the land at any time within six months after the time at which the right of the inferior lord to enter on the land expires :

(iii) If a mesne lord is at the time when his right of entry accrues under this Act a lunatic or otherwise under incapacity, his right of entry may be exercised by his guardian or the committee of his estate, or by such person as her Majesty's High Court of Justice may appoint in that behalf :

(iv) If the right of entry under this Act is exercised by or on behalf of a mesne lord, the land shall be forfeited to that lord from the date of the assurance instead of to her Majesty.

(*a*) See note (*a*), *supra*.

Power to her Majesty to grant licences in mortmain.

2. It shall be lawful for her Majesty the Queen, if and when and in such form as she thinks fit, to grant to any person or corporation a licence to assure in mortmain land in perpetuity or otherwise, and to grant to any corporation a licence to acquire land in mortmain and to hold the land in perpetuity or otherwise.

Section 2.

Saving for rents and services.

3. No entry or holding by or forfeiture to her Majesty under this Part of this Act, shall merge or extinguish, or otherwise affect, any rent or service which may be due in respect of any land to her Majesty or any other lord thereof.

PART II.

CHARITABLE USES.

Conditions under which assurances may be made to charitable uses.

4.—(1) Subject to the savings and exceptions contained in this Act, every assurance of land, to or for the benefit of any charitable uses and every assurance of personal estate to be laid out in the purchase of land, to or for the benefit of any charitable uses, shall be made in accordance with the requirements of this Act, and unless so made shall be void (*a*).

(2) The assurance must be made to take effect in possession for the charitable uses to or for the benefit of which it is made immediately from the making thereof.

(3) The assurance must, except as provided by this section, be without any power of revocation, reservation, condition, or provision for the benefit of the assuror or of any person claiming under him.

(4) Provided that the assurance, or any instrument forming part of the same transaction, may contain all or any of the following provisions, so, however, that they reserve the same benefits to persons claiming under the assuror as to the assuror himself; namely,

- (i) The grant or reservation of a peppercorn or other nominal rent;
- (ii) The grant or reservation of mines or minerals;
- (iii) The grant or reservation of any easement;
- (iv) Covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
- (v) A right of entry on non-payment of any such rent or on breach of any such covenant or provision;
- (vi) Any stipulations of the like nature for the benefit of the assuror or of any person claiming under him.

(5) If the assurance is made in good faith on a sale for full and valuable consideration, that consideration may consist wholly or partly of a rent, rent-charge, or other annual payment reserved or made payable to the vendor, or any other person, with or without a right of re-entry for non-payment thereof.

(6) *If the assurance is of land, not being land of copyhold or customary tenure, or is of personal estate, not being stock in the public funds, it must be made by deed executed in the presence of at least two witnesses* (*b*).

(7) If the assurance is of land, or of personal estate, not being stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made at least twelve months before the death of the assuror, including in those twelve months the day of the making of the assurance and of the death.

(8) If the assurance is of stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made by transfer thereof in the public books kept for the transfer of stock at least six months before the death of the assuror, including in those six months the days of the transfer and of the death.

(9) *If the assurance is of land, or of personal estate other than stock in the*

public funds, it must, within six months after the execution thereof, be enrolled in the central office of the Supreme Court of Judicature, *unless in the case of an assurance of land to or for the benefit of charitable uses those uses are declared by a separate instrument, in which case that separate instrument must be so enrolled within six months after the making of the assurance of the land* (*c*).

(*a*) A domiciled Victorian, who died in June, 1891, bequeathed £10,000 to the mayor and corporation of the city of Canterbury, in England, for the purpose of their buying a suitable piece of land and erecting thereon a free library. Under the law of Victoria the corporation were able lawfully to expend the money as directed by the testator :—*Held*, that the English Mortmain Act, 1888, only applied in so far as that the assurance of the land must be in accordance with the provisions of the Act, and that the bequest was valid (*Canterbury Corporation* v. *Wyburn*, [1895] A. C. 89).

(*b*) This sub-section is repealed so far as it relates to assurances executed after January 1st, 1926, by s. 119, and Sched. V. of the Settled Land Act, 1925 (15 & 16 Geo. 5, c. 18). Such attestation is no longer necessary. See note (*c*), *infra*.

(*c*) This provision is repealed so far as it relates to assurances executed after January 1st, 1926, by s. 119 and Sched. V. of the Settled Land Act, 1925 (15 & 16 Geo. 5, c. 18). See now s. 29 (4), *ibid.*, which provides as follows :—

" (4) Every assurance of land or of personal estate, within the meaning of section four of the Mortmain and Charitable Uses Act, 1888, or if the charitable uses are declared by a separate instrument, then that instrument, shall, in place of the requirements respecting attestation and enrolment prescribed by sub-sections (6) and (9) of that section, be sent to the offices of the Charity Commissioners within six months after the execution thereof or within such extended period as the said Commissioners may, either before or after the expiration of the six months, in any particular case allow, for the purpose of being recorded in the books of the said Commissioners.

" Where the original cannot be produced, an attested or office copy may be sent instead of the original.

" This sub-section does not apply to registered dispositions of registered land, or to assurances or instruments required by section one hundred and seventeen of the Education Act, 1921, to be sent to the Board of Education, and only applies to instruments executed after the commencement of this Act."

For a case where a claim was made without success for a declaration that an assurance of land need not be enrolled because of a private Act, see *In re Verrall, National Trust* v. *Att.-Gen.*, [1916] 1 Ch. 100 ; 80 J. P. 89.

Power to remedy omission to enrol within requisite time.

5.—(1) *Where an instrument, the enrolment whereof is required under this part of this Act for the validation of an assurance, is not duly enrolled within the requisite time, her Majesty's High Court of Justice, or the officer having control over the enrolment of deeds in the central office, may, on application in such manner and on payment of such fee as may be prescribed by rules of the Supreme Court, and on being satisfied that the omission to enrol the instrument in proper time has arisen from ignorance or inadvertence, or through the destruction or loss of the instrument by time or accident, and that the assurance was of a nature to be validated under this section, order or cause the instrument to be enrolled.*

(2) *Thereupon, if the assurance to be validated was made in good faith and for full and valuable consideration, and was made to take effect in possession immediately from the making thereof without any power of revocation, reservation, condition, or provision, except such as is authorised by this Act, and if at the time of the application possession or enjoyment was held under the assurance, then enrolment in pursuance of this section shall have the same effect as if it had been made within the requisite time.*

(3) *Provided that if at the time of the application any proceeding for setting aside the assurance, or for asserting any right founded on the invalidity of the assurance, is pending, or any decree or judgment founded on such invalidity has been then obtained, the enrolment under this section shall not give any validity to the assurance.*

(4) *Where the instrument omitted to be enrolled in proper time has been destroyed or lost by time or accident and the trusts thereof sufficiently appear by a copy or abstract thereof or some subsequent instrument, such copy, abstract, or subsequent*

instrument may be enrolled under this section in like manner and with the like effect as if it were the instrument so destroyed or lost.

Section 5.

(5) *An application under this section may be made by any trustee, governor, director, or manager of, or other person entitled to act in the management of or otherwise interested in, any charity or charitable trust intended to be benefited by the uses declared by the instrument to be enrolled* (*a*).

(*a*) See note (*c*) to s. 4, *ante*, p. 2518.

PART III.

EXEMPTIONS.

Assurances of a public park, elementary school, or public museum.

6.—(1) Parts One and Two of this Act shall not apply (*a*) to an assurance by deed of land of any quantity or to an assurance by will of land of the quantity hereinafter mentioned for the purposes only of a public park, a schoolhouse for an elementary school (*b*), a public museum, or an assurance by will of personal estate to be applied in or towards the purchase of land for all or any of the same purposes only.

(2) Provided that a will containing such an assurance, and a deed containing such an assurance and made otherwise than in good faith for full and valuable consideration, must be executed not less than twelve months before the death of the assuror, or be a reproduction in substance of a devise made in a previous will in force at the time of such reproduction, and which was executed not less than twelve months before the death of the assuror, and must be enrolled in the books of the Charity Commissioners within six months after the death of the testator, or in case of a deed the execution of the deed.

(3) The quantity of land which may be assured by will under this section shall be any quantity not exceeding twenty acres for any one public park, and not exceeding two acres for any one public museum, and not exceeding one acre for any one schoolhouse.

(4) In this section,

(i) "Public Park" includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;

(ii) "Elementary school" means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week;

(iii) "Schoolhouse" includes the teacher's dwelling-house, the playground (if any), and the offices and premises belonging to or required for a school;

(iv) "Public museum" includes buildings used or to be used for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical or philosophical inventions, instruments, models, or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories, and other offices and premises used or to be used in connection therewith.

(*a*) It is provided by the Working Classes Dwellings Act, 1890, *post*, p. 2527, that Parts I. and II. of this Act shall not apply to gifts of land for dwellings for the working classes.

It is further provided by the Mortmain and Charitable Uses Amendment Act, 1892, *post*, p. 2538, that the above section, except as therein mentioned, shall apply to any assurance by deed of land to any local authority, for any purposes for which such authority is empowered by any Act of Parliament to acquire land. See s. 164 of the P. H. A., 1875, *ante*, p. 388. By s. 114 of the Housing Act, 1925, and Sched. I., r. 14, of

Note to Section 6.

the Town Planning Act, 1925, *ante*, pp. 1470 and 1510, a local authority may accept donations of land or money or other property for any purpose of those Acts, and assurances with respect thereto need not be enrolled under this Act.

As to the enforcement of secret trusts for the benefit of the public, see *In re Pitt Rivers, Scott* v. *Pitt Rivers*, [1902] 1 Ch. 403; 66 J. P. 275.

(*b*) Section 117 of the Education Act, 1921, exempts assurances (as defined by s. 10 of the Mortmain Act in the text) of land or personal estate to be laid out in the purchase of land for educational purposes from any restrictions of the law relating to mortmain and charitable uses, and enacts that the Mortmain and Charitable Uses Acts, 1888 and 1891, and the Mortmain and Charitable Uses Act Amendment Act, 1892, shall not apply with respect to any such assurance.

Assurances for certain universities, colleges, and societies.

7. Part Two of this Act shall not apply to the following assurances:

(i) An assurance of land, or personal estate to be laid out in the purchase of land, to or in trust for any of the Universities of Oxford, Cambridge, London, Durham, and the Victoria University, or any of the colleges or houses of learning within any of those universities, or to or in trust for any of the colleges of Eton, Winchester, and Westminster, for the better support and maintenance of the scholars only upon the foundations of those last-mentioned colleges, or to or in trust for the warden, council, and scholars of Keble College (*a*):

(ii) An assurance, otherwise than by will, to trustees on behalf of any society or body of persons associated together for religious purposes or for the promotion of education, art, literature, science, or other like purposes of land not exceeding two acres for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected so that the assurance be made in good faith for full and valuable consideration:

Provided that the trustees of the instrument containing any assurance to which this section applies or declaring the trusts thereof, may, if they think fit, at any time cause the instrument to be enrolled in the central office of the Supreme Court *of Judicature.*

(*a*) See also the University and College Estates Act, 1925 (15 & 16 Geo. 5, c. 24).

Substitution of provisions of Act for corresponding repealed enactments.

8. Where by any statute now in force any provision of the enactments hereby repealed is excluded either wholly or partially from application, or is applied with modification, in every such case the corresponding provision of this Act shall be excluded or applied in like extent and manner.

PART IV.

SUPPLEMENTAL.

Adaptation of law to system of land registration. 38 & 39 Vict. c. 87.

9. *Any assurance of land which is by this Act required to be made by deed may be made by a registered disposition under the provisions of the Land Transfer Act,* 1875, *or of any Act amending the same, and any assurance so made shall be exempt from the provisions of this Act as to execution in the presence of witnesses, and as to enrolment in the central office of the Supreme Court* (*a*).

(*a*) See note (*c*) to s. 4, *ante*, p. 2518.

Definitions.

10. In this Act, unless the context otherwise requires,—

(i) "Assurance" includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, incumbrance, devise, bequest, and every other assurance by deed, will, or other

Section 10.

instrument; and "assure" and "assuror" have meanings corresponding with assurance.

(ii) "Will" includes codicil (*a*).

. . . . . .

(iv) "Full and valuable consideration" includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rent-charge, or other annual payment in perpetuity, or for any term of years or other period, with or without a right of re-entry for non-payment thereof, or partly paid and partly reserved as aforesaid.

(*a*) Sub-s. (iii) was repealed by the Mortmain and Charitable Uses Act, 1891, *post*, p. 2536. It contained the definition of "land." See now s. 3 of that Act, *post*, p. 2536.

Extent of Act.

11. This Act shall not extend to Scotland or Ireland.

Savings for existing customs, etc.

12. Nothing in this Act shall affect the operation or validity of any charter, licence, or custom in force at the passing of this Act enabling land to be assured or held in mortmain.

Repeal.

13 (*a*).—(1) *The Acts specified in the Schedule to this Act are hereby repealed from and after the passing of this Act, to the extent specified in the third column of that Schedule:*

Provided that this repeal shall not affect—

(a) Any enactment not hereby repealed referring to any enactment hereby repealed, except that in lieu of that reference the unrepealed enactment shall be construed as if it referred to the corresponding provisions of this Act; or

(b) *The past operation of any enactment hereby repealed, or any instrument or thing executed, done, or suffered before the passing of this Act; or*

(c) *Any right, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or*

(d) *Any action, proceeding, or thing pending or uncompleted at the time of the passing of this Act.*

(2) Whereas by the preamble to the Act of the forty-third year of Elizabeth chapter four (being one of the enactments hereby repealed), it is recited as follows:

"Whereas landes tenementes rentes annuities p'fittes hereditamentes, goodes chattels money and stockes of money, have bene heretofore given limitted appointed and assigned, as well by the Queenes moste excellent Majestie and her moste noble progenitors, as by sondrie other well disposed p'sons, some for releife of aged impotent and poore people, some for maintenance of sicke and maymed souldiers and marriners, schooles of learninge, free schooles and schollers in univ'sities, some for repaire of bridges portes havens causwaies, churches sea bankes and highewaies, some for educacon and p'fermente of orphans, some for or towardes reliefe stocke or maintenance for howses of correcon, some for mariages of poore maides, some for supportacon ayde and helpe of younge tradesmen, handiecraftesmen and p'sons decayed, and others for releife or redemption of prisoners or captives, and for aide or ease of any poore inhabitantes conc'ninge paymente of fifteenes, settinge out of souldiers and other taxes; whiche landes tenements rents annuities p'fitts hereditaments goodes chattels money and stockes of money nev'theles have not byn imployed accordinge to the charitable intente of the givers and founders thereof, by reason of fraudes breaches of truste and negligence in those that shoulde pay delyver and imploy

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the same :" and whereas in divers enactments and documents reference is made to charities within the meaning, purview, and interpretation of the said Act :

Be it therefore enacted that references to such charities shall be construed as references to charities within the meaning, purview, and interpretation of the said preamble.

(*a*) The italicised words in s. 13 and the Schedule were repealed by the S. L. R. A., 1908.

Short title.

14. This Act may be cited as the Mortmain and Charitable Uses Act, 1888.

THE SALE OF HORSEFLESH, ETC., REGULATION ACT, 1889.

(52 & 53 VICT. c. 11.)

An Act to regulate the Sale of Horseflesh for Human Food.

[24th June, 1889.]

Whereas it is desirable to make regulations with respect to the sale of horseflesh for human food :

. . . . . .

Signs on horseflesh shops.

1. No person shall sell, offer, expose, or keep for sale any horseflesh for human food (*a*), elsewhere than in a shop, stall, or place over or upon which there shall be at all times painted, posted, or placed in legible characters of not less than four inches in length, and in a conspicuous position, and so as to be visible throughout the whole time, whether by night or day, during which such horseflesh is being offered or exposed for sale, words indicating that horseflesh is sold there.

(*a*) This Act applies only to the sale of horseflesh for human food.

Horseflesh not to be sold as other meat.

2. No person shall supply horseflesh for human food to any purchaser who has asked to be supplied with some meat other than horseflesh, or with some compound article of food which is not ordinarily made of horseflesh.

Power of medical officer of health to inspect meat, etc.

3. Any medical officer of health or inspector of nuisances or other officer of a local authority acting on the instructions of such authority or appointed by such authority for the purposes of this Act may at all reasonable times inspect and examine any meat which he has reason to believe to be horseflesh, exposed for sale or deposited for the purpose of sale, or of preparation for sale, and intended for human food, in any place other than such shop, stall, or place as aforesaid, and if such meat appears to him to be horseflesh he may seize and carry away or cause to be seized and carried away the same, in order to have the same dealt with by a justice as hereinafter provided (*a*).

(*a*) See s. 5, *post*, p. 2523.

Power of justice to grant warrant for search.

4. On complaint made on oath by a medical officer of health or inspector of nuisances, or other officer of a local authority, any justice may grant a warrant to any such officer to enter any building, or part of a building other than such shop, stall, or place as aforesaid, in which such officer has reason for believing that there is kept or concealed any horseflesh which is intended for sale, or for preparation for sale for human food, contrary to the provisions of this Act; and to search for, seize, and carry away or cause to be seized and carried away any meat that appears to such officer to be such horseflesh, in order to have the same dealt with by a justice as hereinafter provided (*a*).

Any person who shall obstruct any such officer in the performance of his duty under this Act shall be deemed to have committed an offence under this Act (*b*).

(*a*) See s. 5, *infra*.
(*b*) For the penalty of this offence, see s. 6, *infra*.

Power of justice with reference to disposal of horseflesh.

5. If it appears to any justice that any meat seized under the foregoing provisions of this Act is such horseflesh as aforesaid, he may make such order with regard to the disposal thereof as he may think desirable (*a*); and the person in whose possession or on whose premises the meat was found shall be deemed to have committed an offence under this Act, unless he proves that such meat was not intended for human food contrary to the provisions of this Act (*b*).

(*a*) The order is left to the discretion of the justice. He may order the meat to be destroyed, or he may order it to be sold for the food of dogs or the like.
(*b*) It will be for the defendant to prove that the meat was not intended for human food.

Penalty.

6. Any person offending against any of the provisions of this Act, for every such offence shall be liable to a penalty not exceeding twenty pounds, to be recovered in a summary manner (*a*); and if any horseflesh is proved to have been exposed for sale to the public in any shop, stall, or eating-house (*b*) other than such shop, stall, or place as in the first section mentioned, without anything to show that it was not intended for sale for human food, the onus of proving that it was not so intended shall rest upon the person exposing it for sale.

(*a*) That is to say, before a court of summary jurisdiction in manner provided by the S. J. Acts. See S. J. A., 1879, s. 51.
(*b*) The reference to an eating-house, and the definition in s. 7, show that the Act is intended to apply not only to sales of horseflesh as butchers' meat, but to its sale as meat in an eating-house or restaurant.

Definition of "horseflesh."

7. For the purposes of this Act "horseflesh" shall include the flesh of asses and mules, and shall mean horseflesh, cooked or uncooked, alone or accompanied by or mixed with any other substance.

Local authorities for purposes of Act.

8. For the purposes of this Act the local authorities shall be, in the city of London and the liberties thereof, the commissioners of sewers, and in the other parts of the county of London the vestries and district boards acting in the execution of the Metropolis Local Management Acts, and in other parts of England the urban and rural sanitary authorities (*a*). . . .

(*a*) The remainder of this section relates only to Ireland, and s. 9 relates only to Scotland.

* * * * * *

Short title.

10. This Act may be cited as the Sale of Horseflesh, etc. Regulation Act, 1889.

11. [*Commencement of Act, September* 29, 1889.]

THE TOWN POLICE CLAUSES ACT, 1889.

(52 & 53 VICT. c. 14.)

An Act to amend the provisions relating to Hackney Carriages of the Town Police Clauses Act, 1847. [24th June, 1889.]

10 & 11 Vict. c. 89.

Whereas it is expedient to amend the provisions with respect to hackney carriages of the Town Police Clauses Act, 1847, *in this Act called the principal Act* (*a*) *:*

Short title.

10 & 11 Vict. c. 89.

1. This Act may be cited as the Town Police Clauses Act, 1889, *and this Act and the Town Police Clauses Act,* 1847, *may be cited together as the Town Police Clauses Acts,* 1847 *and* 1889 (*a*).

(*a*) Italicised words repealed by the S. L. R. A., 1908. The Town Police Clauses Act, 1847, in so far as it is incorporated with the P. H. A., 1875, is set out, *ante*, p. 2226. It is applied to urban districts only, though a rural district council are enabled by s. 276 of the P. H. A., 1875, *ante*, p. 613, to apply to the M. of H. for these powers. Reference may also be made to the London Traffic Act, 1924, *post*, p. 2850, as to the restriction of omnibuses on certain routes in the London Traffic Area. See also note (*b*) to s. 3, *infra*.

Construction of Act.

2.—(1) This Act shall be construed as one with the principal Act, and the expression "this Act" in the principal Act shall be construed to mean the principal Act as amended by this Act.

38 & 39 Vict. c. 55.

(2) This Act shall be deemed to be incorporated with the Public Health Act, 1875, by section one hundred and seventy-one of that Act (*a*).

(*a*) See this section, *ante*, p. 411.

Defining "omnibus."

3. The term "omnibus" where used in this Act, shall include—

Every omnibus, char-à-banc, wagonette, brake, stage coach, and other carriage plying or standing for hire (*a*) by or used to carry passengers at separate fares to, from, or in any part of the prescribed distance (*b*);

but shall not include—

33 & 34 Vict. c. 78.

Any tramcar or tram carriage duly licensed under the provisions of the Tramways Act, 1870, or of any Provisional Order made thereunder and confirmed by Parliament, or under the provisions of any local Act of Parliament:

Any carriage starting from and previously hired for the particular passengers thereby carried at any livery stable yard (within the prescribed distance) whereat horses are stabled and carriages let for hire, the said carriage starting from the said stable yard and being bonâ fide the property of the occupier thereof, and not standing or plying for hire (*c*) within the prescribed distance:

Any omnibus belonging to or hired or used by any railway company for conveying passengers and their luggage to or from any railway station of that company, and not standing or plying for hire within the prescribed distance (*d*):

Any omnibus starting from outside the prescribed distance, and bringing passengers within the prescribed distance, and not standing or plying for hire within the prescribed distance (*e*).

(*a*) The "standing for hire" may be on private ground (*Birmingham & Midland Motor Omnibus Co., Ltd.* v. *Thompson,* [1918] 2 K B. 105; 82 J. P. 213; *Crack* v. *Holt* (1927), 91 J. P. 36; 25 L. G. R. 114.

(*b*) The prescribed distance means within the urban district (see s. 171 of the P. H. A., 1875, *ante*, p. 411), or rural parish in which the urban powers have been declared to be in force by an order under s. 276 of the P. H. A., 1875, *ante*, p. 613.

(*c*) As to what amounts to standing or plying for hire, reference may be made to the cases cited in the notes to 10 & 11 Vict. c. 89, s. 38, *ante*, p. 2242. It is important to observe that the words are not, as in the older Act, "standing or plying for hire *in a street*." An omnibus may, therefore, be standing or plying for hire while it is on private property, such as a railway station. See *Clarke* v. *Stanford* (1871), L. R. 6 Q. B. 357; 35 J. P. 662; *Allen* v. *Tunbridge* (1871), L. R. 6 C. P. 481; 35 J. P. 695; *Foinett* v. *Clark* (1877), 41 J. P. 359; *Skinner* v. *Usher* (1872), L. R. 7 Q. B. 423; 36 J. P. 693; *Curtis* v. *Embery* (1872), L. R. 7 Ex. 369.

(*d*) It seems to follow from these words that to be within this exception the omnibus must not be allowed to stand about for hire by any one who may desire to use it, for it would then be standing or plying for hire; and that unless the Act is to apply the omnibus must be hired before it is brought out.

(*e*) An omnibus coming from one district will not be required to be licensed in another, though used for bringing passengers into the latter, unless it stands or plies for hire in the latter. An omnibus starting from outside the district and going to a point within the district where it waited from fifteen to twenty minutes for the purpose of taking up passengers, parcels, etc., for the return journey, was held not to come within the exception on the ground that it plied for hire within the district (*Dewhurst* v. *Eddles* (1893), 57 J. P. 373; 9 T. L. R. 494). And an omnibus which sometimes waited on the highway and sometimes commenced the return journey at once was held on the facts to be plying for hire and therefore not within the exception (*R.* v. *Fletcher* (1908), 72 J. P. 249; 98 L. T. 749). See also *Sales* v. *Lake*, [1922] 1 K. B. 553; 86 J. P. 80; *Armstrong* v. *Ogle*, [1926] 2 K. B. 438; 90 J. P. 146; *Leonard* v. *Western Services*, [1927] 1 K. B. 702; 91 J. P. 18; *Greyhound Motors* v. *Lambert*, [1928] 1 K. B. 322; 91 J. P. 198; *Griffin* v. *Grey Coaches* (1929), 93 J. P. 61; and *Att.-Gen.* v. *Sharp* (1929), 45 T. L. R. 628. The facts of these cases are set out at p. 2243, *ante*.

Extending certain provisions of principal Act to omnibuses.

4.—(1) The several terms "hackney carriages," "hackney coach," "carriages," and "carriage," whenever used in sections thirty-seven, forty to fifty-two (both inclusive), fifty-four, fifty-eight, and sixty to sixty-seven (both inclusive) of the principal Act shall, notwithstanding anything contained in section thirty-eight of that Act, be deemed to include every omnibus (*a*).

(2) The word "driver" or "drivers" when used in any of the said sections of the principal Act shall be deemed to include every conductor of any omnibus.

(3) For the purposes of sections fifty-four, fifty-eight, and sixty-six of the principal Act, the fare, according to the statement of fares exhibited on any omnibus, shall be deemed to be the fare allowed by the principal Act or authorised by any byelaw under that Act.

(*a*) See these sections, *ante*, pp. 2241 *et seq*. Section 68 of the Act of 1847 is not incorporated, and this is the section giving power to make byelaws for the purpose (*inter alia*) of fixing the fares to be paid for hackney carriages. It has been held that there is no power to fix fares with reference to omnibuses and that therefore a local authority is not entitled to refuse the renewal of a licence on the ground that the fares charged are excessive (*R.* v. *Farnborough U. D. C., Ex parte Aldershot District Traction Co., Ltd.* (1919), 83 J. P. 290). See, however, the comments on this case in *R.* v. *Minister of Transport, Ex parte H. C. Motors, Ltd.*, [1927] 2 K. B. 401; 91 J. P. 83.

Licences may be granted for short periods.

5. Any licence may be granted under the principal Act to continue in force for such less period than one year as the Commissioners may think fit, and shall specify in the licence (*a*).

(*a*) See the Town Police Clauses Act, 1847, s. 43, *ante*, p. 2244.

Byelaws.

6. The Commissioners may from time to time make byelaws (*a*) for all or any of the following purposes, that is to say:

For regulating the conduct (*b*) of the proprietors, drivers, and conductors of omnibuses plying within the prescribed distance in their several employments, and determining whether such drivers and conductors shall wear any and what badges:

For regulating the manner in which the number of each omnibus corresponding with the number of its licence shall be displayed:

For regulating the number of persons to be carried by such omnibus, and in what manner such number is to be shown thereon (*c*):

For regulating the number and securing the fitness of the animals to be allowed to draw an omnibus, and for the removal therefrom of unfit animals:

For securing the fitness of the omnibus and the harness of the animals drawing the same:

For fixing the stands for omnibuses and the points at which they may stop a longer time than is necessary for the taking up and setting down of passengers desirous of entering or leaving the same:

For securing the safe custody and re-delivery of any property accidentally left in any omnibus, and fixing the charge to be made in respect thereof (*d*).

To provide for the carrying and the lighting of proper lamps for denoting the direction in which the omnibus is proceeding, and promoting the safety and convenience of the passengers carried thereby:

To provide for the exhibition on some conspicuous part of every omnibus of a statement in legible letters and figures of the fares to be demanded, and received from the persons using or carried for hire in such omnibus (*e*):

To prevent within the prescribed distance—

(*a*) the owner, driver, or conductor of any omnibus, or any other person on their or his behalf, by touting, calling out, or otherwise, from importuning any person to use or to be carried for hire in such omnibus, to the annoyance of such person or of any other person;

(*b*) the blowing of or playing upon horns or other musical instruments, or the ringing of bells, by the driver or conductor of any omnibus, or by any person travelling on or using any such omnibus.

Provided that nothing in this Act contained shall empower the Commissioners to fix the site of the stand of any omnibus in any railway station or in any yard adjoining or connected therewith, except with the consent of the railway company owning such site.

(*a*) The L. G. B. once expressed the view that byelaws could not be made under these Acts for the purpose of controlling the routes of motor omnibuses, and the Home Office were of opinion that this object could not be attained by a town council under the Municipal Corporations Acts. See, however, s. 14 (3) of the Roads Act, 1920, *ante*, p. 1302, and *R.* v. *Bradford Corporation, Ex parte Minister of Transport* (1926), 90 J. P. 140; 135 L. T. 227, decided thereunder, and the London Traffic Act, 1924, *post*, p. 2850.

(*b*) The respondent was summoned for touting for a hackney carriage in a public thoroughfare contrary to a byelaw which provided: "A person shall not in any public thoroughfare in the district tout for a hackney carriage." He stood on a triangular piece of land at a street corner touting for hackney carriages, having received permission from the freeholders of the piece of land to stand on it for the purpose of his business. The piece of land was always open to the public, and the street (including the piece of land) had been declared a public highway. It was held that the fact that the piece of land on which the respondent stood belonged to private persons did not prevent his act from being an offence against the byelaw (*Derham* v. *Strickland* (1911), 75 J. P. 300; 104 L. T. 820).

(*c*) Where byelaws made under this provision prior to the introduction of motor vehicles contained a byelaw that no greater number of passengers should be conveyed in "any omnibus" than the number specified and in the same and other byelaws contained provisions applicable only to horse-drawn omnibuses, it was held that the respondent was liable for a contravention of the byelaw in respect of a motor omnibus (*Neal* v. *Guy*, [1928] 2 K. B. 451; 92 J. P. 119). See also as to proceedings under the Railway Passenger Duty Act, 1842, for overcrowding omnibuses as stage carriages (*Dennis* v. *Miles*, [1924] 2 K. B. 399; *Kirkby* v. *Minty*, [1929] 2 K. B. 165; *M‘Kee* v. *Weir*, [1929] S. C. (J.) 14.

(*d*) Up to this point there is little difference between the provisions of this section and those of the Town Police Clauses Act, 1847, s. 68, *ante*, p. 2250. The byelaws under this section do not regulate the hours of employment, but, on the other hand, they may regulate the fitness of the horses and harness. The rest of the section is an addition to the previous law as to hackney carriages.

(*e*) This provision contemplates that the omnibus proprietors will themselves fix the fares, because, so far as fares are concerned, the power to make byelaws is limited to byelaws requiring the exhibition on the omnibus of a statement of the fares to be demanded (*R.* v. *Farnborough U. D. C., Ex parte Aldershot District Traction Co., Ltd.*, *ante*, p. 2525).

THE WORKING CLASSES DWELLINGS ACT, 1890.

(53 & 54 VICT. c. 16.)

An Act to facilitate Gifts of Land for Dwellings for the Working Classes in Populous Places. [25th July, 1890.]

Exemption from 51 & 52 Vict. c. 42, Parts I., II., and 7 & 8 Vict. c. 97, s. 16, of gifts for working classes dwellings.

1. Parts I. and II. of the Mortmain and Charitable Uses Act, 1888, . . . shall not apply to any assurance, by deed, or will, of land, or of personal estate to be laid out in land, for the purpose of providing dwellings for the working classes in any populous place (*a*).

Provided as follows:

(i) The quantity of land which may be assured by will under this section shall not exceed five acres; and

(ii) The deed or will containing the assurance must, within six months, in the case of a deed after the execution thereof, or in the case of a will after the probate thereof, be enrolled in the books of the Charity Commissioners, if the land is situate in England or Wales . . .

For the purposes of this Act, the expression "populous place" means the administrative county of London, any municipal borough, any urban sanitary district, and any other place having a dense population of an urban character (*b*).

(*a*) Words relating to Ireland only are omitted from this section. But for this provision land could not have been conveyed, nor could money to be laid out in land have been assured by deed or will for the purpose of working classes dwellings. The above Act creates an exception similar to those created under Part III. of the Mortmain and Charitable Uses Act, 1888, *ante*, p. 2519; *cf.* also the Housing Act, 1925, s. 114, and the Town Planning Act, 1925, Sched. I., r. 14, *ante*, pp. 1470 and 1510. But apparently this is not an Act with charity matters (*Re Sutton, Lewis* v. *Sutton*, [1901] 2 Ch. 640; 66 J. P. 39).

(*b*) The expression "populous place" may include a part of a rural district which is thickly populated.

Application of Act.

2. This Act shall extend to any assurance by deed made within twelve months before the passing of this Act by a person alive at that passing as if it had been made after the passing, except that the assurance shall be enrolled or registered as aforesaid within six months after the passing of this Act.

Short title and construction.

3.—(1) This Act may be cited as the Working Classes Dwellings Act, 1890.

51 & 52 Vict. c. 42.

(2) Expressions used in this Act shall have the same meaning as in the Mortmain and Charitable Uses Act, 1888 (*a*).

(*a*) See s. 10 of that Act, *ante*, p. 2520, which contains definitions of the terms "assurance," "will," and "land."

Section 1.

THE RAILWAY AND CANAL TRAFFIC (PROVISIONAL ORDERS) AMENDMENT ACT, 1891.

(54 & 55 VICT. c. 12) (*a*).

An Act to remove doubts as to the Powers of Public Bodies in reference to Provisional Order Bills under the Railway and Canal Traffic Act, 1888.
[11th May, 1891.]

Whereas (*b*)

. . . . . .

Powers of governing bodies and county councils with reference to Bills for confirming provisional orders made under 51 & 52 Vict. c. 25, s. 24.

1. Every governing body within the meaning of the Borough Funds Act (*c*) . . . and every county council shall be entitled to be a petitioner and to appear and oppose any Bill to confirm any provisional order made under section twenty-four of the Railway and Canal Traffic Act, 1888 (*d*), and to provide or contribute towards providing the expenses of the appearance or opposition of a petitioner out of the funds or rates under their respective control, as if the Bill for confirming such provisional order were a local or personal Bill within the meaning of section two of the Borough Funds Act, . . . and the provisions of the said last-mentioned Act . . . shall apply to any such appearance or opposition, and to any expenses incurred or to be incurred in relation thereto: Provided that in the case of a county council no consent of owners and ratepayers shall be required.

(*a*) This Act amends the Railway and Canal Traffic Act, 1888, s. 24, *ante*, p. 2503. Its effect so far as regards sanitary authorities is to enable them to petition against and oppose any Bill confirming any provisional order under that section, subject only to compliance with the requirements of the Borough Funds Acts, 1872 and 1903. Words relating to Scotland or Ireland only have been omitted throughout the Act. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

(*b*) The preamble (repealed by the S. L. R. A., 1908), after referring to the Borough Funds Act, 1872, the L. G. A., 1888, and s. 24 of the Railway and Canal Traffic Act, 1888, recited that doubt had been felt whether governing bodies as defined by the Act of 1872 and county councils had power to apply funds or rates under their control in opposing, or subscribing towards the opposition of, any Bill to confirm a Provisional Order under s. 24 of the Act of 1888, and that it was expedient to remove such doubts.

(*c*) As amended by the Borough Funds Act, 1903, s. 7 (2), *post*, p. 2660. See also s. 1 of the Act of 1872, *ante*, p. 2331. The expression "governing body" includes a rural authority (L. G. A., 1929, s. 55, *ante*, p. 1919).

(*d*) See that section, *ante*, p. 2503.

Short title.

2. This Act may be cited as "The Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891."

THE MUSEUMS AND GYMNASIUMS ACT, 1891.

(54 & 55 VICT. c. 22.)

An Act to enable Urban Authorities to provide and maintain Museums and Gymnasiums.
[3rd July, 1891.]

Short title.

1. This Act may be cited as "The Museums and Gymnasiums Act, 1891."

Extent of Act.

2.—(1) This Act shall extend to any district where the same is adopted as hereinafter provided, but only so far as the adoption extends.

(2) This Act shall not extend to Scotland or the administrative county of London.

Section 3.

Application of Act.

3.—(1) This Act may be adopted by any urban authority (*a*) for their district either wholly or so far as it relates to museums only or to gymnasiums only.

(2) The adoption shall be by a resolution passed at a meeting of the urban authority, and one month at least before such meeting special notice of the meeting and of the intention to propose such resolution shall be given to every member of the authority, and the notice shall be deemed to have been duly given to a member of it, if it is either—

(a) Given in the mode in which notices to attend meetings of the authority are usually given; or

(b) Where there is no such mode, then signed by the clerk of the authority, and delivered to the member or left at his usual or last known place of abode in England, or forwarded by post in a prepaid letter, addressed to the member at his usual or last known place of abode in England.

(3) Such resolution shall be published by advertisement in some one or more newspapers circulating within the district of the authority, and by causing notice thereof to be affixed to the principal doors of every church and chapel in the place to which notices are usually fixed, and otherwise in such manner as the authority think sufficient for giving notice thereof to all persons interested, and shall come into operation at a time not less than one month after the first publication of the advertisement of the resolution as the authority may by the resolution fix, and upon its coming into operation the Act shall extend to that district.

(4) A copy of the resolution shall be sent to the Local Government Board (*b*).

(5) A copy of the advertisement shall be conclusive evidence of the resolution having been passed, unless the contrary be shown; and no objection to the effect of the resolution, on the ground that notice of the intention to propose the same was not duly given, or on the ground that the resolution was not sufficiently published, shall be made after three months from the date of the first advertisement (*c*).

(*a*) See the definition of an urban authority in s. 14, *post*, p. 2532.

(*b*) The L. G. B. has now been superseded by the Ministry of Health. (See Ministry of Health Act, 1919).

(*c*) The provisions of the above section as to the adoption of this Act are, with one exception, identical with those of the Infectious Disease (Prevention) Act, 1890, s. 3, *ante*, p. 853, and the reader is referred to the notes on that section. The exception just mentioned is that in sub-s. (2), which requires the notices to be affixed to church and chapel doors. As to this, see the note to the similar provision in the P. H. A., 1875, Sched. III., r. 4, *ante*, p. 690.

Power to provide museum and gymnasium.

4 (*a*). An urban authority may provide and maintain museums for the reception of local antiquities or other objects of interest, and gymnasiums with all the apparatus ordinarily used therewith, and may erect any buildings, and generally do all things necessary for the provision and maintenance of such museums and gymnasiums (*b*).

(*a*) So much of this section as relates to the provision of museums is now of no effect (s. 9, Public Libraries Act, 1919, *post*, p. 2780). Museums provided under the section before the passing of the 1919 Act may still be maintained, and if provided for a district which was or later becomes a library district within the Public Libraries Act are to be transferred to the library authority and maintained by them (*ibid.*).

(*b*) The L. G. B. informed an urban district council that they were disposed to think that under this Act the council could only provide and maintain a museum to receive such things as are given them from time to time or they are able to collect without expenditure of money. "It appears to the Board, however, that the wider powers of the Public Libraries Act, would enable the council to purchase such objects as can reasonably be

Note to Section 4.

regarded as specimens of art and science, including archæological specimens." See also the British Museum Act, 1924 (14 & 15 Geo. 5, c. 23), which enables the trustees to make loans of objects for public exhibition in any gallery or museum under the control of a public authority.

Admission to museum.

5. A museum provided under this Act shall be open to the public not less than three days in every week free of charge, but subject thereto an urban authority may admit any person or class of persons thereto as they think fit, and may charge fees for such admission, or may grant the use of the same or of any room therein, either gratuitously or for payment, to any person for any lecture or exhibition, or for any purpose of education or instruction, and the admission to the museum or room the use of which is so granted may be either with or without payment as directed by the urban authority, or with the consent of the urban authority by the person to whom the use of the museum or room is granted.

Admission to gymnasium.

6.—(1) A gymnasium provided under this Act shall be open to the public free of charge for not less than two hours a day during five days in every week.

(2) Subject thereto the urban authority—

(a) may regulate the admission of the public to such gymnasium, either by classes or otherwise as they think fit, and may charge fees for such admission; and

(b) may, for not more than two hours in each day, grant the exclusive use thereof to any person or body of persons for the purpose of gymnastic exercises, for such payment and on such terms and conditions as they think fit.

(3) An urban authority may (for not more than twenty-four days in one year nor more than six consecutive days) close the gymnasium for use as a gymnasium, and grant the use of the same gratuitously or for payment to any person for the purpose of any lecture, exhibition, public meeting, entertainment, or other public purpose, and the admission on such days shall be either with or without payment as directed by the urban authority, or with the consent of the urban authority by the person to whom the use of the same is granted.

Regulations and byelaws.

7.—(1) An urban authority may make regulations (*a*) for all or any of the following matters, namely,—

(a) For fixing the days of the week or hours of the day, as the case may be, during which the museum or gymnasium is to be open to the public free of charge:

(b) For giving special facilities to students for the use of the museum:

(c) For fixing the fees to be paid for the admission of persons to the museum and for the use thereof either by students or in any other special manner:

(d) For regulating the use of the gymnasium either by classes or otherwise, and fixing the scale of fees to be paid for such use:

(e) For prescribing conditions on which the exclusive use of the museum, or any room therein, or of the gymnasium is granted in any case:

(f) For determining the duties of the instructor, officers, and servants of the urban authority in connection with a museum or gymnasium:

(g) Generally for regulating and managing the museum or gymnasium.

(2) The urban authorities may make byelaws for regulating the conduct of persons admitted to the museum or gymnasium, and may by any such byelaw provide for the removal from the museum or gymnasium of any person infringing any such byelaw by any officer of the urban authority or by any constable.

Section 7.

All the provisions with respect to byelaws contained in sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875 (*b*), and any enactment amending or extending those sections, shall apply to all byelaws from time to time made by an urban authority under the powers of this Act.

38 & 39 Vict. c. 5.

(*a*) Regulations made by an urban authority need no confirmation. See s. 188 of the P. H. A., 1875, *ante*, p. 470.

(*b*) See these sections, *ante*, pp. 453 *et seq.* These byelaws must be confirmed by the B. of Education. See M. of H. (Public Libraries, etc.) Order, 1920, in App. II., *post*, p. 3451.

Closing of museum or gymnasium for repairs.

8. An urban authority may at such time as they think fit close a museum or gymnasium provided by them for repairs, and shall give a fortnight's notice of their intention to close the same by affixing a notice to that effect on the door of the museum or gymnasium, as the case may be, or otherwise as they think fit.

Appointment of officers and servants for museum or gymnasium.

9. An urban authority may appoint and pay such officers and servants as they think fit for the purpose of a museum or gymnasium provided under this Act, and may employ and pay instructors in connection with a gymnasium.

Expenses and borrowing.

10.—(1) The fees and other money received by an urban authority under this Act shall be applied in defraying the expenses of the museum or gymnasium in respect of which they are received.

(2) So far as such expenses are not so defrayed, they shall be defrayed as part of the general expenses of the execution by the urban authority of the Public Health Acts (*a*).

(3) An urban authority may borrow for the purposes of this Act in like manner and subject to the like conditions as for the purpose of defraying the said general expenses, and for that purpose sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine, both inclusive, of the Public Health Act, 1875 (relating to borrowing) (*b*), and sections two hundred and forty-two and two hundred and forty-three of the same Act (relating to loans by the Public Works Loan Commissioners) (*c*), as amended by section two of the Public Works Loans Act, 1879 (*d*), shall apply.

38 & 39 Vict. c. 55.

42 & 43 Vict. c. 77.

(4) Separate accounts shall be kept of the receipts and expenditure of an urban authority in connection with any museum or gymnasium established under this Act, and such accounts shall be audited in like manner and with the like power to the officer auditing the same, and with the like incidents and consequences as the accounts of the urban authority are for the time being required to be audited by law (*e*).

(5) The amount expended by an urban authority under this Act shall not in any year exceed the amount produced by the rate of a halfpenny (*f*) in the pound for a museum, and the like amount (*f*) for a gymnasium established under this Act.

(*a*) See s. 207 of the P. H. A., 1875, *ante*, p. 495. The expenses will generally fall on the general rate.

(*b*) See these sections, *ante*, pp. 519, 526, 531 *et seq.*

(*c*) See these sections, *ante*, pp. 535, 536.

(*d*) See this section, *ante*, p. 2407.

(*e*) See the sections of the P. H. A., 1875, relating to audit, *ante*, p. 538, and the Audit (Local Authorities) Act, 1927, *ante*, p. 1881.

(*f*) These limits are increased by 33⅓ per cent. by L. G. A., 1929, s. 75, *ante*, p. 1940, and in special cases may be increased by a further percentage by an order of the Minister.

Acquisition of land.

11.—(1) Land for the purposes of this Act may be acquired by an urban authority in like manner as if those purposes were purposes of the Public

Section 11. Health Act, 1875, and sections one hundred and seventy-five to one hundred and seventy-eight, both inclusive, of that Act (relating to the purchase of land) (*a*) shall apply accordingly, but no land shall be so acquired otherwise than by agreement.

(2) An urban authority may, with the consent of the Local Government Board (*b*), appropriate, for the purposes of this Act, any land which may be for the time being vested in them, or at their disposal.

(*a*) See these sections, *ante*, pp. 431 *et seq.*
(*b*) See note (*b*) to s. 3, *ante*, p. 2529.

Power to sell museum or gymnasium in certain cases.

12.—(1) Where it appears to an urban authority that a museum or gymnasium which has been established under this Act for seven years or upwards is unnecessary or too expensive, they may, with the consent of the Local Government Board (*a*), sell the same for the best price that can reasonably be obtained for the same, and shall convey the same accordingly.

(2) Any moneys arising from such sale shall be applied toward the repayment of any money borrowed for the purpose of the museum or gymnasium sold, and, so far as not required for that purpose, shall be applied to any purpose to which capital moneys are properly applicable, and which may be approved by the Local Government Board (*a*).

(*a*) Now the Board of Education (see M. of H. (Public Libraries, etc.) Order, 1920, in App. II., *post*, p. 3451).

Powers of Act cumulative.

13. All powers given to an urban authority under this Act shall be deemed to be in addition to and not in derogation of any other powers conferred by Act of Parliament, law, or custom, and such other powers may be exercised in the same manner as if this Act had not been passed.

Interpretation.

14. In this Act the expression " urban authority " means an urban sanitary authority under the Public Health Acts, and the expression " district " means an urban sanitary district under those Acts (*a*).

(*a*) See the P. H. A., 1875, s. 6, *ante*, p. 39.

15. [*Application of Act to Ireland.*]

THE FORGED TRANSFERS ACT, 1891.

(54 & 55 VICT. C. 43) (*a*).

An Act for preserving Purchasers of Stock from Losses by Forged Transfers.

[5th August, 1891.]

Power to make compensation for losses from forged transfer.

1.—(1) Where a company or local authority (*b*) issue or have issued shares, stock, or securities transferable by an instrument in writing or by an entry in any books or register (*c*) kept by or on behalf of the company or local authority, they shall have power to make compensation by a cash payment out of their funds for any loss arising from a transfer of any such shares, stock, or securities, in pursuance of a forged transfer or of a transfer under a forged power of attorney (*d*).

(2) Any company or local authority (*b*) may, if they think fit, provide, either by fees not exceeding the rate of one shilling on every one hundred pounds transferred (*e*), to be paid by the transferee upon the entry of the transfer in the books of the company or local authority, or by insurance, reservation of capital, accumulation of income, or in any other manner which they may resolve upon, a fund to meet claims for such compensation.

(3) For the purpose of providing such compensation any company may borrow on the security of their property, and any local authority (*b*) may borrow with the like consent and on the like security and subject to the like conditions as to repayment by means of instalments or the provision of a sinking fund and otherwise as in the case of the securities in respect of which compensation is to be provided, but any money so borrowed by a local authority shall be repaid within a term not longer than five years. Any expenses incurred by a local authority in making compensation, or in the repayment of, or the payment of interest on, or otherwise in connexion with, any loan raised as aforesaid, shall, except so far as they may be met by such fees as aforesaid, be paid out of the fund or rate on which the security in respect of which compensation is to be made is charged.

(4) Any such company or local authority may impose such reasonable restrictions on the transfer of their shares, stock, or securities, or with respect to powers of attorney for the transfer thereof, as they may consider requisite for guarding against losses arising from forgery.

(5) Where a company or local authority compensate a person under this Act for any loss arising from forgery, the company or local authority shall, without prejudice to any other rights or remedies, have the same rights and remedies against the person liable for the loss as the person compensated would have had.

(*a*) This Act has been amended by the Forged Transfers Act, 1892, *post*, p. 2541. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

This Act was occasioned by the decision in *Barton* v. *L. and N. W. Rail. Co.* (1889), 24 Q. B. D. 77, where it was held that a company having registered a forged transfer of stock was bound to replace on their register as holder of the stock the name of the stockholder whose signature to the transfer had been forged, leaving the innocent transferee to bear the loss. The Act is merely enabling and not obligatory. At common law there is no liability towards an innocent transferee, but where such transferee again transfers to a third person for value, there may be a liability by estoppel towards such third person. As to estoppel, see *In re Bahia and San Francisco Rail. Co.* (1868), L. R. 3 Q. B. 584; *Balkis Consolidated Co.* v. *Tomkinson*, [1893] A. C. 396; *Dixon* v. *Kennaway & Co.*, [1900] 1 Ch. 833.

The company or local authority held liable for a loss by a forged transfer may in certain cases have a remedy over against the broker or other person at whose request the forged transfer has been registered. Thus when a broker had innocently induced the Bank of England to transfer consols to a purchaser upon a power of attorney the stockholder's signature to which turned out to have been forged, it was held that he had impliedly warranted that he had the stockholder's authority, and that he was consequently liable to indemnify the bank against the claim of the stockholder for restoration (*Starkey* v. *Bank of England*, [1903] A. C. 114). So also where bankers in good faith sent to a corporation a forged transfer of corporation stock with a request to register the stock in the name of the transferees, it was held that the bankers were bound to indemnify the corporation against the liability to the stockholder, whose name had been forged (*Sheffield Corporation* v. *Barclay & Co.*, [1905] A. C. 392; 69 J. P. 385; see also *Bank of England* v. *Cutler*, [1908] 2 K. B. 208).

(*b*) The expression "local authority" is defined by s. 2, *infra*.

(*c*) Local authorities keep registers of mortgages under s. 237 of the P. H. A., 1875, *ante*, p. 531. They may keep a register of nominal securities under s. 23 of the Local Loans Act, 1875, *ante*, p. 2351. But this Act will apply also to shares, stock, or securities transferable by an instrument in writing or by an entry in the books of the local authority.

(*d*) "Whether such loss arises, and whether the transfer or power of attorney was forged before or after the passing of this Act, and whether the person receiving such compensation, or any person through whom he claims, has or has not paid any fee or otherwise contributed to any fund out of which the compensation is paid" (see the Forged Transfers Act, 1892, s. 2, *post*, p. 2541).

(*e*) "With a minimum charge equal to that for twenty-five pounds" (see the Forged Transfers Act, 1892, s. 3, *post*, p. 2541).

Definitions.

2. For the purposes of this Act—

"Company."

The expression "company" shall mean any company incorporated by or in pursuance of any Act of Parliament, or by royal charter.

Section 2.

"Local authority."

The expression "local authority" shall mean the council of any county or municipal borough, and any authority having power to levy or require the levy of a rate, the proceeds of which are applicable to public local purposes (*a*).

(*a*) This definition will include all sanitary authorities, urban and rural.

Application to industrial societies, etc.

3. This Act shall apply to any industrial, provident, friendly, benefit, building, or loan society incorporated by or in pursuance of any Act of Parliament as if the society were a company.

Application to harbour and conservancy authorities.

4.—(1) This Act shall apply to any harbour authority or conservancy authority as if the authority were a company.

(2) For the purposes of this Act the expression "harbour authority" includes all persons, being proprietors of, or entrusted with the duty or invested with the power of constructing, improving, managing, regulating, maintaining, or lighting any harbour otherwise than for profit, and not being a joint stock company.

(3) For the purposes of this Act the expression "conservancy authority" includes all persons entrusted with the duty or invested with the power of conserving, maintaining or improving the navigation of any tidal water otherwise than for profit, and not being a joint stock company.

5. [*Application to colonial stock.*]

Short title.

6. This Act may be cited as "The Forged Transfers Act, 1891."

THE MARKETS AND FAIRS (WEIGHING OF CATTLE) ACT, 1891.

(54 & 55 VICT. c. 70) (*a*).

An Act to amend the Markets and Fairs (Weighing of Cattle) Act, 1887.

[5th August, 1891.]

50 & 51 Vict, c. 27.

Whereas it is expedient to amend the Markets and Fairs (Weighing of Cattle) Act, 1887 (*hereinafter referred to as the principal Act*) *:*

Transfer of powers under 50 & 51 Vict, c. 27, s. 9,

1. *As from the passing of this Act* the powers under section nine of the principal Act (*b*) of the Local Government Board as to England and Wales . . . shall be transferred to and vest in the Board of Agriculture (*c*). . . .

(*a*) This Act amends the Markets and Fairs (Weighing of Cattle) Act, 1887, *ante*, p. 2490, and is amended by the Markets and Fairs (Weighing of Cattle) Act, 1926, *post*, p. 2908. Sections, or words, relating to Scotland or Ireland only are omitted. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894. Italicised words repealed by S. L. R. A., 1908, except where otherwise stated.

(*b*) The powers here referred to are the powers to exempt certain markets and fairs from the provisions of the Act. See the section, *ante*, p. 2493.

(*c*) Now the Minister of Agriculture and Fisheries. See 3 Edw. 7, c. 31, s. 1, and 9 & 10 Geo. 5, c. 91.

Amendment of 50 & 51 Vict. c. 2, s. 4, as to accommodation for weighing cattle.

2.—(1) The market authority of every market and fair to which the principal Act for the time being applies (*a*), shall, unless exempted (*b*) by order of the Board of Agriculture (*c*) from the requirements of this section, provide and maintain to the satisfaction of the Board sufficient and suitable accommodation for weighing cattle (*d*).

(2) Default in complying with the requirements of this section shall be deemed default in complying with the requirements of section four of the principal Act (*d*).

(*a*) See s. 2 of the principal Act, *ante*, p. 2491, as to the market authority and the markets to which the Act applies.

(*b*) See s. 9 of the principal Act, *ante*, p. 2493, as amended by s. 2 of the 1926 Act, *post*, p. 2908.

(*c*) See note (*c*) to s. 1, *ante*, p. 2534.

(*d*) In determining the sufficiency and suitability of the accommodation for weighing cattle, the Minister of Agriculture and Fisheries will have regard to the following, amongst other considerations, namely—(a) the convenience of the situation of the weighing machine to buyers and sellers; (b) the supply of proper pens for keeping cattle together, both on entering and on leaving the machine; (c) the size of the machine and its capacity for weighing at one and the same time, if required, a sufficient number of cattle, including store as well as fat stock, so as not to unduly delay the business of the market, fair, or auction. In cases where it is proposed to set up new weighing machines, it is desirable to communicate beforehand with the Minister as to the sufficiency of the proposed accommodation (Circular Letter of the Board of Agriculture, dated November 25th, 1891).

(*e*) Under s. 4 of the principal Act, *ante*, p. 1491, the only result of default was to make it illegal to take tolls for cattle, and to render any demand of tolls an offence punishable by fine. Under the provision in the text default in providing weighing accommodation will apparently render the market authority liable to a fine whether they demand or receive tolls or not.

Statistics as to weight and sale of cattle.

3.—(1) The market authority of every market and fair held in any of the places mentioned in the schedule to this Act shall send to the Board of Agriculture (*a*) returns, at such intervals, and in such form and with such particulars as the Board of Agriculture (*a*) by order prescribe, showing, so far as the market authority can ascertain the same, the number of cattle entering and the number and weight of cattle weighed at the market or fair, and the price of the cattle sold thereat. Such market authority may, for the purpose of making a prescribed return, cause any cattle which have been sold at the market to be weighed without fee.

(2) The Board of Agriculture (*a*) shall publish the returns so sent, or abstracts thereof, or extracts therefrom, in such manner as they think most expedient for the information of the public.

(3) If a market authority wilfully makes default in complying with the requirements of this section, it shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds, or in case of a continuing offence to a fine not exceeding ten pounds for every day during which the offence continues.

(4) If any person makes any *false or* (*b*) fraudulent statement in any return made in pursuance of this section he shall be guilty of a misdemeanor.

(5) The Board of Agriculture (*a*) may from time to time vary or add to the list of places in the schedule to this Act (*c*).

(*a*) See note (*c*) to s. 1, *ante*, p. 2534.

(*b*) Repealed by the Perjury Act, 1911.

(*c*) By the Markets and Fairs (Weighing of Cattle) Returns Order of 1905 (Stat. R. & O. 1905, p. 199) the Board of Agriculture and Fisheries so altered the schedule that it is practically superseded, and is therefore omitted.

Application of Act to auction marts.

4. (*a*)—(1) An auctioneer shall not, unless exempted by order of the Board of Agriculture (*b*) from the requirements of this section, sell cattle at any mart where cattle are habitually or periodically sold, unless there are provided at that mart similar facilities for weighing cattle as are required by the principal Act and this Act in the case of cattle sold at a market or fair to which the principal Act applies (*c*).

(2) Every auctioneer who in any place from which returns are required to be made under this Act sells cattle at any such mart as aforesaid shall, unless exempted as aforesaid, make the like returns to the Board of Agriculture with respect to cattle entering, weighed, and sold at that mart as are

required by this Act to be made by a market authority, and shall be subject to the like penalty for making any false or fraudulent statement in any such return.

(3) If any such auctioneer makes default in complying with the requirements of this section, the auctioneer, or, if he is in the employment of any person, the person by whom he is employed, shall for each offence be liable on summary conviction to a fine not exceeding twenty pounds, or in case of a continuing offence to a fine not exceeding ten pounds for every day during which the offence continues.

(4) [*Commencement of section, January* 1, 1892.]

(*a*) The Act of 1926 makes it an offence for an auctioneer to offer for sale fat cattle in any market, fair or mart in connection with which a weighing machine has been provided under these Acts unless such cattle have been weighed and their weight disclosed to intending purchasers (16 & 17 Geo. 5, c. 21, s. 1, *post*, p. 2908).

(*b*) See note (*c*) to s. 1, *ante*, p. 2534.

(*c*) See *Knott* v. *Stride* (1913), 77 J. P. 222; 109 L. T. 181, the facts of which are set out, *ante*, p. 2492.

5. [*Application to Ireland.*]

Construction and short title.

6. This Act shall be construed as one with the principal Act, and may be cited as "The Markets and Fairs (Weighing of Cattle) Act, 1891," and the principal Act and this Act may be cited together as the Markets and Fairs (Weighing of Cattle) Acts, 1887 and 1891.

THE MORTMAIN AND CHARITABLE USES ACT, 1891.

(54 & 55 VICT. c. 73) (*a*).

An Act to amend the Mortmain and Charitable Uses Act, 1888, *and the Law relating to Mortmain and Charitable Uses.* [5th August, 1891.]

Short title.

1. This Act may be cited as "The Mortmain and Charitable Uses Act, 1891."

(*a*) This Act amends the Mortmain and Charitable Uses Act, 1888, *ante*, p. 2516. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Definition of "land."

51 & 52 Vict. c. 42.

3. "Land" in the Mortmain and Charitable Uses Act, 1888, and in this Act, shall include tenements and hereditaments, corporeal or incorporeal, of any tenure, but not money secured on land or other personal estate arising from or connected with land; *and the definition of land contained in the Mortmain and Charitable Uses Act*, 1888, *is hereby repealed* (*a*).

(*a*) This supersedes the definition of "land" in s. 10 of the principal Act, *ante*, p. 2520. Italicised words repealed as spent by S. L. R. A., 1908. With regard to money secured on land, it may be noted that corporation debenture stock charged on the revenue of all landed and other property of the corporation was held not to be an interest in land under 9 Geo. 2, c. 36, s. 3 (*In re Pickard, Elmsley* v. *Mitchell*, [1894] 2 Ch. 88). See also *In re Crossley, Birrell* v. *Greenhough*, [1897] 1 Ch. 928; 61 J. P. 390.

Where real estate has been devised to trustees on trust for sale, and the proceeds directed to be paid to a charity, the charity takes no benefit in anything but personal estate arising from land (*Re Sidebottom, Beeley* v. *Waterhouse*, [1902] 2 Ch. 389). See also *Re Wilkinson, Esam* v. *Att.-Gen.*, [1902] 1 Ch. 841; and *Re Ryland, Roper* v. *Ryland*, [1903] 1 Ch. 467.

Meaning of "assurance."

4. In this Act the word "assurance" shall have the same meaning as in the Mortmain and Charitable Uses Act, 1888.

5. Land may be assured by will to or for the benefit of any charitable use (*a*), but, except as hereinafter provided, such land shall, notwithstanding anything in the will contained to the contrary, be sold within one year from the death of the testator, or such extended period as may be determined by the High Court, or any judge thereof sitting at chambers, or by the Charity Commissioners.

Land assured by will for a charitable purpose to be sold.

(*a*) A testator, who died after the passing of this Act, by his will made before the passing of this Act, gave to a charity such part of the residue as may by law be given for charitable purposes, with a separate gift of the remainder to A.:—*Held*, that the Act applied, and in the absence of a contrary intention the whole of the residue, realty as well as personalty, went to the charity (*In re Bridger, Brompton Hospital Governors* v. *Lewis*, [1894] 1 Ch. 297). As to the effect of a special Act on the provision of this section and section 8, *infra*, see *In re Verrall, National Trust* v. *Att.-Gen.*, [1916] 1 Ch. 100; 80 J. P. 89.

6. So soon as the time limited for the sale of any lands under any such assurance shall have expired without completion of the sale of the land, the land unsold shall vest forthwith in the official trustee of charity lands, and the Charity Commissioners shall take all necessary steps for the sale or completion of the sale of such land to be effected with all reasonable speed by the administering trustees for the time being thereof, and for this purpose the said Commissioners may make any order under their seal directing such trustees to proceed with the sale or completion of the sale of the said land or removing such trustees and appointing others, and may provide by any such order for the payment of the proceeds of sale to the official trustees of charitable funds in trust for the charity, and for the payment of the costs and expenses incurred by the said administering trustees in or connected with such sale, and every such order shall be enforceable by the same means and be subject to the same provisions as are applicable under the Charitable Trusts Act, 1853, and the Acts amending the same, respectively, to any orders of the said Commissioners made thereunder.

Land after expiration of time limited for sale to be sold by order of Charity Commissioners.

16 & 17 Vict. c. 137.

7. Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable uses shall, except as hereinafter provided, be held to or for the benefit of the charitable uses as though there had been no such direction to lay it out in the purchase of land (*a*).

Personal estate by will directed to be laid out in land not to be so laid out.

(*a*) Where a testator devised and bequeathed residuary estate to purchase land for the erection of model dwellings for the poor, it was held that the effect of striking out the direction to purchase land was not to put an end to the whole charitable trust, and that the residuary gift was valid (*Re Sutton, Lewis* v. *Sutton*, [1901] 2 Ch. 640; 66 J. P. 39).

A gift by a testatrix of "any little money left" for the repair of a churchyard is a valid bequest, and is not limited to the sum of £500 by the Gifts for Churches Act, 1803 (*Re Douglas, Douglas* v. *Simpson*, [1905] 1 Ch. 279).

8. It shall be lawful for the High Court, or any judge thereof sitting at chambers, or for the Charity Commissioners, if satisfied that land assured by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity and not as an investment, by order to sanction the retention or acquisition, as the case may be, of such land (*a*).

Power to retain land in certain cases.

(*a*) On a summons under this section to sanction retention of land for the purposes of a charity after the expiration of a year from the testator's death, the official trustee and not the commissioners should be made a defendant (*Re Church Patronage Trust, Laurie* v. *Att.-Gen.*, [1904] 1 Ch. 41; 68 J. P. 64). Affirmed on other points, [1904] 2 Ch. 643.

9. This Act shall only apply to the will of a testator dying after the passing of this Act.

Application of Act.

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Saving.

10. Nothing in this Act contained shall limit or affect the exemptions contained in Part III. of the Mortmain and Charitable Uses Act, 1888, or apply to any land or personal estate to be laid out in the purchase of land acquired under any assurance to which such exemptions or any of them apply, or shall exclude or impair any jurisdiction or authority which might otherwise be exercised by a court or judge of competent jurisdiction or by the Charity Commissioners.

THE MORTMAIN AND CHARITABLE USES ACT AMENDMENT ACT, 1892.

(55 & 56 VICT. C. 11) (*a*).

An Act to amend the Mortmain and Charitable Uses Act, 1888.

[20th June, 1892.]

Extension of 51 & 52 Vict. c. 42, s. 6.

1. Section six of the Mortmain and Charitable Uses Act, 1888, except so much of sub-section (2) thereof as provides that an assurance by deed, made otherwise than in good faith for full and valuable consideration, must be executed not less than twelve months before the death of the assuror, shall apply to any assurance by deed of land to any local authority for any purpose or purposes for which such authority is empowered by any Act of Parliament to acquire land (*b*).

(*a*) This Act amends 51 & 52 Vict. c. 42, *ante*, p. 2516. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

(*b*) See the section here referred to, *ante*, p. 2519.

Definitions.

2. For the purpose of this Act "local authority" means any county council, council of a municipal borough, sanitary authority, or any body having power to make a rate for public purposes or by the issue of any precept, certificate or other document to acquire payment from some authority or officer of money which may render necessary the making of any such rate; and "assurance" has the same meaning as in the Mortmain and Charitable Uses Act, 1888.

Extent of Act.

3. This Act shall not apply to Scotland or Ireland.

Short title.

4. This Act may be cited as "The Mortmain and Charitable Uses Act Amendment Act, 1892."

THE TECHNICAL AND INDUSTRIAL INSTITUTIONS ACT, 1892.

(55 & 56 VICT. C. 29) (*a*).

An Act to facilitate the Acquisition and Holding of Land by Institutions for Promoting Technical and Industrial Instruction and Training.

[27th June, 1892.]

Short title.

1. This Act may be cited as "The Technical and Industrial Institutions Act, 1892."

(*a*) As to the omission of the clause of enactment, see s. 4 of S. L. R. A., 1894.

2. This Act applies to every institution established, whether before or after the passing of this Act, for effecting all or any of the following purposes, that is to say:

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Definition of institution. 52 & 53 Vict. c. 76.

(i) To give technical instruction within the meaning of the Technical Instruction Act, 1889 (*a*);

(ii) To provide the training, mental or physical, necessary for the above purpose;

(iii) In connection with the purposes before mentioned, to provide workshops, tools, scientific apparatus and plant of all kinds, libraries, reading rooms, halls for lectures, exhibitions, and meetings, gymnasiums, and swimming baths, and also general facilities for mental and physical training, recreation, and amusement, and also all necessary and proper accommodation for persons frequenting the institutions;

and every such institution is in this Act referred to as the institution.

(*a*) This must now be construed as a reference to Part VI. of the Education Act, 1921. See s. 171 (2) of that Act.

3.—(1) The governing body of the institution may be any body corporate, council, public authority, local authority, commissioners, directors, committee, trustees, or other body of persons, corporate or unincorporate, willing to undertake, or elected or appointed for the purpose of undertaking, or having, the government and management of the institution (*a*).

Governing body.

(2) The governing body may make byelaws and rules for the management and conduct of the institution (*b*).

(*a*) Any sanitary authority may be a governing body within the meaning of this definition.

(*b*) Such byelaws and rules if made by virtue of this Act will not require confirmation by any central authority.

4. The Lands Clauses Consolidation Act, 1845 (*a*), and the Lands Clauses Consolidation Acts Amendment Act, 1860 (*b*) (except the provisions of those Acts relating to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by promoters of the undertaking, and with respect to determining the amount of purchase money by valuation of surveyors), are hereby incorporated in this Act.

Incorporation of 8 & 9 Vict. c. 18, 23 & 24 Vict. c. 106.

(*a*) *Ante*, p. 2088.

(*b*) *Ante*, p. 2260.

5. The governing body of the institution may by agreement enter on, take, and use any land required by them for the purposes of the institution, and such land may be conveyed either to the governing body or to trustees for the governing body.

Power to take land by agreement.

6.—(1) A conveyance of land may be made to the governing body of the institution or to trustees for the governing body either for valuable consideration in money, or in consideration of a rentcharge, or by way of exchange for other land, or, subject as in this Act provided, by way of free gift, and without any consideration (*a*).

Conveyance may be by way of sale, exchange, or gift.

(2) A conveyance under this Act by a person having an equitable estate shall operate to pass any bare outstanding legal estate vested in a trustee.

(*a*) See *In re Stanley, Stanley* v. *Att.-Gen.* (1910), 26 T. L. R. 365.

7.—(1) A conveyance under this Act by a person not entitled to dispose absolutely for his own benefit of the land proposed to be conveyed (other than a conveyance on a sale or exchange for the best consideration in money,

Conveyances by limited owners.

or by way of rentcharge, or in land to be reasonably obtained) shall be subject to the following restrictions and provisions:

(a) It shall not in itself, or in addition to any land conveyed under this Act by the same person, comprise more than two acres in the whole in any one county, city, or borough:

(b) It shall be made either with the consent of the person, if any, entitled to the next estate of freehold in remainder for the time being, or with the approval of the High Court of Justice.

(2) Every application to the court for an order approving a conveyance under this Act shall be by summons in chambers, and shall, subject to the Acts regulating the court, be assigned to the Chancery Division.

(3) On any such application the court may direct notice to be served on such persons, if any, as it thinks fit.

(4) On any such application the court shall have regard to the circumstances of the settled estate, the wants of the neighbourhood and the interests of the persons entitled in remainder, and the court, if it thinks fit under all the circumstances of the case, may make an order approving the proposed conveyance. Such order, if the court thinks fit, may be made on such terms and conditions, if any, as the court thinks proper; but no such order shall be made if the application is opposed by any person entitled in remainder, unless the court is of opinion that the opposition is unreasonable, or the interest of the person opposing so remote that it may properly be disregarded.

Institution to be public.

8. Every institution for which land has been acquired under an exercise of the powers conferred by this Act shall be open generally either to all persons or to all persons within specified limits as to age, qualification, or otherwise, and either without payment or on specified terms as to times of attendance and payment of subscriptions or fees, or otherwise, but so that no preference be given to any person or class of persons within the specified limits.

Site may be sold or exchanged.

9.—(1) Land acquired under the powers of this Act shall not be used otherwise than for the purposes of an institution within the meaning of this Act, but, with the consent of the Charity Commissioners, may be sold or may be exchanged for other land.

(2) The governing body or their trustees may execute conveyances and do all acts necessary to effectuate the sale or exchange.

(3) On a sale, the receipt of the governing body or of the trustees for the governing body shall be sufficient discharge for the purchase money, and such money shall, as soon as convenient, be invested in the purchase of other land.

(4) Land purchased or taken in exchange under this section shall be devoted to the same purposes and be liable to the same incidents as originally were applicable to or affected the land sold or given in exchange.

(5) Money arising by sale may, until reinvested in the purchase of land, be invested in the names of the governing body or of trustees for the governing body in any manner in which trust money is for the time being by law authorised to be invested; and all dividends and income on investments so made and all the resulting income shall be invested in like manner so as to accumulate in the way of compound interest, and be added to capital until the capital is reinvested in the purchase of land.

Parts I. and II. of 51 & 52 Vict. c. 42, and part of 54 & 55 Vict.

10.—(1) Parts I. and II. of the Mortmain and Charitable Uses Act, 1888, and so much of the Mortmain and Charitable Uses Act, 1891 (*a*), as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to conveyances or to assurances by will made under or for the purposes of this Act, . . . (b). **Section 10.**

(2) Any corporate body may acquire and shall be entitled to hold and retain land for the purposes of this Act without any licence in mortmain. c. 73, not to apply.

(a) *Ante*, pp. 2516, 2536.

(b) Words omitted here were repealed by the Education Act, 1918, but see now generally as to assurances for educational purposes s. 117 of the Education Act, 1921.

11. This Act shall not extend to Scotland. **Extent of Act.**

THE FORGED TRANSFERS ACT, 1892.

(55 & 56 VICT. C. 36) (a).

An Act to remove doubts as to the meaning of the Forged Transfers Act, 1891
[27th June, 1892.]

1. This Act may be cited as "The Forged Transfers Act, 1892," and this Act and the Forged Transfers Act, 1891, may be cited together as the Forged Transfers Acts, 1891 and 1892. Short title. 54 & 55 Vict. c. 43.

(a) This Act amends the Forged Transfers Act, 1891, *ante*, p. 2532. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

2. *Whereas* (a) . . . **Removal of** doubt as to the operation of 54 & 55 Vict. c. 43.

The Forged Transfers Act, 1891, shall have effect as if at the end of sub-section one of section one of that Act, there were added the words "whether such loss arises, and whether the transfer or power of attorney was forged before or after the passing of this Act, and whether the person receiving such compensation, or any person through whom he claims, has or has not paid any fee or otherwise contributed to any fund out of which the compensation is paid."

(a) The preamble to this section (repealed by the S. L. R. A., 1908), after referring to s. 1 (1) of the Forged Transfers Act, 1891, recited that it was expedient to remove doubts as to the application of that Act to losses and forgeries before its passing.

3. Sub-section two of section one of the said Act shall be read as if, after the words "on any one hundred pounds transferred," were inserted the words "with a minimum charge equal to that for twenty-five pounds." Amendment of 54 & 55 Vict. c. 43, s. 1 (2).

4. Where the shares, stock, or securities of a company or local authority have by amalgamation or otherwise become the shares, stock, or securities of another company or local authority, the last-mentioned company and authority shall have the same power under the Forged Transfers Act, 1891, and this Act, as the original company or authority would have had if it had continued. Provision where one company takes over shares, &c., of another company.

THE RAILWAY AND CANAL TRAFFIC ACT, 1892.

(55 & 56 VICT. c. 44) (*a*).

An Act to amend the Railway and Canal Traffic Act, 1888.

[27th June, 1892.]

51 & 52 Vict. c. 25.

Whereas by section twenty-four of the Railway and Canal Traffic Act, 1888, *it is provided that after the commencement of the session of Parliament next after that in which the report of the Board of Trade with respect to a classification of traffic and schedule of rates and charges has been submitted to Parliament, the Board of Trade may embody in a provisional order such classification and schedule as in the opinion of the Board of Trade ought to be adopted, and procure a Bill to be introduced to confirm the order, and it is expedient to amend this provision :*

Time for application for provisional order.

1. A provisional order in pursuance of sub-section seven of section twenty-four of the Railway and Canal Traffic Act, 1888, may be made, and a Bill to confirm the same may be introduced at any time after hearing the parties as provided in sub-section four of the said section.

(*a*) This Act amends the Railway and Canal Traffic Act, 1888, s. 24 (7). See the note to that section, *ante*, p. 2504, where the effect of the amendment is stated. As to the omission of the clause of enactment, see s. 4 of S. L. R. A., 1894. Preamble repealed by S. L. R. A., 1908.

Short title.

2. This Act may be cited as "The Railway and Canal Traffic Act, 1892."

THE PUBLIC LIBRARIES ACT, 1892.

(55 & 56 VICT. c. 53) (*a*).

An Act to consolidate and amend the Law relating to Public Libraries.

[27th June, 1892.]

ADOPTION OF ACT AND CONSTITUTION OF LIBRARY AUTHORITY.

Extent and application of Act.

1.—(1) This Act shall extend to every library district for which it is adopted.

(2) For the purposes of this Act and subject to the provisions thereof every urban district (*b*) and every parish in England and Wales which is not within an urban district shall be a library district (*c*).

. . . . . .

(*a*) This Act repeals and consolidates all the previous Acts relating to public libraries, a list of which will be found in the Schedule. As to the omission of the clause of enactment, see preceding note. This Act has been amended by the Public Libraries (Amendment) Act, 1893, the Public Libraries Act, 1901, and the Public Libraries Act, 1919, *post*, pp. 2552, 2616 and 2777. See also the Libraries Offences Act, 1898, *post*, p. 2568.

(*b*) See the definition of an urban district in s. 27, *post*, p. 2550.

(*c*) The next sub-section is repealed by s. 89 of the L. G. A., 1894. See s. 7 of that Act.

Limitations on expenditure for purposes of Act.

2.—(1) A rate or addition to a rate shall not be levied for the purposes of this Act for any one financial year (*a*) in any library district to an amount exceeding one penny in the pound (*b*).

(2) This Act may be adopted for any library district subject to a condition that the maximum rate or addition to a rate to be levied for the purposes of this Act in the district or in any defined portion of the district in any one financial year shall not exceed one halfpenny or shall not exceed three farthings

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in the pound, but such limitation if fixed at one halfpenny may be subsequently raised to three farthings, or altogether removed, or where it is for the time being fixed at three farthings may be removed.

(*a*) This means the period of twelve months for which the accounts of the authority are made up. See s. 27, *post*, p. 2550.

(*b*) This section has now ceased to have effect, see s. 4 of the Act of 1919, *post*, p. 2779.

3 (*a*). [*Proceedings for adoption of Act.*]

(*a*) This section was repealed so far as it relates to urban districts by s. 2 (2) of the Act of 1893. Section 3 of that Act which prescribed the procedure to be adopted in urban districts was in turn repealed by s. 7 of the 1919 Act, which provides that any resolution passed in accordance with the ordinary procedure of the council concerned shall have full effect for purposes of the Act of 1893.

Act when adopted to be executed by library authority.

4. This Act when adopted for any library district shall be carried into execution, if the library district is an urban district, by the urban authority and, if it is a parish, by the commissioners appointed under this Act (*a*); and any such authority or commissioners executing this Act are hereinafter referred to as a "library authority" (*b*).

(*a*) If there is a parish council for the parish, the authority for the execution of the Act is now that council (see the L. G. A., 1894, s. 7 (5), (7); see also s. 53). If there is no parish council, it is still commissioners appointed under this Act, but appointed by the parish meeting under 56 & 57 Vict. c. 73, s. 19 (4), instead of by the vestry. The first thing the library authority has to do is to send notice of the adoption of the Act to the Ministry of Health and Board of Education. See the Public Libraries Act, 1901, s. 8, *post*, p. 2618, and M. of H. (Public Libraries, etc.) Order, 1920, in App. II., *post*, p. 3451.

(*b*) In every rural parish the parish meeting have had since 1894, exclusively, the power of adopting this Act. See s. 7 (1) of the L. G. A., 1894. But see now the Act of 1919 under which the County Council may adopt the Libraries Acts for areas within the county not included in any existing library area.

Constitution of commissioners for executing Act in parish.

5.—(1) Where this Act is adopted for any parish the vestry shall forthwith appoint not less than three nor more than nine voters in the parish to be commissioners for carrying this Act into execution (*a*).

(2) The commissioners shall be a body corporate by the name of "The Commissioners for Public Libraries and Museums for the parish of , in the county of ," and shall have perpetual succession and a common seal, with power to acquire and hold lands for the purposes of this Act, without any licence in mortmain (*b*).

(*a*) This sub-section only applies in parishes not having a parish council. As to the qualification of commissioners, see now s. 2 of the L. G. A., 1894, as amended by the Representation of the People Acts.

(*b*) The parish council will be a body corporate, with power to hold lands for the purposes of this Act without a licence in mortmain (see the L. G. A., 1894, s. 3 (9)). As to parishes without a parish council, see *ibid.*, s. 19 (7).

Rotation of commissioners.

6.—(1) The commissioners shall, as soon as conveniently may be after their appointment, divide themselves by agreement, or in default of agreement by ballot, into three classes, one-third or as nearly as may be one-third of them being in each class.

(2) The offices of the first class shall be vacated at the expiration of one year, the offices of the second class at the expiration of two years, and the offices of the third class at the expiration of three years from the time of appointment.

(3) The offices of vacating commissioners shall be filled by an equal number of new commissioners to be appointed by the vestry from among the voters in the parish; and every newly elected commissioner shall hold his office for the term of three years from the date when the office became vacant, and

Section 6. no longer, unless re-elected; but a person, on ceasing to be a commissioner, shall, unless disqualified, be re-eligible.

(4) Any casual vacancy among the commissioners, whether arising by death, resignation, incapacity, or otherwise, shall as soon as may be after the occurrence thereof be filled up by the vestry; but the term of office of a commissioner appointed to fill up a casual vacancy shall expire at the date at which the term of office of the commissioner in whose place he is appointed would have expired (*a*).

(*a*) This section is now applicable only in parishes not having a parish council.

Meetings of commissioners.

7. The commissioners shall meet at least once in every month, and at such other times as they shall think fit, at some convenient place; and any one commissioner may summon a special meeting by giving three clear days' notice in writing to each commissioner, specifying therein the purpose for which the meeting is called. Business shall not be transacted at any meeting of the commissioners unless at least two of them are present.

Proceedings of commissioners to be recorded.

8. All orders and proceedings of the commissioners shall be entered in books to be kept for that purpose, and shall be signed by the commissioners or any two of them; and all such orders and proceedings so entered, and purporting to be so signed, shall be deemed to be original orders and proceedings, and such books may be produced and read as evidence of all such orders and proceedings upon any judicial proceeding.

Power to vestries of neighbouring parishes to combine (*a*).

9.—(1) Where this Act is adopted for any two or more neighbouring parishes, the vestries of those parishes may by agreement (*b*) combine for any period in carrying this Act into execution, and the expenses of carrying this Act into execution shall be defrayed by the parishes in such proportions as may be agreed on by the vestries.

(2) The vestry of each of the said parishes shall appoint not more than six commissioners in accordance with the provisions of this Act and the commissioners so appointed for the several parishes shall form one body of commissioners, and shall act accordingly in the execution of this Act (*c*).

(*a*) As to the combination of urban districts, see the Public Libraries (Amendment) Act, 1893, s. 4, *post*, p. 2552.

(*b*) The vestries were not corporate bodies, and the only evidence of an agreement between them would be the resolutions appearing on the minutes, but parish councils are corporate bodies and can enter into formal agreements.

(*c*) See now the L. G. A., 1894, s. 53 (2), as to the compulsory transfer of the powers and duties of any commissioners appointed under this sub-section.

Power to annex parish to adjoining district.

10. Where the voters in a parish adjoining or near any library district for which either this Act has been adopted, or the adoption thereof is contemplated, consent to such parish being annexed to the said district, such parish, subject to the consent of the library authority of the said district being also given, shall be annexed to and form part of that district for the purposes of this Act; the vestry of such parish shall appoint not more than six commissioners in accordance with the provisions of this Act, and the commissioners so from time to time appointed shall during their respective terms of office be deemed for all the purposes of this Act to be members of the library authority of the said district.

EXECUTION OF ACT.

Provision of libraries, museums, and schools of science and art.

11.—(1) The library authority of any library district for which this Act has been adopted may, subject to the provisions of this Act, provide all or any of the following institutions, namely, public libraries, public museums, schools for science, art galleries, and schools for art, and for that purpose may purchase and hire land, and erect, take down, rebuild, alter, repair, and extend buildings, and fit up, furnish, and supply the same with all requisite furniture, fittings, and conveniences (*a*).

(2) Where any of the institutions mentioned in this section has been established either before or after the passing of this Act by any library authority under this Act or the Acts hereby repealed, that authority may establish in connexion therewith any other of the said institutions without further proceedings being taken with respect to the adoption of this Act.

(3) No charge shall be made for admission to a library or museum provided under this Act for any library district, or, in the case of a lending library, for the use thereof by the inhabitants of the district; but the library authority, if they think fit, may grant the use of a lending library to persons not being inhabitants of the district, either gratuitously or for payment.

(*a*) It is now provided by the Act of 1919, 9 & 10 Geo. 5, c. 93, s. 8, *post*, p. 2780, that the powers of providing schools for science and schools of art conferred by this section shall cease, without prejudice, however, to the power of maintaining any such school established under this section before the passing of the Act of 1919. A free library, established by a library authority under this Act, is a building which is the property of a literary or scientific institution within r. VI. of 5 & 6 Vict. c. 35, and is, therefore, exempt from assessment to income tax under Sched. A. (*Manchester Corporation* v. *Macadam*, [1896] A. C. 500; 61 J. P. 100, practically overruling *Andrews* v. *Bristol Corporation* (1890), 61 L. J. Q. B. 715; 56 J. P. 615).

A museum provided under this Act in an urban district may be appropriated under 1 Edw. 7, c. 19, s. 7, *post*, p. 2618, for the purposes of the Museums and Gymnasiums Act, 1891, *ante*, p. 2528, thus relieving the library rate from the expense of maintaining it.

The council of a metropolitan borough in which this Act was in force in the course of demolishing some old premises, for the purpose of erecting a free library, made a hole in the wall of an adjoining owner's premises and did damage. In an action for damages brought by the adjoining owner it was held that the Public Authorities Protection Act did not apply (*Walsh* v. *Southwark Borough Council* (1908), 72 J. P. 71).

Provision as to acquisition and disposal of land.

12.—(1) For the purpose of the purchase of land under this Act by a library authority the Lands Clauses Acts (*a*), with the exception of the provisions relating to the purchase of land otherwise than by agreement, shall be incorporated with this Act.

(2) The library authority of any library district which is an urban district may with the sanction of the Local Government Board (*b*) appropriate for the purposes of this Act any land which is vested in that authority (*c*).

(3) A library authority may with the sanction of the Local Government Board (*d*) sell any land vested in them for the purposes of this Act, or exchange any such land for other land better adapted for those purposes, and the money arising from the sale or received by way of equality of exchange shall be applied in or towards the purchase of other land better adapted for the said purposes, or may be applied for any purpose for which capital money may be applied, and which is approved by the Local Government Board (*d*).

(4) A library authority may let a house or building, or any part thereof, or any land vested in them for the purposes of the Act, which is not at the time of such letting required for those purposes, and shall apply the rents and profits thereof for the purposes of this Act (*e*).

(*a*) 8 & 9 Vict. c. 18, *ante*, p. 2088; 23 & 24 Vict. c. 106, *ante*, p. 2260; 46 & 47 Vict. c. 15, *ante*, p. 2460. The exception of the provisions relating to the purchase of land otherwise than by agreement, leaves the authority without power to give compensation for injuriously affecting lands. See *Ferrar* v. *London Commissioners of Sewers* (1869), L. R. 4 Ex. 227. As to disregard of restrictive covenants, see *Kirby* v. *Harrogate School Board*, [1896] 1 Ch. 437; 60 J. P. 182.

(*b*) The powers of the L. G. B. were transferred to the Minister of Health, and are now vested in the Board of Education in addition to the Ministry of Health by his order of the 17th May, 1920, in App. II., *post*, p. 3451.

Note to Section 12.

(*c*) And see *Att.-Gen.* v. *Corporation of Sunderland*, *ante*, p. 389.

(*d*) The powers of the L. G. B. under this sub-section were transferred to the Board of Education by Order in Council of 17 May, 1920, in App. II., *post*, p. 3451.

(*e*) The powers granted by this sub-section are ancillary to and not in contradiction of the powers conferred by the preceding sub-section. The object of the sub-section is to confer on a library authority the right to let for temporary purposes land which is not at the time of the letting required for library purposes.

Where a local authority appropriated premises provided for library purposes for administrative purposes without the consent of the Board of Education an injunction was granted at the suit of the Attorney-General (*A.-G.* v. *Westminster City Council*, [1924] 2 Ch. 416; 88 J. P. 145).

Power to grant charity land for purposes of this Act.

13.—(1) Any person holding land for ecclesiastical, parochial, or charitable purposes may, subject as hereinafter provided, grant, or convey, by way of gift, sale, or exchange, for any of the purposes of this Act any quantity of such land, not exceeding in any one case one acre, in any manner vested in such person.

(2) Provided that—

(a) ecclesiastical property shall not be granted or conveyed for those purposes without the consent of the Ecclesiastical Commissioners; and

(b) parochial property shall not be so granted or conveyed *save by the board of guardians of the poor law union comprising the parish to which the property belongs, or* without the consent of the Local Government Board (*a*); and

(c) other charitable property shall not be so granted or conveyed without the consent of the Charity Commissioners; and

(d) the land taken in exchange or the money received for such sale shall be held on the same trusts as the land exchanged or sold; and

(e) land situated in the administrative county of London, or in any urban district containing according to the last published census for the time being over twenty thousand inhabitants, which is held on trusts to be preserved as an open space, or on trusts which prohibit building thereon, shall not be granted or conveyed for the purposes of this Act.

(3) Any land granted or conveyed to any library authority under this section may be held by that authority without any licence in mortmain.

(*a*) Words in italics repealed by Sched. XII., Pt. VII., L. G. A., 1929. As to the transfer of parish property vested in boards of guardians at April 1st, 1930, see L. G. A., 1929, s. 115, *ante*, p. 1973, and as to dealing with such property after that date, see Sched. VII., *ibid.* The consent of the M. of H. must still be obtained under the provision in the text.

Vesting of property in library authority.

14.—All land appropriated, purchased, or rented, and all other real and personal property presented to or purchased or acquired for any library, museum. art gallery, or school under this Act shall be vested in the library authority.

Management of libraries, &c. by library authority or committee.

15.—(1) The general management, regulation, and control (*a*) of every library, museum, art gallery, and school provided under this Act shall be vested in and exercised by the library authority, and that authority may provide therein books, newspapers, maps, and specimens of art and science, and cause the same to be bound and repaired when necessary.

(2) The library authority may also appoint salaried officers and servants, and dismiss them, and make regulations for the safety and use of every library, museum, gallery, and school under their control, and for the admission of the public thereto.

(3) Provided that a library authority being an urban authority may if they think fit appoint a committee and delegate to it all or any of their powers and duties under this section, and the said committee shall to the extent of such delegation be deemed to be the library authority. Persons appointed

to be members of the committee need not be members of the urban authority (*b*).

(*a*) As to offences, see the Libraries Offences Act, 1898, *post*, p. 2568. As to making byelaws, see the Public Libraries Act, 1901, s. 3, *post*, p. 2617.

(*b*) No qualification is prescribed for these persons. Delegation does not relieve the urban authority from their liability for negligence on the part of those having control of the library (*Bungary* v. *Wellingborough U. D. C.* (1903), 67 J. P. N. 304).

Power to library authorities to make agreement for use of library.

16.—(1) (*a*).

(2) The library authority of any library district may with the consent of the voters (*b*) in the district and of the Charity Commissioners make the like agreement with the governing body of any library established or maintained out of the funds subject to the jurisdiction of the Charity Commissioners, and situate in or near the library district, and, in case of inability, objection, or failure on the part of the governing body to enter into such agreement, the Charity Commissioners may, if they think fit, become party to the agreement on behalf of the governing body.

(3) This section shall apply, with the necessary modifications, to a museum, school for science, art gallery, or school for art in like manner as to a library.

(*a*) This sub-section is repealed by 1 Edw. 7, c. 19, s. 14, and Sched., *post*, p. 2619, and s. 5 of that Act now makes other provision for library authorities to share the cost of a library by agreement.

(*b*) In an urban district no consent of the voters is now required (Public Libraries (Amendment) Act, 1893, s. 2, *post*, p. 2552).

Power to library authority to accept parliamentary grant.

17. Where a library authority accept a grant out of money provided by Parliament from the Department of Science and Art towards the purchase of the site, or the erection, enlargement, or repair, of any school for science and art, or school for science, or school for art, or of the residence of a teacher in any such school, or towards the furnishing of any such school, that authority may accept the grant upon the conditions prescribed by the Department of Science and Art, and may execute any instruments required by that Department for carrying into effect those conditions, and upon payment of the grant shall be bound by such conditions and instruments, and have power and be bound to fulfil and observe the same (*a*).

(*a*) See note (*a*) to s. 11, *ante*, p. 2545.

FINANCIAL PROVISIONS.

Expenses of library authority, how defrayed.

18.—(1) The expenses incurred (*a*) in a library district in and incidental to the execution of this Act, including all expenses in connexion with ascertaining the opinion of the voters in the district, may be defrayed,—

(a) where the library district is a municipal borough, out of the borough fund or borough rate, or a separate rate to be made, assessed, and levied in like manner as the borough rate (*b*); and

(b) where the library district is an urban district other than a borough, out of the rate applicable to the general expenses incurred in the execution of the Public Health Acts (*c*), or a separate rate to be made, assessed, and levied in like manner as the rate so applicable (*d*);

. . . . . .

(3) Where a parish or a part of a parish is annexed in pursuance of this Act to any library district, so much of the said expenses as is chargeable to such parish or part shall be defrayed in like manner as if such parish or part were a separate library district (*e*).

Note to Section 18.

(*a*) The L. G. B. once stated that in their view if a library authority levy during one year the full rate which they are authorised to levy for library purposes, but do not expend the whole amount, they may, under the Public Libraries Act, 1892, carry forward the balance to the next year's library account and spend it in that year for library purposes, together with the sum which they can raise by another full rate. The Board did not consider, however, that a district council could properly require money to be paid to them over and above their actual expenses with the express object of accumulating it for purposes to be carried out at some future time.

(*b*) See now the R. and V. Act, 1925, *ante*, p. 1633.

(*c*) This will be the general rate. See the P. H. A., 1875, s. 207, *ante*, p. 495, and the R. and V. Act, 1925, *ante*, p. 1633.

(*d*) The following sub-paragraph was repealed by the R. and V. Act, 1925, s. 69, and Sched. VIII., from April 1st, 1927 (the Rating and Valuation (Repeals, etc.) Order, 1927). Section 2 (6) of the R. and V. Act, 1925, *ante*, p. 1641, now provides that expenses incurred under the Public Libraries Acts by the library authority (not being a county council) a of library district being a parish shall be levied in the library district by the rating authority together with and as an additional item of the general rate. As to the expenses of the county council, see s. 4 (2) of the Act of 1919, *post*, p. 2779.

(*e*) The remainder of this sub-section is repealed by 1 Edw. 7, c. 19, s. 14, and Sched., *post*, p. 2619.

Borrowing by library authority.

19.—(1) Every library authority, with the sanction of the Local Government Board (*a*), and in the case of a library authority being commissioners appointed for a parish, with the sanction also of the vestry (*b*) of such parish, may borrow money for the purposes of this Act on the security of any fund or rate applicable for those purposes.

38 & 39 Vict. c. 55.

(2) Sections two hundred and thirty-three, two hundred and thirty-four, and two hundred and thirty-six to two hundred and thirty-nine, both inclusive, of the Public Health Act, 1875 (*c*), relating to borrowing by a local authority shall apply, with the necessary modifications, to all money borrowed by any library authority for the purposes of this Act, as if the library authority were an urban authority, and as if references to this Act were substituted in those sections and in the forms therein mentioned for references to the Public Health Act, 1875.

38 & 39 Vict. c. 89.

(3) The Public Works Loan Commissioners may in manner provided by the Public Works Loans Act, 1875 (*d*), lend any money which may be borrowed by a library authority for the purposes of this Act.

(*a*) Now the M. of H.

(*b*) See s. 6 and note (*a*) thereto, *ante*, p. 2543, as to substituting the consent of the parish meeting. By s. 12 (1) (b) of the L. G. A., 1894, a parish council may borrow for the purposes of this Act, but, by sub-s. (3) of the same section, not otherwise than in accordance with that Act, and the charge for such purpose shall ultimately be on the rate applicable to the purposes of this Act. As to borrowing by a County Council, see the Act of 1919, 9 & 10 Geo. 5, c. 93, s. 1 (3), *post*, p. 2777.

(*c*) See these sections, *ante*, pp. 519, 526, 531 *et seq.*

(*d*) See that Act, *ante*, p. 2357.

Accounts and audit.

20.—(1) Separate accounts shall be kept of the receipts and expenditure under this Act of every library authority and their officers, and those accounts shall be audited in like manner and with the like incidents and consequences, in the case of a library authority being an urban authority, and of their officers, as the accounts of the receipts and expenditure of that authority and their officers under the Public Health Acts (*a*).

(2) The accounts of the receipts and expenditure of a library authority being commissioners appointed under this Act, and of their officers, shall be audited yearly by a district auditor in like manner and with the like incidents and consequences as in the case of an audit under the Acts relating to the relief of the poor, and those commissioners shall be a local authority within the meaning of the District Auditors Act, 1879 (*b*).

42 & 43 Vict. c. 6.

(3) The accounts of the receipts and expenditure under this Act of any library authority other than the council of a municipal borough shall be

open at all reasonable times to the inspection, free of charge, of any ratepayer in the library district, and any such ratepayer may without charge make copies of and extracts from those accounts; and if any library authority or any person being a member thereof or employed by them and having the custody of the accounts fails to allow the accounts to be inspected, or copies or extracts to be made, as required by this section, such authority or person shall for each offence be liable on summary conviction in manner provided by the Summary Jurisdiction Acts to a fine not exceeding five pounds.

(a) See the P. H. A., 1875, ss. 246, 247, *ante*, pp. 539, 540, and the Audit (Local Authorities) Act, 1927, *ante*, p. 1818.

(b) The form of financial statement to be submitted to the district auditor by the commissioners was prescribed by Order of the L. G. B., dated November 26th, 1892 (Stat. R. & O., p. 243). See the District Auditors Act, 1879, *ante*, p. 2404.

PROVISIONS AFFECTING LONDON ONLY.

Application of Act to city of London.

21.—(1) The city of London shall be a library district, and on this Act being adopted for the city, the common council shall be the library authority.

(2) The opinion of the voters in the city of London with respect to any question under this Act shall be ascertained by the mayor on the requisition of the common council.

(3) The expenses incurred in the city of London in and incidental to the execution of this Act, including all expenses in connexion with ascertaining the opinion of the voters, shall be defrayed out of the consolidated rate levied by the commissioners of sewers, or a separate rate to be made, assessed, and levied by those commissioners in like manner as the consolidated rate.

(4) *So much of this Act as limits the rate or addition to a rate to be levied in any library district for any one financial year to one penny in the pound shall not extend to the city of London* (a).

(a) This sub-section was repealed by the Act of 1919, 9 & 10 Geo. 5, c. 93.

22. [*Power for district in London to adopt Act*] (a).

(a) This section was repealed by the L. G. A., 1899, s. 35 (2), and Third Schedule. See now ss. 4 and 34 of that Act as to the adoption of this Act in a metropolitan borough

Power to vestry or district board in London to appropriate land for library, etc.

23. The vestry or district board constituted under the Metropolis Management Act, 1855, for any parish mentioned in Schedule A. or district mentioned in Schedule B. to that Act, as amended by any subsequent Acts, may, if this Act is in force in such parish or district, appropriate with the sanction of the Local Government Board (a) for the purposes of this Act any land which is vested in such vestry or board.

(a) Now the M. of H.

SUPPLEMENTAL PROVISIONS.

Adjustment of interest on termination of agreement.

24. Any agreement under this Act between two or more vestries or library authorities, or between a library authority and any other body, may provide that on the termination of the agreement an adjustment shall be made of the interests of the several parties thereto in any property to the provision of which they have contributed, and as to the mode in which the adjustment shall be arrived at, and in the event of any dispute the adjustment shall on the application of any of the parties be made by an arbitrator appointed by the Local Government Board (a).

(a) Now the M. of H.

Saving for Oxford.

25. Nothing in this Act shall interfere with the operation of the Act of the session of the twenty-eighth and twenty-ninth years of the reign of her present Majesty, chapter one hundred and eight, so far as it relates to the collection of a rate for a public library in Oxford.

Constitution and proceedings of vestry for purposes of Act.

26. For the purposes of this Act the vestry of a parish shall be any body of persons acting by virtue of any Act of Parliament as or instead of a vestry, and, where there is no such body, shall be the inhabitants of the parish in vestry assembled, but in the latter case the persons registered as county electors in respect of the occupation of property situate in the parish, and no other persons, shall be members of the vestry.

Definitions.

27. In this Act, unless the context otherwise requires,—

The expression "urban district" means a municipal borough, Improvement Act district, or local government district; and "urban authority" means, as regards each such district, the council improvement commissioners, or local board:

The expression "financial year" means the period of twelve months for which the accounts of a library authority are made up (*a*):

The expression "overseers" includes any persons authorised and required to make and levy poor rates in a parish, and acting instead of overseers (*b*):

The expression "common council" means in relation to the city of London the mayor, commonalty, and citizens, acting by the mayor, aldermen, and commons in common council assembled.

(*a*) The definition of a voter here following was repealed by the Public Libraries Act, 1901, s. 14, and Sched., *post*, p. 2619, and is now supplied by s. 9 of that Act.

(*b*) Overseers were abolished by the R. and V. Act, 1925, s. 62, *ante*, p. 1741. All rates are now levied by the rating authority.

Repeal.

28.—(1) (*a*) *The Acts mentioned in the Second Schedule to this Act shall be repealed as from the commencement of this Act, save so far as any of them extend beyond England and Wales; and* where those Acts have been adopted for any library district, that adoption shall be deemed to have been an adoption of this Act, and this Act shall apply accordingly.

(2) (*a*) *For the purpose of this section the said Acts shall be deemed to have been adopted for any district in which they were in force immediately before the commencement of this Act.*

(*a*) Repealed by S. L. R. A., 1908.

Saving as any local Act.

29. Nothing in this Act shall be deemed to limit, or to reduce or alter the limit of any rate which any library authority is authorised to levy under or by virtue of any local Act.

30. [*Commencement of Act, October* 1, 1892.] (*a*)

(*a*) Repealed by S. L. R. A., 1908.

Short title.

31. This Act may be cited as "The Public Libraries Act, 1892."

Schedule.

SCHEDULES.

FIRST SCHEDULE (*a*).

Section 3.

(*a*) This schedule ("Regulations for ascertaining the opinion of the voters in a library district") was repealed, so far as it applied to rural parishes, by the L. G. A., 1894, s. 89. So far as it applied to urban parishes, it became practically obsolete in 1893, for the Public Libraries (Amendment) Act, 1893, s. 2, *post*, p. 2552, substituted the consent of the urban authority for the consent of the voters. It remained, however, in force in the Metropolis until it was finally repealed by the Public Libraries Act, 1901, *post*, p. 2616. And see now the Act of 1919, 9 & 10 Geo. 5, c. 93, s. 7, *post*, p. 2780.

SECOND SCHEDULE (*a*).

Section 28.

(*a*) This Schedule of Acts repealed (itself repealed by the S. L. R. A., 1908) included the following Public Libraries Acts and Amendment Acts,—1855, 1866, 1871, 1884, 1887, 1889, and 1890.

THE PUBLIC WORKS LOANS ACT, 1892.

(55 & 56 VICT. c. 61) (*a*).

An Act to grant Money for the purpose of certain Local Loans, and for other purposes relating to Local Loans. [28th June, 1892.]

* * * * * *

2. Section ten of the Public Works Loans Act, 1875 (*b*), and section two of the Public Works Loans Act, 1879 (*c*) (which sections fix the minimum rate of interest on loans), shall, in their application to loans granted after the passing of this Act, have effect as if four per cent. were therein substituted for five per cent.

Reduction of minimum rate of interest on loans.
38 & 39 Vict. c. 89.
42 & 43 Vict. c. 77.

(*a*) This Act amends the Public Works Loans Act, 1875, *ante*, p. 2357, and the Public Works Loans Act, 1879, *ante*, p. 2407. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894.

(*b*) *Ante*, p. 2360.

(*c*) *Ante*, p. 2407.

* * * * * *

9. This Act may be cited as "The Public Works Loans Act, 1892." Short title.

* * * * * *

THE POLICE ACT, 1893.

(56 & 57 VICT. c. 10.)

An Act to amend the Police Acts. [9th June, 1893.]

* * * * * *

2.—(1) The council of a borough may by resolution delegate to the watch committee its powers under sections thirty-two and thirty-three of the Town Police Clauses Act, 1847 (*a*), or under any similar enactments in any local Act; and where such resolution has been passed, the watch committee may employ constables wholly or partially as firemen:

Borough police may be employed as fire brigade.
10 & 11 Vict. c. 89.

Provided that no constable, who at the passing of this Act is not employed to act as fireman, shall be so employed without his consent.

Section 2.

(2) The pay of constables exclusively so employed, and the allowances of constables partially so employed, shall be defrayed from the fund or rate which is applicable to the purposes of the fire brigade or fire police (*b*).

(*a*) See these sections, *ante*, pp. 2237, 2238.

(*b*) Ordinarily the general rate fund or general rate. See s. 207 of the P. H. A., 1875, *ante*, p. 495, and the R. and V. Act, 1925, *ante*, p. 1633. Section 2 (3) and ss. 3 to 8 inclusive of this Act were repealed by 11 & 12 Geo. 5, c. 31 (the Police Pensions Act, 1921). For the provisions now in force with reference to fire brigades and fire police, see ss. 32, 33 of that Act. See also the Fire Brigades (Pensions) Act, 1925, *post*, p. 3033.

* * * * * *

Short title.

9. This Act may be cited as "The Police Act, 1893"; and the Police Acts, 1839 to 1890, and this Act may be cited together as the Police Acts, 1839 to 1893.

THE PUBLIC LIBRARIES (AMENDMENT) ACT, 1893.

(56 & 57 VICT. c. 11) (*a*).

An Act to amend the Public Libraries Act, 1892. [9th June, 1893.]

Short title. 55 & 56 Vict. c. 53.

1. This Act may be cited as "The Public Libraries (Amendment) Act, 1893," and shall be construed as one with the Public Libraries Act, 1892 (in this Act referred to as the principal Act), *and these two Acts may be together cited as the Public Libraries Acts*, 1892 *and* 1893.

(*a*) See the Public Libraries Act, 2542, *ante*, p. 2542, the Libraries Offences Act, 1898, *post*, p. 2568, the Public Libraries Act, 1901, *post*, p. 2616, and the Public Libraries Act, 1919, *post*, p. 2777. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894. Italicised words repealed by S. L. R. A., 1908.

Modification as to adoption, etc., in urban districts.

2.—(1) Where a library district is an urban district—

(i) The principal Act may, *subject to the conditions contained in the second section of that Act* be adopted, *and the limitation of the maximum rate to be levied for the purposes of that Act may within the limits fixed by that Act be fixed, raised, or removed* (*a*), by a resolution of the urban authority under this Act:

(ii) The consent of the urban authority given by a resolution of that authority under this Act shall be substituted in an urban district for the consent of the voters in any case when the consent of the voters is required under the principal Act.

(2) Section three of the principal Act is hereby repealed, so far as it relates to an urban district.

(*a*) The words in italics were repealed by 9 & 10 Geo. 5, c. 93, *post*, p. 2777.

3. (*a*).

(*a*) Section 3, which contained provisions for a resolution of an urban authority for the adoption, etc., of the principal Act, was repealed by 9 & 10 Geo. 5, c. 93, s. 7, *post*, p. 2780. A simple resolution is alone required in an urban district.

Power to two or more library authorities to combine.

4.—(1) Where the principal Act is adopted for two or more neighbouring urban districts, the library authorities of those districts may by agreement combine (*a*) for any period for carrying the Act into execution; and the expenses of carrying the Act into execution shall be defrayed by such authorities in such proportions as may be agreed on by them.

(2) For the purposes of the Act a joint committee may be formed, the members whereof shall be appointed by the several combining authorities

in such proportions as may be agreed on, but need not be members of any of the combining authorities. Any such committee shall have such of the powers of a library authority under the principal Act, except the power of borrowing money (*b*), as the combining authorities may agree to confer upon them.

(3) Where any of the combining authorities are improvement commissioners or a local board the provisions of the principal Act with respect to accounts and audit shall apply to such committee as if they were a local board who were a library authority under the Act (*c*).

(*a*) Power to neighbouring parishes to combine was given by the Public Libraries Act, 1892, *ante*, p. 2542.

(*b*) See 55 & 56 Vict. c. 53, s. 19, *ante*, p. 2548.

(*c*) See 55 & 56 Vict. c. 53, s. 20, *ante*, p. 2548.

THE BARBED WIRE ACT, 1893.

(56 & 57 VICT. c. 32) (*a*).

An Act to prevent the use of Barbed Wire for Fences in Roads, Streets, Lanes, and other Thoroughfares (*b*). [27th July, 1893.]

Short title.

1. This Act may be cited for all purposes as "The Barbed Wire Act, 1893."

(*a*) This Act concerns urban district councils more in their capacity as highway authorities than sanitary authorities.

A landowner erected upon his own land by the side of a public road in Scotland a fence of barbed wire, and the road trustees brought an action to have it removed on the ground that it was dangerous to persons and cattle lawfully using the road. The fence was placed about three feet from the boundary line between the road and the landowner's property, and stood entirely upon his land :—*Held*, that the action lay, but upon the defender undertaking so to alter and protect the fence as to remove the danger, the action was dismissed (*Elgin Road Trustees* v. *Innes* (1886), 14 Ct. Sess. Cas. (4th ser.) 48). The occupier of certain land adjoining a public footpath fenced it off from the footpath by barbed wire set back nine feet from the path :—*Held*, that he was liable in damages to a man who tore his clothes on the barbs whilst making way for other persons to pass him on the footpath (*Bird* v. *Frost* (1892), 56 J. P. 164). Plaintiff and defendant were adjoining landowners, and defendant was bound to maintain a boundary fence between their lands for their mutual benefit. Defendant caused a gap in the fence to be made up with barbed wire which was placed three feet within his own boundary. Plaintiff afterwards put a mare into his field, and she injured herself on the wire :—*Held*, that the wire was so placed as to be dangerous to cattle lawfully put by the plaintiff into his field, and that defendant was liable in damages for the injury to the mare (*Bennett* v. *Blackmore* (1890), 26 L. J. Newsp. 228 ; 90 L. T. Journ. 395 (Crediton County Court)). Defendants erected a fence of barbed wire between their railway line and plaintiff's farm. Sheep grazing on plaintiff's farm were injured by coming in contact with the wire :—*Held*, that the defendants were liable for the damage occasioned to the sheep (*M'Quillan* v. *Crommelin Iron Ore Co.* (1892), 26 Ir. L. T. Rep. 15). Lands belonging to plaintiff and defendant, who were adjoining owners, were separated by an old quickset fence. This hedge the defendant dug up and replaced by a new one of young quicks, which he protected by a barbed wire fence of a very severe character, set up with the plaintiff's acquiescence on plaintiff's land. Plaintiff then turned out a mare to graze on his land, and she was injured :—*Held*, that the defendant was liable (*Shipton* v. *Lucas* (1892), 92 L. T. Jo. 297). Defendant put up a barbed wire fence separating his land from a public footpath, and plaintiff was walking along the footpath when a sudden gust of wind blew his coat against the fence and it was torn. No negligence or want of skill or care in the erection of the fence was imputed to the defendant, but the county court judge held that the fence as constructed and placed was dangerous to the public using the footpath and a nuisance. This decision was affirmed on appeal to the High Court (*Stewart* v. *Wright* (1893), 57 J. P. 137 ; affirmed 9 T. L. R. 480). And in an Irish case of *Collen* v. *Ellis* (1893), 32 L. R. Ir. 491, it was held that a barbed wire fence by the side of a highway may be an obstruction to the free passage thereof.

A valuable collection and review of the American cases on the subject will be found in 95 L. T. Jo. 419.

Note to Section 1.

Upon similar principles a rotten fence abutting a highway is a nuisance, and if it be the cause of any accident, the owner of the fence is liable (*Harrold* v. *Watney*, [1898] 2 Q. B. 320). But a defendant is not liable in respect of a nuisance created on his premises by trespassers (*Barker* v. *Herbert*, [1911] 2 K. B. 633; 75 J. P. 481), if he does not, and cannot reasonably be expected to know of its existence. This case was distinguished in *Horridge* v. *Makinson* (1915), 84 L. J. K. B. 1294. And see *Robbins* v. *Jones*, *ante*, p. 2210.

(*b*) This title must not be taken to limit the meaning of the term "highway" as used in the Act. A *cul-de-sac* may be a highway (*Bateman* v. *Bluck* (1853), 18 Q. B. 870; *Young* v. *Cuthbertson* (1854), 1 Macq. H. L. Cas. 455).

Interpretation.

2. In this Act—

The expression "barbed wire" means any wire with spikes or jagged projections; and the expression "nuisance to a highway" as applied to barbed wire, means barbed wire which may probably be injurious to persons or animals lawfully using such highway:

In England and Wales the expression "local authority" means any county council, any urban sanitary authority, any sanitary authority in London, *any highway board*, and any *other* local authorities existing, or that may be hereafter created by Parliament, having control over highways (*a*).

. . . . . .

(*a*) Italicised words repealed by S. L. R. A., 1908. The remainder of this section only applies to Scotland and Ireland. The Act no longer applies to rural district councils whose highway functions ceased on their transference to county councils by the L. G. A., 1929, s. 30, *ante*, p. 1886.

Removal of barbed wire where nuisance to highway.

3.—(1) Where there is on any land adjoining a highway within the county or district of a local authority a fence made with barbed wire, or in or on which barbed wire has been placed, and such barbed wire is a nuisance to such highway, it shall be lawful for such local authority to serve (*a*) notice in writing upon the occupier of such land requiring him within a time therein stated (not to be less than one month nor more than six months after the date of the notice) to abate such nuisance.

(2) If on the expiration of the time stated in the notice the occupier shall have failed to comply therewith, it shall be lawful for the local authority to apply to a court of summary jurisdiction (*b*), and such court, if satisfied that the said barbed wire is a nuisance to such highway, may by summary order (*c*) direct the occupier to abate such nuisance; and on his failure to comply with such order within a reasonable time the local authority may do whatever may be necessary in execution of the order, and recover in a summary manner the expenses incurred in connexion therewith (*d*).

. . . . . .

(*a*) As to service of notices, see s. 26 of the Highway Act, 1864. And upon the whole text compare s. 94 of the P. H. A., 1875, *ante*, p. 187.

(*b*) As defined by s. 13 (11) of the Interpretation Act, 1889.

(*c*) Without appeal, except by case stated under s. 33 of the S. J. A., 1879.

(*d*) The next sub-section relates only to Ireland.

Proceedings where local authority is occupier of the land.

4. Where the local authority are the occupiers of the land, proceedings under this Act may be taken by any ratepayer within the district of the local authority, and a notice to the local authority to abate the nuisance shall be deemed to be properly served if it is served upon the clerk of the local authority, and any ratepayer taking proceedings may do all acts and things which a local authority is empowered to do.

Expenses of local authority.

5. Any expenses incurred by a local authority in the execution of this Act shall be defrayed in like manner as the expenses of the local authority incurred in respect of any highways (*a*).

(*a*) In the case of an urban authority out of the general rate, see the note to s. 216 of the P. H. A., 1875, *ante*, p. 507.

THE LAW OF COMMONS AMENDMENT ACT, 1893.

(56 & 57 VICT. C. 57.)

An Act to amend the Law relating to Commons (*a*). [22nd September, 1893.]

1. This Act may be cited for all purposes as the "Law of Commons Amendment Act, 1893." Short title of Act.

(*a*) See the Commons Act, 1876, *ante*, p. 2375. Reference may also be made to the Law of Property Act, 1925, ss. 193 and 194, *post*, pp. 2880, 2881.

2. An inclosure or approvement of any part of a common purporting to be made under the Statute of Merton (*a*) and the Statute of Westminster the Second (*b*), or either of such statutes, shall not be valid unless it is made with the consent of the Board of Agriculture (*c*). Consent of Board of Agriculture essential to inclosure.

(*a*) 20 Hen. 3, c. 4.
(*b*) 13 Edw. 1, st. 1, c. 46.
(*c*) Now Minister of Agriculture and Fisheries.

3. In giving or withholding their consent under this Act, the Board (*a*) shall have regard to the same considerations, and shall, if necessary, hold the same inquiries as are directed by the Commons Act, 1876 (*b*), to be taken into consideration, and held by the Board before forming an opinion whether an application under the Inclosure Acts shall be acceded to or not. Conditions of consent.

(*a*) Now Minister of Agriculture and Fisheries.
(*b*) 39 & 40 Vict. c. 56, *ante*, p. 2375.

4. Nothing in this Act shall preclude his Majesty, his heirs and successors, or any person whatsoever whose rights or interests are affected by any inclosure or approvement, from taking any proceedings by way of information, action, or otherwise, for the abatement of such inclosure or approvement, and the protection of such rights and interests. Saving of existing rights.

THE PUBLIC WORKS LOANS ACT, 1894.

(57 & 58 VICT. C. 11) (*a*).

An Act to grant Money for the purpose of certain Local Loans, and for other purposes relating to Local Loans. [18th June, 1894.]

* * * * * *

3. In the First Schedule to the Public Works Loans Act, 1875 (specifying the works for the purpose of which the Public Works Loan Commissioners may lend money), the expression "main drainage" shall be construed as including works or underground drainage. Explanation of Schedule. 38 & 39 Vict. c. 89.

(*a*) This Act amends the Public Works Loans Act, 1875, Schedule I., *ante*, p. 2373.

* * * * * *

5. This Act may be cited as "The Public Works Loans Act, 1894." Short title.

* * * * * *

THE MERCHANT SHIPPING ACT, 1894.

(57 & 58 VICT. c. 60.)

An Act to consolidate Enactments relating to Merchant Shipping.

[25th August, 1894.]

* * * * * *

PART II.

MASTERS AND SEAMEN.

* * * * * *

Protection of seamen from Imposition.

Seamen's lodging-houses (*a*).

214.—(1) A local authority hereinafter mentioned (*b*) whose district (*b*) includes a seaport may, with the approval of the Board of Trade, make byelaws relating to seamen's lodging-houses in their district, and those byelaws shall be binding upon all persons keeping houses in which seamen (*c*) are lodged and upon the owners thereof and persons employed therein.

(2) The byelaws shall amongst other things provide for the licensing, inspection, and sanitary conditions of seamen's lodging-houses, for the publication of the fact of a house being licensed, for the due execution of the byelaws, for preventing the obstruction of persons engaged in securing that execution, for the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and for the exclusion from licensed houses of persons of improper character, and shall impose sufficient fines not exceeding fifty pounds for the breach of any byelaw (*d*).

(3) The byelaws shall come into force from a date therein named, and shall be published in the London Gazette (*e*) and in one newspaper at the least circulating in the district, and designated by the Board of Trade.

(4) If the local authority do not within a time in each case named by the Board of Trade make, revoke, or alter, any byelaws under this section, the Board of Trade may do so (*f*).

(5) Whenever her Majesty in Council orders (*g*) that in any district or any part thereof none but persons duly licensed in pursuance of byelaws under this section shall keep seamen's lodging-houses or let lodgings to seamen from a date therein named, a person acting in contravention of that order shall for each offence be liable to a fine not exceeding one hundred pounds (*h*).

(6) A local authority may defray all expenses incurred in the execution of this section out of any funds at their disposal as sanitary authority (*i*), and fines recovered for a contravention of this section or of any byelaw under this section shall be paid to such authority and added to those funds.

(7) In this section the expression "local authority" means in the administrative county of London the county council, and elsewhere in England the local authority under the Public Health Acts (*k*) . . . and the expression "district" means the area under the authority of such local authority.

(*a*) This section takes the place of s. 48 of the Merchant Shipping (Fishing Boats) Act, 1883, now repealed by this Act.

(*b*) See sub-s. (7).

(*c*) Defined by s. 742, *post*, p. 2561.

(*d*) By s. 680 (2) of this Act, any offence committed or fine recoverable under a byelaw made in pursuance of this Act may be prosecuted or recovered in the same manner as an offence or fine under this Act. By s. 680 (1) (b) an offence under this Act, punishable by a fine not exceeding £100, shall be prosecuted summarily in manner provided by the Summary Jurisdiction Acts. Section 682 gives an appeal to quarter sessions in case the fine inflicted exceeds five pounds; s. 683 limits the time for commencing proceedings to within six months after the commission of the offence; s. 684 gives jurisdiction not only in the place where the offence was actually committed, but also in any place where the offender may happen to be. Sub-section (6) of the present section deals with the application of fines recovered.

(*e*) See s. 740, *post*, p. 2560.

(*f*) This power has not yet been exercised, nor has there been any exercise of the corresponding power under the repealed statute.

(*g*) No such Order in Council has yet been made, either under the present Act, or under the corresponding provision in the repealed statute.

Section 738 of this Act gives power to revoke, alter, or add to any Order in Council, when made, and provides for the publication of Orders in Council in the London Gazette, for laying them before Parliament, and for their taking effect.

(*h*) As to recovery of such fine, see ss. 680—684 of the Act, and as to its application, when recovered, see ss. 699, 716.

(*i*) As to these funds, in the case of an urban sanitary authority, see s. 207 of the P. H. A., 1875, *ante*, p. 495. In a rural district it is not clear whether it is intended that the expenses shall be general or special, *i.e.*, chargeable only to the contributory place comprising the town. See s. 229 of the same Act, *ante*, p. 514.

(*k*) That is, presumably, under the P. H. A., 1875, and amending Acts. See the Short Titles Act, 1896.

Words relating to Scotland and Ireland only are here omitted.

* * * * * *

PART III.

PASSENGER AND EMIGRANT SHIPS.

* * * * * *

3. EMIGRANT SHIPS.

Passage Brokers (*a*).

341.—(1) Any person who sells or lets or agrees to sell or let, or is anywise concerned in the sale or letting of steerage passages (*b*) in any ship proceeding from the British Islands to any place out of Europe not within the Mediterranean Sea shall for the purposes of this Part of this Act be a passage broker. **Passage broker.**

(2) The acts and defaults of any person acting under the authority, or as an agent, of a passage broker, shall for the purposes of this Act, be deemed to be also the acts and defaults of the passage broker.

(*a*) The sections under this heading take the place of ss. 66—69, inclusive, and 81 of the Passengers Act, 1855, now repealed by this Act.

By s. 23 of the Merchant Shipping Act, 1906, the provisions of Part III. of the principal Act (*i.e.*, this Act) relating to passage brokers shall apply to any person who at any place in the British Isles sells or lets or agrees to sell or let or is anywise concerned in the sale or letting of steerage passages from any place in Europe not within the Mediterranean Sea.

(*b*) Defined by s. 268. The selling or letting intended by this section is a selling or letting in a named ship of a passage to commence at a definite time for a specified voyage, and therefore that a person who agrees to procure a passage for another, no ship or time being specified, has not acted as a passage broker (*Morris* v. *Howden*, [1897] 1 Q. B. 378; 61 J. P. 246).

342.—(1) A person shall not act directly or indirectly as a passage broker unless he— **Passage brokers to enter into bond and obtain licence.**

(*a*) has entered, with two good and sufficient sureties approved by the emigration officer nearest to his place of business, into a joint and several bond (*a*) to the Crown, in the sum of one thousand pounds; and

(*b*) holds a licence for the time being in force to act as passage broker.

(2) The bond shall be renewed on each occasion of obtaining a licence, and shall not be liable to stamp duty; it shall be executed in duplicate, and one part shall be deposited at the office of the Board of Trade, and the other part with the said emigration officer.

(3) The emigration officer may, in lieu of two securities, accept the bond of any guarantee society approved by the Treasury.

Section 342.

(4) There shall be exempted from this section—

(*a*) the Board of Trade, and any person contracting with them or acting under their authority; and

(*b*) any passage broker's agent duly appointed under this Act (*b*).

(5) If any person fails (*c*) to comply with any requirement of this section, he shall for each offence be liable to a fine not exceeding fifty pounds (*d*).

(*a*) The form of bond is prescribed by s. 360 and Schedule XIV., *post*, pp. 2560, 2562.

(*b*) A passage broker's agent, in order to be duly appointed under this Act, must, under s. 345, hold an appointment in writing from the passage broker, in the form required by the Act, and countersigned by the emigration officer at the port nearest to the place of business of the passage broker.

(*c*) Includes refusal; see s. 742, *post*, p. 2561.

(*d*) This fine cannot be sued for and recovered by the licensing authority, but only by the persons authorised under s. 356, *post*, p. 2560.

Granting of licences to passage brokers.

343.—(1) Application for a licence to act as passage broker shall be made to the licensing authority for the place in which the applicant has his place of business.

(2) The licensing authority, upon the applicant proving to their satisfaction that he—

(*a*) has entered into and deposited one part of such bond as is required by this Act; and

(*b*) has given to the Board of Trade at least fourteen days' clear notice (*a*) of his intention to apply for a licence,

may grant the licence (*a*), and shall forthwith send to the Board of Trade notice (*a*) of such grant.

(3) The licensing authority shall be—

(*a*) in the administrative county of London the justices of the peace at petty sessions;

(*b*) elsewhere in England, the council of a county borough or county district (*b*); . . .

(*a*) A form is prescribed by s. 360 and Schedule XIV, *post*, pp. 2560, 2562.

(*b*) Under the repealed statutes it was the justices in petty sessions who were the licensing authority, but their powers were transferred to district councils by ss. 27 and 32 of the L. G. A., 1894, *ante*, pp. 992, 994.

The remainder of this section relates to Scotland and Ireland only, and is, therefore, omitted.

Forfeiture of licence.

344.—(1) A passage broker's licence shall, unless forfeited, remain in force until the thirty-first day of December in the year in which it is granted, and for thirty-one days afterwards.

(2) Any Court (*a*), when convicting a passage broker of an offence under this Part of this Act or of any breach or non-performance of the requirements thereof, may order that his licence be forfeited and the same shall be forfeited accordingly.

(3) The Court shall forthwith send to the Board of Trade a notice of any such order.

(*a*) Defined by s. 742, *post*, p. 2561.

345. [*Passage broker's agents.*]

346. [*List of agents and runners to be exhibited by brokers, and sent to emigration officers.*]

Emigrant Runners (*a*).

Emigrant runner.

347. If any person other than a licensed passage broker or his bonâ fide salaried clerk, in or within five miles of the outer boundaries of any port (*b*), for hire or reward or the expectation thereof directly or indirectly conducts, solicits, influences, or recommends any intending emigrant (*c*) to or on behalf of any passage broker, or any owner charterer or master (*b*) of a ship, or any keeper of a lodging-house tavern or shop, or any money changer or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or gives or pretends to give to any intending emigrant any information or assistance in any way relating to emigration, that person shall for the purposes of this Part of this Act be an emigrant runner.

(*a*) The sections under this heading take the place of ss. 75—79, inclusive, and 80 of the Passengers Act, 1855, now repealed by this Act.

(*b*) Defined by s. 742, *post*, p. 2561.

(*c*) This word is not defined by the Act, and so probably would include any person proposing to take a steerage passage on board an emigrant ship as defined by s. 268.

Emigrant runner's licence.

348.—(1) The licensing authority (*a*) for passage brokers for the place in which a person wishes to act as an emigrant runner, and to carry on his business, may, upon his application and on the recommendation in writing of an emigration officer, or of the chief constable or other head officer of police in such place (but not otherwise), grant, if they think fit, to the applicant a licence to act as emigrant runner.

(2) The emigrant runner shall, within forty-eight hours after his licence is granted, lodge the same with the nearest emigration officer, and that officer shall—

(*a*) register the name and abode of the emigrant runner in a book to be kept for the purpose, and number each name in arithmetical order; and

(*b*) upon receipt of a fee, not exceeding seven shillings, supply to the emigrant runner a badge of such form and description as the Board of Trade approve,

but in case of a renewed licence, the officer need only note the renewal and its date in his registry book against the original entry of the emigrant runner's name.

(3) An emigrant runner's licence shall remain in force until the thirty-first day of December in the year in which it is granted, unless sooner revoked by any justice for any offence against this Act or for any other misconduct committed by the holder of such licence, or unless forfeited under the provisions hereinafter contained (*b*).

(4) When an emigrant runner changes his abode, the emigration officer shall register the change in his registry book.

(*a*) See s. 343, *ante*, p. 2558.

(*b*) In s. 351. These provisions, however, do not concern the licensing authority.

349. [*Renewal of badge.*]

Penalties on persons acting without licence or badge, using badge not lawfully issued, or employing unlicensed person.

350.—(1) A person shall not—

(*a*) act as an emigrant runner without being duly licensed and registered; or

(*b*) retain or use any emigrant runner's badge not issued to him in manner by this Act required; or

(*c*) counterfeit or forge any emigrant runner's badge; or

(*d*) employ as an emigrant runner any person not duly licensed and registered.

(2) If any person acts in contravention of this section, he shall for each offence be liable to a fine not exceeding five pounds (*a*).

(*a*) This fine cannot be sued for and recovered by the licensing authority, but only by the persons authorised under s. 356, *post*, p. 2560.

351. [*Penalties on emigrant runners for certain acts of misconduct.*]

352. [*Emigrant runner's commission and fees.*]

* * * * * *

Legal Proceedings (*a*).

Recovery of fines.

356. All fines and forfeitures under the provisions of this Part of the Act (other than the provisions relating to passenger steamers only) shall be sued for by the following officers; that is to say,

(*a*) Any emigration officer;
(*b*) Any chief officer of customs; and also
(*c*) In the British Islands, any person authorised by the Board of Trade and any officer of customs authorised by the Commissioners of Customs.

(*a*) The following section takes the place of s. 84 of the Passengers Act, 1855, now repealed by this Act, and is here inserted merely for the purpose of showing that the licensing authority cannot take proceedings for the recovery of fines.

* * * * * *

Supplemental.

Forms.

360.—(1) The forms set out in the Fourteenth Schedule to this Act or forms as near thereto as circumstances admit, shall be used in all cases to which such forms are applicable.

* * * * * *

Application of Part III. as regards Emigrant Ships (*a*).

Application to certain voyages.

364. The provisions of this Part of this Act respecting emigrant ships shall apply to all voyages from the British Islands to any port out of Europe and not within the Mediterranean Sea.

(*a*) The following sections are here inserted for the purpose of explaining the limits of application of the foregoing sections as to passage brokers and emigrant runners.

Limited application of Part III. of Act to colonial voyages.

365.—(1) This Part of this Act, so far as the same is applicable, shall apply to every ship carrying steerage passengers on a colonial voyage as defined (*a*) by this Part of this Act, provided that the enactments thereof relating to—

. . . . . .

(*d*) passage brokers;
(*e*) emigrant runners;

. . . . . .

shall not apply.

(*a*) By s. 270, for the purposes of this Part of this Act, a colonial voyage means a voyage from any port in a British possession, other than British India and Hong Kong, to any port whatever, where the distance between such ports exceeds 400 miles, or the duration of the voyage, as determined under this Part of this Act, exceeds three days.

* * * * * *

PART XIV,

SUPPLEMENTAL.

* * * * * *

Transmission and Publication of Documents.

Publication in London Gazette.
56 & 57 Vict. c. 66.

740. Where a document is required by this Act to be published in the London Gazette (*a*), it shall be sufficient if notice thereof is published in accordance with the Rules Publication Act, 1893 (*b*).

(*a*) See s. 214 (3), *ante*, p. 2556, as to publication of byelaws.

(*b*) By s. 3 (3) of that Act, where any statutory rules are required by any Act to be published or notified in the London Gazette a notice in the Gazette of the rules having been made, and of the place where copies of them can be purchased, shall be sufficient compliance with the said requirement.

* * * * * *

Definitions and Provisions as to Application of Act.

742. In this Act, unless the context otherwise requires, the following expressions (*a*) have the meanings hereby assigned to them; (that is to say,) Definitions.

. . . . . .

"Master" includes every person (except a pilot) having command or charge of any ship;

"Seaman" includes every person (except masters, pilots and apprentices, duly indentured and registered) employed or engaged in any capacity on board any ship;

. . . . . .

"Court" in relation to any proceeding includes any magistrate or justice having jurisdiction in the matter to which the proceeding relates;

. . . . . .

"Port" includes place;

. . . . . .

Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

(*a*) Only those expressions are here included which occur in the foregoing sections.

* * * * * *

Repeal and Savings.

745. (*a*)—(1) *The Acts mentioned in the Twenty-second Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.* Repeal.

Provided that—

(*a*) Any Order in Council, licence, certificate, byelaw, rule, or regulation made or granted under any enactment hereby repealed shall continue in force as if it had been made or granted under this Act;

. . . . . .

(*c*) Any document referring to any Act or enactment hereby repealed shall be construed to refer to this Act, or to the corresponding enactment of this Act;

. . . . . .

(2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals. 52 & 53 Vict. c. 63.

. . . . . .

(*a*) Italicised words repealed by S. L. R. A., 1908.

746. . . . Savings.

(2) Any local Act which repeals or affects any provisions of the Acts repealed by this Act shall have the same effect on the corresponding provisions of this Act as it had on the said provisions repealed by this Act.

. . . . . .

Short Title and Commencement.

747. This Act may be cited as "The Merchant Shipping Act, 1894." Short title.

748. [*Commencement of Act, January* 1, 1895.]

SCHEDULES.

FOURTEENTH SCHEDULE.

FORMS UNDER PART III. (PASSENGER AND EMIGRANT SHIPS.)

FORM IV.

FORM OF PASSAGE BROKER'S BOND.

[S. 342.] KNOW all men by these presents, that we, *A. B.* [*insert names and surnames in full, with occupation and address of each of the parties*], of , *C. D.*, of, etc., and *E. F.*, of, etc., are held and firmly bound unto our Sovereign , by the grace of God of the United Kingdom of Great Britain and Ireland , defender of the faith, in the sum of one thousand pounds of good and lawful money of Great Britain, to be paid to our said Sovereign, her [his] heirs and successors; to which payment well and truly to be made we bind ourselves and every of us, jointly and severally, and our heirs, executors, and administrators, and every of them, firmly by these presents. Sealed with our seals. Dated this day of , one thousand eight hundred and .

Whereas by Part III. of the Merchant Shipping Act, 1894, it is amongst other things enacted, that a person shall not, save as therein excepted, directly or indirectly act as a passage broker in respect of steerage passages from the British Islands to any port out of Europe, and not within the Mediterranean Sea, unless such person has entered, with two good and sufficient sureties, to be approved by the emigration officer nearest to his place of business, into a joint and several bond to the Crown, in the sum of one thousand pounds; and whereas the said *C. D.* and *E. F.* have been duly approved by the proper emigration officer as sureties for the said *A. B.*:

Now the condition of this obligation is such, that if the above bounden *A. B.*, and every agent whom he may employ in his business of a passage broker, shall well and truly observe and comply with all the requirements of the said Act, so far as the same relate to passage brokers, and further shall well and truly pay all fines and forfeitures, and also all sums of money, by way of subsistence money, or of return of passage money or compensation, to any steerage passenger, or on his account, together with all costs which the above bounden *A. B.*, or any of his agents as aforesaid, may at any time be adjudged to pay under or by virtue of the said Act, then and in such case this obligation to be void, otherwise to remain in full force.

Signed, sealed, and delivered by the above bounden *A. B.*, *C. D.*, and *E. F.*, in the presence of [*insert the names and addresses in full of the witnesses*].

N.B.—This bond is to be executed in duplicate, in the presence of and to be attested by an emigration officer or his assistant, or an officer of Customs, or a magistrate, or a notary public. One part is to be deposited with the Board of Trade, and the other part with the emigration officer at the port nearest to the place of business of the broker.

Each member of a firm or partnership who acts as a passage broker must give a separate bond with two sureties.

The bond is exempt from stamp duty, but must be renewed annually with the licence.

FORM V.

FORM OF PASSAGE BROKER'S LICENCE.

[S. 343.] *A. B.* [*the names and surnames in full, with the address and trade or occupation of the party applying for the licence, must be correctly inserted. If a member of a firm, the names and surnames of all the members must be given*], of in the having shown to the satisfaction of the council of [*or* me (*or* us), the undersigned], that he hath given bond to the Crown, as required by the Merchant Shipping Act, 1894, and also given fourteen days' previous notice to the Board of Trade of his intention to apply for a licence to carry on the business of a passage broker in respect of steerage passages from the British Islands to any port out of Europe, and not within the Mediterranean Sea, the said council [*or* I (*or* we), the undersigned], having had no sufficient cause shown and seeing no valid reason why the said *A. B.* should not receive such licence, do hereby license and authorise the said *A. B.* to carry on the business of a passage broker as aforesaid until the end of the present year, and thirty-one days afterwards, unless this licence shall be sooner determined by forfeiture for misconduct on the part of the said *A. B.* as provided in the Merchant Shipping Act, 1894. **Sched. XIV.**

Given under the common seal of the said council [*or* my hand and seal (*or* our respective hands and seals)] this day of , 18 , at .

(L.S.) (Signature authenticating seal.)

(*Or* Signature) (L.S.) Sheriff, *or* sheriff substitute, *or* justices of the peace, *as the case may be.*

NOTE.—Each member of a firm or partnership who acts as a passage broker must have a separate licence.

FORM VI. [S. 343.]

FORM OF NOTICE to be given to the Board of Trade by Licensing Authority granting a Licence.

Gentlemen,—

This is to give you notice, that the council of [*or* we (*or* I), the undersigned] did on the day of , 18 , license *A. B.*, of [*insert the names and surnames in full, with the address and occupation of the party*], to carry on the business of a passage broker under the provisions of the Merchant Shipping Act, 1894.

Signatures Clerk of the said council *or* sheriff *or* justices of the peace, *or as the case may be.*

Place .

Date .

To the Board of Trade, London.

FORM VII. [S. 343.]

FORM OF NOTICE to be given to the Board of Trade by an applicant for a Passage Broker's Licence.

Gentlemen,—

I, *A. B.* [*the names and surname in full, with the address and trade or occupation of the party applying for a licence, must be here correctly inserted*], of , in , do hereby give you notice that it is my intention to apply, after the expiration of fourteen clear days from the date of putting this notice into the post, to the council for the city, *or* borough, *or* district of , *or if in Scotland* to the sheriff *or* sheriff substitute of , *or if in Ireland,* to the justices assembled in petty sessions to be held [*the place or district in which the party giving the notice has his place of business, as the case may be*], for a licence to carry on the business of a passage broker under the Merchant Shipping Act, 1894.

Signature .

Date .

To the Board of Trade, London.

FORM X. [S. 343.]

FORM OF EMIGRANT RUNNER'S ANNUAL LICENCE.

A. B. [*the names and surname in full, with the address of the party applying for the licence, must be here correctly inserted*], of , in the , having made application in writing to the council of [*or* me, the sheriff, *or* us, the undersigned justices of the peace assembled in petty sessions, for the of] to grant to him a licence to enable him to be registered as an emigrant runner in and for [*district, town, or place in which the emigrant runner is to carry on his business*], and the said [*A. B.*] having also been recommended as a proper person to receive such licence by an emigration officer, *or* by the chief constable [*or other head officer*

Sched. XIV. *of police, as the case may be*] of [*the district, town, or place in which the said A. B. is to carry on his business*]: the said council [*or* I, the sheriff, *or* we, the under-mentioned justices], having no sufficient cause shown and seeing no valid reason why the said *A. B.* should not receive such licence, do hereby grant to him this licence for the purposes aforesaid, subject nevertheless to be revoked for misconduct on the part of the said *A. B.*, as provided in the Merchant Shipping Act, 1894.

(Signatures, and authenticating seal.)

TWENTY-SECOND SCHEDULE (*a*).

(*a*) This schedule of Acts repealed (itself repealed by the S. L. R. A., 1908) included two Acts germane to the provisions set out in the text, viz., the Passengers Act, 1855, and the Merchant Shipping (Fishing Boats) Act, 1883.

THE LANDS CLAUSES (TAXATION OF COSTS) ACT, 1895.

(58 & 59 VICT. c. 11) (*a*).

An Act to amend the Law relating to the Taxation of Costs under the Lands Clauses Acts. [14th May, 1895.]

Fees for taxing costs in compensation inquiries and arbitrations.

8 & 9 Vict. c. 18.

1.—(1) Where under the Lands Clauses Consolidation Act, 1845, or any Act incorporating the same, any question of disputed compensation is determined by the verdict of a jury, or by arbitration, the costs of and incidental to the inquiry or to the arbitration and award (as the case may be), shall, if either party so requires, be taxed and settled as between the parties by one of the masters of the Supreme Court (*b*), and such fees shall be taken in respect of the taxation as may be fixed in pursuance of the enactments relating to the fees to be taken in the offices of those masters; and all those enactments (including the enactments relating to the taking of fees by means of stamps) shall extend to the fees in respect of such taxation (*c*).

31 & 32 Vict. c. 119.

32 & 33 Vict. c. 18.

(2) *Section forty-five of the Regulation of Railways Act*, 1868 (*d*), *and section one of the Lands Clauses Consolidation Act*, 1869 (*e*), *are hereby repealed.*

(*a*) See the Lands Clauses Consolidation Act, 1845, *ante*, p. 2088, and the Acts and enactments referred to in note (*a*) on that page. Italicised words in s. 1 (2) are repealed by S. L. R. A., 1908.

(*b*) See 8 & 9 Vict. c. 18, s. 52, *ante*, p. 2104, which is thus extended to costs of arbitration. The decision of the master cannot be reviewed (*Sandback Charity Trustees* v. *North Staffordshire Rail. Co.* (1878), 3 Q. B. D. 1) (and see *In re Cannings, Ltd. and Middlesex C. C.*, [1907] 1 K. B. 51; 71 J. P. 46), nor can it be removed by *certiorari* (*R.* v. *Goff*, [1905] 2 I. R. 121). But when the successful party has to pay the arbitrators and umpire excessive fees in order to obtain delivery of the award, he may recover back from them by action such sum as the Court thinks improperly charged, and in such action the certificate of the Taxing Master under this section is *primâ facie* evidence of the unreasonableness of the fees (*Llandrindod Wells Water Co.* v. *Hawksley* (1903), 67 J. P. 439).

(*c*) See s. 213 of the Supreme Court of Judicature (Consolidation) Act, 1925, and Treasury Order, dated 4th July, 1884, made thereunder as to fees to be taken by stamps.

(*d*) This enactment related to the fees payable to the masters for determining questions of disputed compensation under the provisions of the Lands Clauses Consolidation Act, 1845, or of any Act incorporating, altering, or amending the same.

(*e*) This enactment corresponded to the first part of sub-s. (1) so far as it relates to the taxation of costs of arbitration.

Short title.

2. This Act may be cited as "The Lands Clauses (Taxation of Costs) Act, 1895."

THE PUBLIC WORKS LOANS ACT, 1896.

Section 2.

(59 & 60 VICT. c. 42) (*a*).

An Act to grant moneys for the purpose of certain Local Loans, and for other purposes relating to Local Loans. [14th August, 1896.]

*   *   *   *   *   *

Addition to purposes for which Public Works Loan Commissioners may lend. 38 & 39 Vict. c. 89.

2. There shall be added to the works for the purpose of which the Public Works Loan Commissioners may lend in Great Britain under the Public Works Loans Act, 1875, the following works, namely,—

Any work for which the council of a county, borough, district, or parish are authorised to borrow;

The construction or improvement of any canal;

Provided that where the repayment of a loan for the construction or improvement of a canal is collaterally secured to the satisfaction of the Public Works Loan Commissioners, the rate of interest on the loan may be three and a quarter per cent. per annum instead of the rate of four per cent. per annum authorised by the Public Works Loans Act, 1892.

55 & 56 Vict. c. 61, s. 2.

(*a*) This Act, so far as material, extends the Public Works Loans Act, 1875, and First Schedule, *ante*, pp. 2357, 2373.

*   *   *   *   *   *

6. This Act may be cited as "The Public Works Loans Act, 1896." Short title.

*   *   *   *   *   *

THE DISTRICT COUNCILS (WATER SUPPLY FACILITIES) ACT, 1897.

(60 & 61 VICT. c. 44) (*a*).

An Act for giving Facilities for a Pure Water Supply in Rural Districts. [6th August, 1897.]

Lands may be charged by owners for water supply. 27 & 28 Vict. c. 114.

1. Where any person who is a landowner within the meaning of the Improvement of Land Act, 1864 (*b*) (in this Act referred to as the principal Act), contributes any money towards the expenses incurred by a district council for the purpose of supplying water to any lands of such landowner, whether together with other lands or not, the amount so contributed may, with the sanction of the Board of Agriculture (*c*) given under this Act, be charged on the land of the landowner so supplied with water in the same manner (*d*), as nearly as may be, and with the like effect as in the case of a charge under the principal Act.

(*a*) As to this Act and its bearing on the law of public health, see s. 51 of the P. H. A., 1875, and notes thereon, *ante*, p. 126. See also the Limited Owners' Reservoirs and Water Supply Further Facilities Act, 1877, *ante*, p. 2393, and the Improvement of Land Act, 1899, s. 1 (3), as amended by 15 & 16 Geo. 5, c. 48.

(*b*) By s. 8 of that Act, "the word 'landowner' shall mean . . . as to lands in England, the person who shall be in the actual possession or receipt of the rents or profits of any land, whether of freehold, copyhold, customary, or other tenure, except where such person shall be a tenant for life or lives holding under a lease for life or lives not renewable, or shall be a tenant for years holding under a lease or an agreement for a lease for a term of years not renewable, whereof less than twenty-five years shall be unexpired at the time of making any application to the Minister of Agriculture and Fisheries, without regard to the real amount of the interest of any person so excepted; and in the case where the person in the actual possession or receipt of the rents or profits of any land shall fall within the above exceptions, then the person who for the time being shall be in the actual receipt of the rent payable by the person so excepted, unless he shall also fall within the above exceptions, shall, jointly with the person who shall be liable to the payment thereof, be deemed

Note to Section 1.

for the purposes of this Act to be the owner of such lands; . . . and as to lands in any part of the United Kingdom, the word 'landowner' shall include a corporation, and also such persons as are empowered by the 23rd section hereof." This reference seems to be an obvious mistake for the 24th section, whereby it is provided that all husbands, guardians committees, feoffees, trustees, executors, and administrators, shall respectively have the same rights and powers of making applications and signifying dissents and taking other proceedings under this Act as their respective wives, infants, lunatics and idiots, would have had if free from disability, or as such feoffees, trustees, executors or administrators respectively would have had if the estates or interests of which they shall be such feoffees or trustees, or which shall be vested in them as such executors or administrators, had been vested in them in their own right; but no guardian, committee, feoffee, trustee, executor or administrator, shall be in anywise compelled or obliged to signify a dissent from any application under this Act, or be in anywise responsible for the consequences of such application, or of any charge made in pursuance thereof.

(c) Now the Minister of Agriculture and Fisheries (9 & 10 Geo. 5, c. 91).

(d) But see s. 5, *infra*.

Charge to be in favour of district council.

2. Where the landowner and the district council agree that the contribution shall be payable by half-yearly instalments, the charge under this Act may be granted in favour of the district council, to secure the payment to them of such contribution (*a*), and the sums payable in respect of the charge shall be in addition to any sums which may be payable for the water supply by way of water rate or water rent.

(*a*) By s. 63 of the Improvement of Land Act, 1864, every rent-charge on land by virtue of this Act may be recovered by the person or company for the time being entitled to the same as to lands in England by the same means, and with the like powers and in like manner in all respects as a rent-charge in lieu of tithes would be recoverable if charged on the same land under the Tithe Act, 1836, and the several Acts passed for amending the same, and as if such rent-charge, by virtue of this Act, were a rent-charge in lieu of tithes made payable to such person or company under the said Acts respectively.

By s. 81 of the Tithe Act, 1836, a rent-charge in lieu of tithes is recoverable by distress and by s. 82, in default of distress by delivery of the land charged in satisfaction.

A charge in favour of the district council must be registered as a local land charge under s. 15 of the Land Charges Act, 1925, *ante*, p. 1519.

Time limit for charge.

3. A charge under this Act shall not be made for any term exceeding twenty-five years.

Sanctioning of charge by Board of Agriculture (*a*)

4. When the supply of water to the lands of the landowner will be beneficial to persons residing or engaged in labour on such lands, the Board (*a*) may, if they think fit, sanction the charge, although it may not be shown that the supply of water will effect a direct yearly increase in the value of the lands or be productive of a yearly revenue to the owner of the lands exceeding the yearly amount proposed to be charged thereon (*b*).

(*a*) See note (*c*) to s. 1, *supra*.

(*b*) *Cf.* the last clause of 40 & 41 Vict. c. 31, s. 5, *ante*, p. 2394. This section alters the application of 27 & 28 Vict. c. 114, s. 25, to the cases coming within its purview.

Power of Board of Agriculture (*a*) to execute charge.

5. Where the annual sum to be made payable under a charge proposed to be granted by virtue of this Act in respect of the supply of water to any house or houses does not exceed the amount payable at the date of the charge for such water supply by way of water rate or water rent, the Board of Agriculture (*a*) may execute the charge upon such information as they think fit to require, and in such case the requirements of the principal Act (*b*) with respect to matters and proceedings previous to the execution of a charge shall not apply.

(*a*) See note (*c*) to s. 1, *supra*.

(*b*) See 27 & 28 Vict. c. 114, ss. 11—24 inclusive, noting that ss. 17 and 18 have been repealed by the Settled Land Act, 1882, and s. 21 extended by the Improvement of Lands (Ecclesiastical Benefices) Act, 1884.

Extent of Act.

6. This Act shall not extend to Scotland or Ireland.

Short title.

7. This Act may be cited as "The District Councils (Water Supply Facilities) Act, 1897," and shall be read with the Improvement of Land Act, 1864.

THE PUBLIC WORKS LOANS ACT, 1897.

(60 & 61 VICT. c. 51) (*a*).

An Act to grant Moneys for the purpose of certain Local Loans, and to amend the Law respecting the Local Loans Fund and Loans made thereout, and for other purposes relating to Local Loans. [6th August, 1897.]

AMENDMENT OF ACTS.

Reduction of interest on future local loans on the security of local rates.

1. The rates of interest at which loans may be made out of the Local Loans Fund on the security of local rates may be fixed by the Treasury, from time to time, having regard to the duration of the loans, and shall be such rates not less than two and three quarters per cent. per annum as in the opinion of the Treasury are sufficient to enable such loans to be made without loss to the Local Loans Fund (*b*).

(*a*) See the Public Works Loans Act, 1875, *ante*, p. 2357.

(*b*) This provision supersedes the provisions of s. 243 of the P. H. A., 1875, repealed by s. 12 (4), and the Second Schedule of this Act. Reference must be made to two later enactments, viz., By s. 4 of the Public Works Loans Act, 1917, it is enacted as follows: "Notwithstanding anything in any other Act the provisions of s. 1 of the Public Works Loans Act, 1897 (which relates to the rates of interest on future local loans on the security of local rates) shall apply to a loan made out of the local loans fund otherwise than on the security of local rates as they apply to a loan made out of that fund on such security, and where under any special Act any loan made out of the said fund is repayable by means of an annuity or rent-charge payable for any period the amount of the periodical payment on account of the annuity or rent-charge, and the redemption value of the loan, shall in the case of a loan made after the commencement of this Act be calculated by reference to the rate of interest payable in respect of the loan as fixed by the Treasury under the said section as amended by this section."

And by s. 4 of the Public Works Loans Act, 1918, it is enacted as follows: "For the purpose of removing doubts it is hereby declared that the power of the Treasury under s. 1 of the Public Works Loans Act, 1897, as amended by s. 4 of the Public Works Loans Act, 1917, to fix rates of interest on loans made out of the local loans fund otherwise than on the security of local rates includes (subject always to the provisions of the said sections) a power to fix rates of interest differing from the rates fixed for loans made out of that fund on the security of local rates, and a power to fix different rates of interest in respect of different loans, and that in fixing the rate of interest the Treasury may take into account the nature and value of the security for the loan." See the latest scale prescribed by the Treasury (14th Oct., 1929) in App. I. at p. 3454, *post*.

* * * * * *

Abolition of maximum of loan. 42 & 43 Vict. c. 77.

3. (*a*) *The limit imposed by section three of the Public Works Loans Act,* 1879, *on the amount which can be advanced by the Public Works Loan Commissioners under any one Act in any one year to one borrower shall be repealed.*

(*a*) Sections 3, 12 (4), and Schedule II. are repealed by the S. L. R. A., 1908. They repealed two provisions germane to the matter in the text, viz., s. 3 of the Public Works Loans Act, 1879, and s. 243 of the P. H. A., 1875, from "at the rate of three and a half" down to "loss to the Exchequer."

* * * * * *

MISCELLANEOUS.

Definitions, repeal, construction, and short title.

12.—(1) The expression "local rate" means any rate levied or assessed, the proceeds of which are applicable to public local purposes, and which is levied on the basis of a valuation of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

(2) The expression "security of a local rate" includes a security guaranteed by any such local rate.

(3) This Act shall be deemed to be a special Act within the meaning of the Public Works Loans Act, 1875.

38 & 39 Vict. c. 89.

(4) [*Repeal of Acts in Second Schedule*] (*a*).

(5) This Act may be cited as "The Public Works Loans Act, 1897."

(*a*) See note (*a*) to s. 3, *ante*, p. 2567.

THE LIBRARIES OFFENCES ACT, 1898.

(61 & 62 VICT. c. 53) (*a*).

An Act to provide for the Punishment of Offences in Libraries.

[12th August, 1898.]

Short title.

1. This Act may be cited as "The Libraries Offences Act, 1898."

(*a*) See the Public Libraries Act, 1892, *ante*, p. 2542, and the amending Acts of 1893, 1901 and 1919, *post*, pp. 2552, 2616 and 2777. By s. 15 of the 1892 Act, *ante*, p. 2546, the general management, regulation, and control of libraries under that Act was vested in the library authority, but there was no power to enforce their regulations by any penalty except, perhaps, by expulsion or exclusion from the library. Actual breach of the peace in a library was, and still is, punishable in the ordinary way. A library is a public place within the meaning of s. 8 of the Licensing Act, 1902, for the purpose of s. 12 of the Licensing Act, 1872, as to drunk and disorderly persons. Profane swearing, whether in a library or not, would be punishable under the Profane Oaths Act, 1745. Obscene language might be punishable in some cases under byelaws (*Mantle* v. *Jordan*, [1897] 1 Q. B. 248; 61 J. P. 119; *Brabham* v. *Wookey* (1902), 18 T. L. R. 99; *Airton* v. *Scott* (1909), 100 L. T. 393; 73 J. P. 148). A library is probably not a "public place" or "place of public resort" within the meaning of the Vagrancy Act, 1824, s. 4 (as to indecent exhibitions), nor an "open and public place" within the Vagrant Act Amendment Act, 1873, s. 3 (as to gaming in a public place). See *Langrish* v. *Archer* (1883), 10 Q. B. D. 44; 47 J. P. 295. And, of course, apart from this Act, remaining in a library after closing hours was a mere trespass, unless some unlawful purpose, sufficient to bring the case within s. 4 of the Vagrancy Act, 1824, could be proved, as to which, see *Haynes* or *Hayes* v. *Stevenson* (1860), 25 J. P. 39; 3 L. T. 296.

Penalty for offences.

2. Any person who, in any library or reading-room to which this Act applies, to the annoyance or disturbance of any person using the same,—

(1) behaves in a disorderly manner;

(2) uses violent, abusive, or obscene language;

(3) bets or gambles;

(4) or who, after proper warning, persists in remaining therein beyond the hours fixed for the closing of such library or reading-room,

shall be liable on summary conviction to a penalty not exceeding forty shillings.

Application of Act.

56 & 57 Vict. c. 39.

59 & 60 Vict. c. 25.

3. This Act shall apply—

(a) to any library (*a*) under the Public Libraries Act, 1892; and

(b) to any library or reading-room maintained by a society registered under the Industrial and Provident Societies Act, 1893, or under the Friendly Societies Act, 1896, or by any registered trade union.

(*a*) The application of this Act is extended by the Public Libraries Act, 1901, s. 4, *post*, p. 2617, to any museum, art gallery, or school, provided under the Public Libraries Act, 1892, s. 11, *ante*, p. 2554.

Extent of Act.

4. This Act shall not apply to Scotland or Ireland.

THE ELECTRIC LIGHTING (CLAUSES) ACT, 1899.

(62 & 63 VICT. c. 19) (*a*).

An Act for incorporating in one Act certain provisions usually contained in Provisional Orders under the Acts relating to Electric Lighting.

[9th August, 1899.]

Provisions in Schedule to be incorporated in Electric Lighting Orders.

1. The provisions (*b*) contained in the Schedule to this Act shall be incorporated with and form part of every provisional order made by the [Minister of Transport] after the commencement of this Act under the Electric Lighting Acts, save so far as they are expressly varied or excepted by the order, and shall, subject to any such variations or exceptions, apply, so far as applicable, to the undertaking authorised by the order.

The said provisions shall also, with the necessary modifications, and in particular with the substitution of the words "special Act" for "special order," be incorporated with any special Act, save so far as they are expressly varied or excepted thereby.

The expression "Electric Lighting Acts" means in this Act the Electric Lighting Acts, 1882 and 1888, and, so far as respects Scotland, the Electric Lighting Acts, 1882 and 1888, and the Electric Lighting (Scotland) Act, 1890.

45 & 46 Vict. c. 56.
51 & 52 Vict. c. 12.
53 & 54 Vict. c. 13.

The expression "special Act" means in this Act any Act passed after the commencement of this Act authorising the supply of electricity for any public or private purposes within any area (*c*).

(*a*) See the Electric Lighting Acts, 1882 and 1888, *ante*, and the Electric Lighting Act, 1909, *post*. See also the Electricity Supply Acts, 1919, 1922, 1926 and 1928, *post*. The powers and duties of the Board of Trade under these Acts were transferred to the Minister of Transport by s. 39 of the Electricity Supply Act, 1919, and the Ministry of Transport (Electricity Supply) Order, 1920, as from 23rd January, 1920.

(*b*) See note to 45 & 46 Vict. c. 56, s. 6, *ante*, p. 2441.

(*c*) A local Act authorising the construction of a generating station was held by LORDS SUMNER and BLANESBURGH, LORD DUNEDIN dissenting, not to be a special Act within this definition (*Farnworth* v. *Manchester Corporation* (1929), 27 L. G. R. 709).

Short title, extent, and commencement.

2.—(1) This Act may be cited as "The Electric Lighting (Clauses) Act, 1899."

(2) Except so far as any of the provisions contained in the Schedule to this Act are incorporated with any provisional order made by the [Minister of Transport] under the Electric Lighting Acts extending to the county of London, or with any special Acts so extending, this Act shall not apply to the county of London.

(3) This Act shall come into operation on the first day of October, one thousand eight hundred and ninety-nine.

SCHEDULE (*a*).

Interpretation.

1. The provisions of this Schedule are to be read and construed subject in all respects to the provisions of the Electric Lighting Acts, and of any other Acts or parts of Acts incorporated therewith, and those Acts and parts of Acts are in this Schedule collectively referred to as "the principal Act"; and the several words, terms, and expressions to which by the principal Act meanings are assigned, shall have in this Schedule the same respective meanings, provided that in this Schedule—

The expression "the special order" means any provisional order made by the [Minister of Transport] under the principal Act with which the provisions of this Schedule are incorporated and includes those provisions as so incorporated:

The expression "energy" means electrical energy, and for the purposes of applying the provisions of the principal Act to the special order electrical energy shall be deemed to be an agency within the meaning of electricity as defined in the Electric Lighting Act, 1882 (*b*):

(*a*) As to the application of the Schedule to this Act to the Central Electricity Board, see the Regulations of 1927 in App. II., *post*, p. 3276.

(*b*) See 45 & 46 Vict. c. 56, s. 32, *ante*, p. 2453.

Schedule.

The expression "power" means electrical power or the rate per unit of time at which energy is supplied:

The expression "main" means any electric line which may be laid down by the undertakers in any street or public place, and through which energy may be supplied or intended to be supplied by the undertakers for the purposes of general supply:

The expression "service line" means any electric line through which energy may be supplied or intended to be supplied by the undertakers to a consumer either from any main or directly from the premises of the undertakers:

The expression "distributing main" means the portion of any main which is used for the purpose of giving origin to service lines for the purposes of general supply:

The expression "general supply" means the general supply of energy to ordinary consumers, and includes, unless otherwise specially agreed with the local authority, the general supply of energy to the public lamps, where the local authority are not themselves the undertakers, but shall not include the supply of energy to any one or more particular consumers under special agreement:

The expression "area of supply" means the area within which the undertakers are, for the time being, authorised to supply energy under the special order:

The expression "county council" means the county council of the county in which the area of supply is situated:

The expression "consumer" means any body or person supplied or entitled to be supplied with energy by the undertakers:

The expression "consumer's terminals" means the ends of the electric lines situate upon any consumer's premises and belonging to him, at which the supply of energy is delivered from the service lines:

41 & 42 Vict, c. 76.

The expression "telegraphic line," when used with respect to any telegraphic line of the Postmaster-General, has the same meaning as in the Telegraph Act, 1878 (*a*), and any such telegraphic line shall be deemed to be injuriously affected where telegraphic communication by means of that line is, whether through induction or otherwise, in any manner affected:

The expression "railway" includes any tramroad, that is to say, any tramway other than a tramway as hereinafter defined:

The expression "tramway" means any tramway laid along any street:

The expression "daily penalty" means a penalty for each day on which any offence is continued after conviction therefor (*b*):

The expression "Board of Trade regulations" means any regulations or conditions affecting the undertaking made by the [Minister of Transport] under the principal Act or the special order, for securing the safety of the public or for insuring a proper and sufficient supply of energy:

The expression "deposited map" means the map of the area of supply deposited at the [Ministry of Transport] by the undertakers together with the special order, and signed by an assistant secretary to the [Ministry of Transport]:

The expression "plan" means a plan drawn to a horizontal scale of at least one inch to eighty-eight feet, and where possible a section drawn to the same horizontal scale as the plan and to a vertical scale of at least one inch to eleven feet, or to such other scale as the [Ministry of Transport] may approve of for both plan and section, together with such detail plan and sections as may be necessary.

PROVISIONS AS TO UNDERTAKERS.

Description of undertakers.

2.—(1) The undertakers shall be the authority, company, or other person named for that purpose in the special order.

(2) If, in a case where the undertakers are not the local authority, the under-

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(*a*) By s. 2 of the Telegraph Act, 1878, the expression "telegraphic line" means telegraphs, posts, and any work within the meaning of the Telegraph Act, 1863, and also any cables, apparatus, pneumatic or other tube, pipe, or thing whatsoever used for the purpose of transmitting telegraphic messages or maintaining telegraphic communication, and includes any portion of a telegraphic line as defined by this Act. By s. 3 of the Telegraph Act, 1863, the term "work" includes telegraphs and posts.

(*b*) See *Chepstow Electric Light and Power Co.* v. *Chepstow Gas, etc., Co.*, [1905] 1 K. B. 198; 69 J. P. 79.

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taking or any part thereof is at any time purchased by the local authority in accordance with the special order or the principal Act the local authority shall from the date on which the purchase takes effect be the undertakers in relation to the undertaking or part thereof for the purposes of the special order in lieu of the persons mentioned therein as undertakers.

Undertakers not to purchase other undertakings.

3.—(1) The undertakers shall not purchase or acquire the undertaking of or associate (*a*) themselves with any company or person supplying energy under any licence, provisional order, or special Act, unless the undertakers are authorised by Parliament to do so (*b*).

(2) If in contravention of this section the undertakers purchase or acquire any such undertaking, or associate (*a*) themselves with any such other company or person, the [Ministry of Transport] may, if they think fit, revoke the special order upon such terms as they think just.

AREA OF SUPPLY.

Area of supply and prohibition of supply beyond area.

4.—(1) The area of supply shall be the area named for that purpose in the special order.

(2) The undertakers shall not at any time after the commencement of the special order supply energy or (except for the purposes of that order) erect or lay down any electric lines or works beyond the area of supply otherwise than under the authority of Parliament, or under a licence granted by the [Ministry of Transport] under the principal Act (*c*).

(3) If the undertakers supply energy or erect or lay down electric lines or works in contravention of this section, the [Ministry of Transport] may, if they think fit, revoke the special order on such terms as they think just (*d*).

SECURITY AND ACCOUNTS (*e*).

* * * * * *

APPLICATION OF MONEY AND PURCHASE OF LAND, ETC., BY LOCAL AUTHORITY.

Application of money received by local authority as undertakers.

7. Where a local authority are the undertakers the following provisions shall have effect :—

(1) All moneys received by the undertakers in respect of the undertaking except (a) borrowed money, (b) money arising from the disposal of land acquired for the purposes of the special order, and (c) other capital money received by them in respect of the undertaking, shall be applied by them as follows :—

(*a*) This prohibition against "association" does not prohibit undertakers from taking a supply of electricity in bulk from any company or persons authorised to give such a supply: see Electric Lighting Act, 1909, s. 20, *post*, p. 2701. But see now the provisions of the Electricity Supply Acts, 1919, 1922, 1926 and 1928, *post*, as to the creation of electricity districts and the constitution of joint electricity authorities and particularly s. 19 of the 1919 Act which enables undertakers to enter into agreements for mutual assistance pending the formation of joint electricity districts.

(*b*) See the Electric Lighting Act, 1888, s. 2, *ante*, p. 2495 and notes thereto.

(*c*) The prohibition does not operate merely in connection with and relation to the particular area in question, but is of universal application, so that the undertakers may be restrained by injunction from carrying on business and supplying energy in any other place whatsoever, however far removed from the area of supply, and although such business is carried on and supply furnished quite independently of any of the special statutory powers of the undertakers (*Att.-Gen.* v. *Metropolitan Electric Supply Co.*, [1905] 1 Ch. 757 ; 69 J. P. 169).

Of late years it has become a common practice to include in special Acts of local authorities a section authorising them to supply electricity in bulk to adjoining districts. As to connecting two areas of supply under the London Electric Supply Act, 1908, see *Battersea Borough Council* v. *County of London Electric Supply Co., Ltd.*, [1913] 2 Ch. 248 ; 77 J. P. 297, 325.

(*d*) Energy is supplied at the point where it is consumed. See *Gaslight and Coke Co.* v. *South Metropolitan Gas Co.*, *ante*, p. 383. And see note (*b*), *ante*, p. 2165.

(*e*) Clauses 5 and 6 relating to security for execution of works and to audit are expressly inapplicable where the undertakers are a local authority, because the Electric Lighting Act, 1882, s. 8, and the schedule to that Act, *ante*, pp. 2443, 2456, makes special provision for the like purposes.

(a) In payment of the working and establishment expenses and cost of maintenance of the undertaking, including all costs, expenses, penalties, and damages incurred or payable by the undertakers consequent upon any proceedings by or against the undertakers, their officers or servants, in relation to the undertaking;

(b) In payment of the interest or dividend on any mortgages, stock, or other securities granted and issued by the undertakers in respect of money borrowed for electricity purposes;

(c) In providing any instalments or sinking fund (*a*) required to be provided in respect of moneys borrowed for electricity purposes;

(d) In payment of all other their expenses of executing the special order not being expenses properly chargeable to capital (*b*);

(e) In providing a reserve fund, if they think fit, by setting aside such money as they think reasonable, and investing the money and the resulting income thereof in Government securities, or in any other securities in which trustees are by law for the time being authorised to invest other than stock or securities of the undertakers, and accumulating it at compound interest until the fund so formed amounts to one-tenth of the aggregate capital expenditure on the undertaking.

The reserve fund shall be applicable to answer any deficiency at any time happening in the income of the undertakers from the undertaking, or to meet any extraordinary claim or demand at any time arising against the undertakers in respect of the undertaking, and so that if that fund is at any time reduced it may thereafter be again restored to the prescribed limit, and so on as often as the reduction happens.

[The undertakers shall apply the net surplus remaining in any year and the annual proceeds of the reserve fund when amounting to the prescribed limit—

(a) in reduction of the charges for the supply of energy; or

(b) in reduction of the capital moneys borrowed for electricity purposes; or

(c) with the consent of the Electricity Commissioners in payment of expenses chargeable to capital; or

(d) in aid of the local rate:

Provided that—

(i) The amount which may be applied in aid of the local rate in any year shall not exceed one and a half per cent. of the outstanding debt of the undertaking; and

(ii) After the thirty-first day of March nineteen hundred and thirty, no sum shall be paid in aid of the local rate unless the reserve fund amounts to more than one-twentieth of the aggregate capital expenditure on the undertaking (*c*)].

(*a*) Payments into the sinking fund may be suspended under s. 2 of Electricity Supply Act, 1922, whilst the expenditure of the capital monies remains unremunerative (see the section set out at p. 2836, *post*).

(*b*) The cost of providing a new generating engine at a cost of £20,000 is an expense properly chargeable to capital and is not authorised by this provision (*A.-G.* v. *Ealing Corporation*, [1924] 2 Ch. 545; 88 J. P. 153), see now the provision in (d) of the substituted words and note (*c*), *infra*.

(*c*) The words in brackets were substituted for the words:—

> "The undertakers shall carry the net surplus remaining in any year and the annual proceeds of the reserve fund when amounting to the prescribed limit, to the credit of the local rate as defined by the principal Act or at their option shall apply that surplus, or any part thereof, to the improvement of the district for which they are the local authority, or in reduction of the capital moneys borrowed for electricity purposes.
>
> "Provided always that if the surplus in any year exceed five pounds per centum per annum upon the aggregate capital expenditure on the undertaking, the undertakers shall make such a rateable reduction in the charge for the supply of energy as in their judgment will reduce the surplus to that maximum rate of profit."

by s. 43 and Sched. V., Electricity (Supply) Act, 1926, *post*, p. 2934. The amended provisions will apply whether incorporated before or after the passing of the 1926 Act and are also to be substituted for provisions similar to those repealed in any special Act or Order passed or confirmed before the passing of the 1926 Act.

The new provisions enable a local authority undertaker to apply the surplus for the

Schedule.

Any deficiency of income in any year when not answered out of the reserve fund shall be charged upon and payable out of the local rate.

(2) All moneys arising from the disposal of lands acquired by the undertakers for the purposes of the special order, and all other capital moneys received by them, in respect of the undertaking, shall be applied by them as follows:—

(a) In the reduction of the capital moneys borrowed by them for electricity purposes;

(b) In the reduction of the capital moneys borrowed by them for other than electricity purposes.

Purchase and use of lands by local authority.

8. Where a local authority are the undertakers the following provisions shall have effect:—

(1) Subject to the provisions of the special order and the principal Act the undertakers may acquire by purchase or on lease and use any lands for the purposes of the special order (*a*), and may also for those purposes use any other lands for the time being vested in or leased by them, but subject as to the last-mentioned lands to the approval of the [Minister of Health], and may dispose of any lands acquired by them under the provisions of this section which may not for the being be required for the purposes of the special order: Provided that the amount of land so used by them shall not at any one time exceed in the whole five acres except with the consent of the [Minister of Transport].

(2) The undertakers shall not purchase or acquire for the purposes of the special order ten or more houses which on the fifteenth day of December last before the commencement of the special order, or in the case of the transfer of an undertaking to a local authority before the date of the transfer, were occupied either wholly or partially by persons belonging to the labouring class as tenants or lodgers, or except with the consent of the [Minister of Health], ten or more houses which were not so occupied on the said fifteenth day of December but have been or shall be subsequently so occupied.

(3) For the purposes of this section the expression "labouring class" means mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages, but working at some trade or handicraft without employing others except members of their own family, and persons other than domestic servants whose income does not exceed an average of thirty shillings a week, and the families of any of those persons who may be residing with them (*b*).

Incorporation of 38 & 39 Vict. c. 55, s. 265.

9. Where a local authority are the undertakers section two hundred and sixty-five of the Public Health Act, 1875 (*c*), shall be incorporated with the special order, and in the construction of that section "this Act" shall not mean the Public Health

benefit of consumers under (a) or to meet with the consent of the Electricity Commissioners expenses properly chargeable to capital (see *A.-G.* v. *Ealing Corporation, supra*) under (c), and limits the amount which can be applied in aid of the local rate. After March 31st, 1930, no surplus may be applied in aid of the local rate until the reserve fund amounts to more than one-twentieth of the aggregate capital expenditure on the undertaking. Both before and after that date the amount of surplus which may be applied in aid of the local rate must not exceed 1½ per cent. of the outstanding debt of the undertaking.

(*a*) It is *ultra vires* for the local authority having acquired land for these purposes to use them for any other though within their statutory powers under other Acts, as, for instance, to use lands acquired for the purposes of the special order as a site for a refuse destructor although connected in such a way with the generating station that the refuse could be used as fuel for the purpose of generating electrical energy (*Att.-Gen.* v. *Pontypridd U. D. C.*, [1906] 2 Ch. 257; 70 J. P. 394). And see *Att.-Gen.* v. *Bradford Corporation* (1911), 75 J. P. 553; 55 Sol. J. 715.

As to the power to acquire land compulsorily, see the Act of 1909, s. 1, *post*. And as to the use of the land, see s. 2 of the same Act as amended by s. 15 (3) of the Electricity (Supply) Act, 1919, 9 & 10 Geo. 5, c. 100, s. 15 (3), *post*.

(*b*) As to the general restriction on the purchase under statutory powers of houses occupied by the working classes, see s. 98 and Sched. V., Housing Act, 1925, *ante*, p. 1461.

(*c*) *Ante*, p. 583. See also the Public Authorities Protection Act, 1893, *ante*, p. 939. As regards the county of London, the corresponding section is s. 124 of the P. H. (London) A., 1891.

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Act, 1875, but shall mean the principal Act and the special order, and the "local authority" shall mean the local authority as such undertakers.

NATURE AND MODE OF SUPPLY.

Systems and mode of supply.

10. Subject to the provisions of the special order and the principal Act, the undertakers may supply energy within the area of supply for all public and private purposes as defined by the said Act, provided as follows:—

(a) The energy shall be supplied only by means of some system approved in writing by the [Minister of Transport (*a*)], and subject to the [Ministry Transport] regulations; and

(b) The undertakers shall not, without the express consent (*a*) of the [Ministry of Transport], and, where the local authority are not themselves the undertakers of the local authority also (*b*), place any electric line above ground except within premises in the sole occupation or control of the undertakers, and except so much of any service line as is necessarily so placed for the purpose of supply; and

(c) The undertakers shall not permit any part of any circuit to be connected with earth except so far as may be necessary for carrying out the provisions of the [Ministry of Transport] regulations, unless the connection is for the time being approved by the [Minister of Transport], with the concurrence of the Postmaster-General, and is made in accordance with the conditions, if any, of that approval.

WORKS.

Additional provisions as to works.

11. The provisions of the special order as to works shall be in addition but subject to those of the principal Act, and in particular those of the Gasworks Clauses Act, 1847, with respect to breaking up streets, incorporated in the principal Act and set out in the Appendix to this Schedule (*c*).

Powers for execution of works.

12.—(1) Subject to the provisions of the principal Act and the special order, the undertakers may exercise all or any of the powers conferred on them by that Act and order, and may break up such streets not repairable by the local authority and such railways and tramways (if any) as they are specially authorised to break up by the special order, so far as those streets, railways, and tramways may for the time being be included in the area of supply, and be, or be upon, land dedicated to public use: Provided, however, as respects any such railway, that the powers hereby granted shall extend only to such parts thereof as pass across or along any highway on the level.

(2) Nothing in the special order shall authorise or empower the undertakers to break up or interfere with any street or part of a street not repairable by the local authority or any railway or tramway, except such streets, railways or tramways (if any), or such parts thereof, as they are specially authorised to break up by the special order, without the consent of the authority, company, or person, by whom

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(*a*) In determining whether or not to give consent or approval under this section, the Minister must have regard to the provisions of the Electricity (Supply) Act, 1926.

(*b*) See the Electric Lighting Act, 1882, s. 14, *ante*, p. 2447. A derrick used in putting up a house in one of the streets of Montreal was brought into contact with the overhead wires of the respondent company, with the result that a current of electricity was diverted to the street and killed the appellant's husband. *Held*, that the respondents being authorised by the Quebec Act (1901), s. 10, in the alternative to place their wires either overhead or underground were not guilty of negligence in adopting one alternative rather than the other, or in neglecting to insulate or guard the wires in the absence of evidence that such precaution would have been effectual to avert the accident (*Dumphy* v. *Montreal Light, Heat, and Power Co.*, [1907] A. C. 454). The consent of the local authority is now dispensed with by s. 21 of the Electricity Supply Act, 1919.

(*c*) See 45 & 46 Vict. c. 56, s. 12, *ante*, p. 2446; 10 & 11 Vict. c. 15, ss. 6—12, 18—20, *ante*, pp. 2167—2171; 34 & 35 Vict. c. 41, ss. 38—42, 45, and 46, *ante*, pp. 2324, 2325. To save space these enactments, having been already fully set out once in this Work, are not repeated here.

By agreement the telegraphs of the Postmaster-General or his licensee may be placed in the trenches, tubes, pipes, or apparatus of an electric company or "person." (See s. 6 of the Telegraph Act, 1892.) In that section the word "person" includes any body of persons corporate or unincorporate (Interpretation Act, 1889, s. 19).

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that street, railway, or tramway is repairable, or of the [Ministry of Transport] under section thirteen of the Electric Lighting Act, 1882 (*a*), and where the [Ministry of Transport] give that consent, the provisions of the special order shall apply to the street, railway, or tramway to which the consent relates as if the undertakers had been specially authorised to break it up by that order (*b*).

Street boxes.

13.—(1) Subject to the provisions of the principal Act, and the special order and the [Ministry of Transport] regulations, the undertakers may construct in any street such boxes (*c*) as may be necessary for purposes in connection with the supply of energy, including apparatus for the proper ventilation of the boxes: Provided that, where the local authority are not themselves the undertakers, no such box or apparatus shall be placed above ground, except with the consent of the authority, body, or person, by whom the street is repairable.

(2) Every such box shall be for the exclusive use of the undertakers and under their sole control, except so far as the [Minister of Transport] otherwise order, and shall be used by the undertakers only for the purpose of leading off service lines and other distributing conductors, or for examining, testing, regulating, measuring, directing, or controlling, the supply of energy, or for examining or testing the condition of the mains or other portions of the works, or for other like purposes connected with the undertaking, and the undertakers may place therein meters, switches, and any other suitable and proper apparatus, for any of the above purposes.

(3) Every such box, including the upper surface or covering thereof, shall be constructed of such materials, and shall be constructed and maintained by the undertakers in such manner, as not to be a source of danger, whether by reason of inequality of surface or otherwise.

(4) Where the local authority are not themselves the undertakers, they may, with the approval of the [Minister of Transport], prescribe the hours during which the

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(*a*) *Ante*, p. 2446. And see as to the Minister of Transport, clause 21 (3), *post*.

(*b*) A company to which the London Electric Supply Act, 1908, applied, had one area of supply north of and one south of the Thames, and wished to connect them by mains running through streets outside either area, which included a bridge belonging to the corporation as trustees of the Bridge House estates, and repairable by them as trustees and not by any local authority. It was held that s. 4 (3) (B) of the Act of 1908 gave power to the company to break up the intervening streets and bridge for the purpose of laying therein the connecting mains, subject to the consent either of the corporation or of the Board of Trade under s. 13 of the Electric Lighting Act, 1882, and this sub-section (*London Corporation* v. *County of London Electric Supply Co.*, [1910] 2 Ch. 208; 74 J. P. 268).

Under ss. 6 and 7 of the Gasworks Clauses Act, 1847, as adapted to electric light undertakings by the Electric Lighting Act, 1882, the undertakers are empowered to break up streets subject to certain restrictions. By s. 13 of the Act of 1882 (which is substantially repeated in this sub-section) nothing in that Act or in any Act incorporated therewith shall authorise the undertakers to break up any street which is not repairable by the local authority without the consent of the person by whom such street is repairable or the written consent of the Board of Trade. It was held by the Court of Appeal (KENNEDY, L.J., *dissentiente*) that where there was no person by whom the street was repairable, the section operated as an absolute prohibition against the breaking up of the street by the undertakers, and that therefore where a strip of land adjoining a street repairable by the local authority had been dedicated to the public by the owner and had become part of the street but was not repairable either by the local authority or anyone else, the local authority as undertakers had no power to break up that portion of the street (*Andrews* v. *Abertillery U. D. C.*, [1911] 2 Ch. 398; 75 J. P. 449).

(*c*) Such boxes are "buildings, structures, or works" within s. 145 of the London Building Act, 1894, and notice under that section must be served on the district surveyor before they are commenced (*Whitechapel Board of Works* v. *Crow* (1901), 65 J. P. 549; 84 L. T. 595). The circumstance that the undertakers are required by their Provisional Order to give notice of the construction of such boxes to the local authority and to the Postmaster-General, and to construct boxes in accordance with plans approved by those authorities, does not relieve the undertakers from the obligation of giving notice to the district surveyor under s. 145 of the Act of 1894 (*Charing Cross and Strand Electric Supply Corporation* v. *Woodthorpe* (1903), 67 J. P. 286; 88 L. T. 772). These cases were followed again in *County of London Electric Supply Co., Ltd.* v. *Perkins* (1908), 72 J. P. 133; 6 L. G. R. 344. As to the liability of undertakers for damage caused by explosions of gas in such chambers, see cases in note (*b*) at p. 2599, *post*.

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undertakers are to have access to the boxes, and if the undertakers during any hours not so prescribed remove or displace or keep removed or displaced the upper surface or covering of any box without the consent of the local authority, they shall be liable for each offence to a penalty not exceeding five pounds, and to a daily penalty not exceeding five pounds: Provided that the undertakers shall not be subject to any such penalties as aforesaid if the court are of opinion that the case was one of emergency, and that the undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

Notice of works, with plan, to be served on Postmaster-General and local authority.

14 (*a*).—(1) Where the exercise of any of the powers of the undertakers in relation to the execution of any works (including the construction of boxes) will involve the placing of any works in, under, along or across any street or public bridge, the following provisions shall have effect:—

(a) One month [or in the case of service lines, seven days (*b*)] before commencing the execution of the works (not being repairs, renewals, or amendments of existing works of which the character and position are not altered), the undertakers shall serve a notice upon the Postmaster-General and the local authority describing the proposed works, together with a plan (*c*) of the works showing the mode and position in which the works are intended to be executed, and the manner in which it is intended that the street or bridge, or any sewer, drain, or tunnel, therein or thereunder, is to be interfered with, and shall, upon being required to do so by the Postmaster-General or the local authority, give him or them any such further information in relation thereto as he or they desire.

No part of the month of August shall be included in calculating the above-mentioned period of one month.

(b) The Postmaster-General or the local authority may, in his or their discretion, approve any such works or plan, subject to such amendments or conditions as may seem fit, or may disapprove them, and may give notice of that approval or disapproval to the undertakers.

(c) Where the Postmaster-General or the local authority approve any such works or plan, subject to any amendments or conditions with which the undertakers are dissatisfied, or disapprove any such works or plan, the undertakers may appeal to the [Minister of Transport], and the [Minister of Transport] may inquire into the matter, and allow or disallow the appeal, and may approve any such works or plan, subject to such amendments or conditions as seem fit, or may disapprove them.

(d) If the Postmaster-General or the local authority fail to give any such notice of approval or disapproval to the undertakers within one month after the service of the notice upon them, he or they shall be deemed to have approved the works and plan.

(e) Notwithstanding anything in the special order or the principal Act, the undertakers shall not be entitled to execute any such works as above specified, except so far as they may be of a description and in accordance with a plan which has been approved, or is to be deemed to have been approved, by the Postmaster-General and the local authority, or by the [Minister of Transport], as above mentioned; but where any such works, description, and plan are so approved, or to be deemed to be approved, the undertakers may cause those works to be executed in accordance with the description and plan, subject in all respects to the provisions of the special order and the principal Act.

(f) If the undertakers make default in complying with any of the requirements or restrictions of this section, they shall (in addition to any other compensation which they may be liable to make under the provisions of the special

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(*a*) See further as to the protection and rights of the Postmaster-General, the Electricity (Supply) Act, 1919, 9 & 10 Geo. 5, c. 100, s. 22, *post.*

(*b*) The words in brackets were added by s. 43 and Sched. V., Electricity (Supply) Act, 1926, and will apply not only where the provision in the text has been or is incorporated in any Act or Order but will be added to any corresponding provision in any special Act or Order. "Service lines" are defined in Clause 1, *ante*, p. 2570.

(*c*) See definition, clause 1, *ante*, p. 2570. See also *Edgware Highway Board* v. *Colne Valley Water Co.*, and *East Molesey L. B.* v. *Lambeth Waterworks Co.*, *ante*, p. 2186.

order or the principal Act) make full compensation to the Postmaster-General and the local authority for any loss or damage which he or they may incur by reason thereof, and in addition thereto, they shall be liable for each default to a penalty not exceeding ten pounds, and to a daily penalty not exceeding five pounds: Provided that the undertakers shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency, and that the undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

(2) In the application of this section to a street or public bridge (not within a county borough) which is repairable by the county council, a reference to the county council shall be substituted for a reference to the local authority.

(3) In the application of this section within any area where the undertakers are the local authority, the reference to the local authority and to sewers, drains, or tunnels in or under streets or bridges shall not apply, except so far as a reference to the county council is substituted for a reference to the local authority.

(4) Nothing in this section shall exempt the undertakers from any penalty or obligation to which they may be liable under the special order or otherwise by law in the event of any telegraphic line of the Postmaster-General being at any time injuriously affected by the undertakers' works or their supply of energy.

As to streets not repairable by local authority, railways, tramways, and canals (*a*).

15 (*a*). Where the exercise of the powers of the undertakers in relation to the execution of any works will involve the placing of any works in, under, along, or across any street or part of a street not repairable by the local authority, including, where the area of supply is not wholly in a county borough, the county council, or over or under any railway, tramway or canal, the following provisions shall have effect (*b*) unless otherwise agreed between the parties interested:—

(a) One month before commencing the execution of the works (not being repairs, renewals, or amendments of existing works of which the character and position are not altered) the undertakers shall, in addition to any othe notices which they may be required to give under the special order, or the principal Act, serve a notice upon the body or person liable to repair the street or part of a street, or the body or person for the time being entitled to work the railway or tramway, or the owners of the canal (as the case may be), in this section referred to as the "owners," describing the proposed works, together with a plan of the works showing the mode and position in which the works are intended to be executed and placed, and shall, upon being required to do so by any such owners, give them any such further information in relation thereto as they desire.

(b) Every such notice shall contain a reference to this section, and direct the attention of the owners to whom it is given to the provisions thereof.

(c) Within three weeks after the service of any such notice and plan upon any owners, those owners may, if they think fit, serve a requisition upon the undertakers requiring that any question in relation to the works, or to compensation in respect thereof, and any other question arising upon the notice or plan, shall be settled by arbitration: and thereupon that question, unless settled by agreement, shall be determined by arbitration accordingly.

(d) In settling any question under this section an arbitrator shall have regard to any duties or obligations which the owners may be under in respect of the street, railway, tramway, or canal, and may, if he thinks fit, require the undertakers to execute any temporary or other works so as to avoid any interference with any traffic so far as may be possible.

(e) Where no such requisition as in this section mentioned is served upon the undertakers, or where after any such requisition has been served upon them

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(*a*) See further as to the application of this and clauses 16, 19, 20 and 77, *post*, in relation to the power of placing a line across or along any railway, canal, inland navigation, dock or harbour, the Electricity (Supply) Act, 1919, 9 & 10 Geo. 5, c. 100, s. 22, *post*, and as to a saving for mains, etc., laid in bridges which are to be reconstructed or altered under the Bridges Act, 1929, see s. 5, *ibid.*, *ante*, p. 2062.

(*b*) See also Rules iv. and v. of the Electricity Commissioners Rules, in App. II., *post*, p. 3253.

any question required to be settled by arbitration has been so settled, the undertakers may, upon paying or securing any compensation which they may be required to pay or secure, cause to be executed the works specified in such notice and plan as aforesaid, and may repair, renew, and amend them (provided that their character and position are not altered), but subject in all respects to the provisions of the special order and the principal Act, and only in accordance with the notice and plan so served by them as aforesaid, or such modifications thereof respectively as may have been determined by arbitration as hereinbefore mentioned, or as may be agreed upon between the parties.

(f) All works to be executed by the undertakers under this section shall be carried out to the reasonable satisfaction of the owners, and those owners shall have the right to be present during the execution of the works.

(g) Where the repair, renewal, or amendment of any existing works, of which the character or position is not altered, will involve any interference with any railway or with any tramway over or under which those works have been placed, the undertakers shall, unless it is otherwise agreed between the parties, or in cases of emergency, give to the owners not less than twenty-four hours' notice before commencing to effect the repair, renewal, or amendment, and the owners shall be entitled by their officer to superintend the works, and the undertakers shall conform to such reasonable requirements as may be made by the owners or that officer. The notice shall be in addition to any other notices which the undertakers may be required to give under the special order or the principal Act.

(h) If the undertakers make default in complying with any of the requirements or restrictions of this section they shall (in addition to any other compensation which they may be liable to make under the provisions of the special order or the principal Act) make full compensation to the owners affected thereby for any loss or damage which they may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds: Provided that the undertakers shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency, and that the undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

Street authority, etc., may give notice of desire to break up streets, etc., on behalf of undertakers (*a*).

16. Any body or person for the time being liable to repair any street or part of a street, or entitled to work any railway or tramway which the undertakers are empowered to break up for the purposes of the special order, may, if they think fit, serve a notice upon the undertakers stating that they desire to exercise or discharge all or any part of any of the powers or duties of the undertakers as therein specified in relation to the breaking up, filling in, reinstating, or making good any streets, bridges, sewers, drains, tunnels, or other works vested in or under the control or management of that body or person, and may amend or revoke any such notice by another notice similarly served.

Where any such body or person (in this section referred to as the "givers of the notice") have given notice that they desire to exercise or discharge any such specified powers and duties of the undertakers, then so long as that notice remains in force the following provisions shall have effect, unless it is otherwise agreed between the parties interested:—

(a) The undertakers shall not be entitled to proceed themselves to exercise or discharge any such specified powers or duties as aforesaid, except where they have required the givers of the notice to exercise or discharge those powers or duties, and the givers of the notice have refused or neglected to comply with that requisition, as hereinafter provided, or in cases of emergency.

(b) In addition to any other notices which they are required to give under the provisions of the special order or the principal Act, the undertakers shall, not more than four days and not less than two days before the exercise or discharge of any such powers or duties so specified as aforesaid is required to be commenced, serve a requisition upon the givers of the notice stating

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(*a*) See the note (*a*), *ante*, p. 2577.

the time when that exercise or discharge is required to be commenced, and the manner in which any such powers or duties are required to be exercised or discharged.

(c) Upon receipt of any such requisition as last aforesaid, the givers of the notice may proceed to exercise or discharge any such powers or duties as required by the undertakers, subject to the like restrictions and conditions, so far as they are applicable, as the undertakers would themselves be subject to in that exercise or discharge.

(d) If the givers of the notice decline or, for twenty-four hours after the time when any such exercise or discharge of any powers or duties is by any requisition required to be commenced, neglect to comply with the requisition, the undertakers may themselves proceed to exercise or discharge the powers or duties therein specified in like manner as they might have done if such notice as aforesaid had not been given to them by the givers of the notice.

(e) In any case of emergency the undertakers may themselves proceed at once to exercise or discharge so much of any such specified powers or duties as aforesaid as may be necessary for the actual remedying of any defect from which the emergency arises without serving any requisition on the givers of the notice: but in that case the undertakers shall, within twelve hours after they begin to exercise or discharge such powers or duties as aforesaid, give information thereof in writing to the givers of the notice.

(f) If the undertakers exercise or discharge any such specified powers or duties as aforesaid otherwise than in accordance with the provisions of this section, they shall be liable for each offence to a penalty not exceeding ten pounds, and to a daily penalty not exceeding five pounds: Provided that the undertakers shall not be subject to any such penalties as aforesaid if the court are of opinion that the case was one of emergency, and that the undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

(g) All expenses properly incurred by the givers of the notice in complying with any requisition of the undertakers under this section shall be repaid to them by the undertakers, and may be recovered summarily.

(h) The givers of the notice may, if they think fit, require the undertakers where the local authority are not themselves the undertakers, to give them such security for the repayment to them of any expenses incurred or to be incurred by them under this section as may be determined in manner provided by this Schedule. If the undertakers fail to give any such security within seven days after being required to do so, or in case of difference after the difference has been determined by a court of summary jurisdiction, they shall not be entitled to serve any further requisition upon the givers of the notice requiring them to exercise or discharge any powers or duties under this section until the security has been duly given.

Provided that nothing in this section shall in any way affect the rights of the undertakers to exercise or discharge any powers or duties conferred or imposed upon them by special order or the principal Act in relation to the execution of any works beyond the actual breaking up, filling in, reinstating or making good any such street or part of a street, or any such bridges, sewers, drains, tunnels, or other works, or railway or tramway as in this section mentioned.

As to alteration of pipes, wires, etc., under streets.

17. The undertakers may alter the position (*a*) of any pipes (except, in a case where the local authority are not themselves the undertakers, any pipe forming part of any sewer of the local authority), or any wires being under any street or place authorised to be broken up by them, which may interfere with the exercise of their powers under the principal Act or the special order; and any body or person may in like manner alter the position of any electric lines or works of the undertakers, being under any such street or place as aforesaid, which may interfere with the lawful exercise of any powers vested in that body or person in relation to that street or place (*b*), subject to the following provisions, unless it is otherwise agreed between the parties interested:

(*a*) See the Electric Lighting Act, 1882, s. 15, and notes thereto, *ante*, p. 2447.

(*b*) See s. 149 of the P. H. A., 1875, *ante*, p. 289, and *Southwark and Vauxhall Water Co.* v. *Wandsworth District Board of Works*, *ante*, p. 297.

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(a) One month before commencing any such alterations the undertakers, or the body or person (as the case may be,) in this section referred to as the "operators," shall serve a notice upon the body or person for the time being entitled to the pipes, wires, electric lines, or works (as the case may be), in this section referred to as the "owners," describing the proposed alterations, together with a plan showing the manner in which it is intended that the alterations shall be made, and shall, upon being required to do so by any such owners, give them any such further information in relation thereto as they may desire.

(b) Within three weeks after the service of any such notice and plan upon any owners those owners may, if they think fit, serve a requisition upon the operators requiring that any question in relation to the works or to compensation in respect thereof, or any other question arising upon such notice or plan as aforesaid shall be settled by arbitration; and thereupon that question, unless settled by agreement, shall be determined by arbitration accordingly.

(c) In settling any question under this section an arbitrator shall have regard to any duties or obligations which the owners may be under in respect of the pipes, wires, electric lines, or works, and may, if he thinks fit, require the operators to execute any temporary or other works, so as to avoid interference with any purpose for which the pipes, wires, electric lines, or works are used so far as possible.

(d) Where no such requisition as in this section mentioned is served upon the operators, the owners shall be held to have agreed to the notice or plan served on them as aforesaid, and in that case, or where, after any such requisition has been served upon them, any question required to be settled by arbitration has been so settled, the operators, upon paying or securing any compensation which they may be required to pay or secure, may cause the alterations specified in such notice and plan as aforesaid to be made, but subject in all respects to the provisions of the principal Act and the special order, and only in accordance with the notice and plan so served by them as aforesaid, or such modifications thereof respectively as may have been determined by arbitration as hereinbefore mentioned or as may be agreed upon between the parties.

(e) At any time before any operators are entitled to commence any such alterations as aforesaid, the owners may serve a statement upon the operators stating that they desire to execute the alterations themselves, and where any such statement has been served upon the operators, they shall not be entitled to proceed themselves to execute the alterations, except where they have notified to the owners that they require them to execute the alterations, and the owners have refused or neglected to comply with the notification as hereinafter provided.

(f) Where any such statement as last aforesaid has been served upon the operators, they shall, not more than forty-eight hours and not less than twenty-four hours before the execution of the alterations is required to be commenced, serve a notification upon the owners stating the time when the alterations are required to be commenced, and the manner in which the alterations are required to be made.

(g) Upon receipt of any such notification as last aforesaid, the owners may proceed to execute the alterations as required by the operators, subject to the like restrictions and conditions, so far as they are applicable, as the operators would themselves be subject to in executing the alterations.

(h) If the owners decline or, for twenty-four hours after the time when any such alterations are required to be commenced, neglect to comply with the notification, the operators may themselves proceed to execute the alterations in like manner as they might have done if no such statement as aforesaid had been served upon them.

(i) All expenses properly incurred by any owners in complying with any notification of any operators under this section shall be repaid to them by the operators, and may be recovered summarily.

(j) Any owners may, if they think fit, by any statement served by them under this section upon any operators, not being a local authority, require the operators to give them such security for the repayment to them of any expenses to be incurred by them in executing any alterations as above mentioned as may be determined in manner provided by the special order, and where any operators have been so required to give security, they shall not be entitled to serve a notification upon the owners requiring them to execute the alterations until the security has been duly given.

(k) If the operators make default in complying with any of the requirements or restrictions of this section they shall (in addition to any other compensation which they may be liable to make under the provisions of the special order or the principal Act) make full compensation to the owners affected thereby for any loss, damage, or penalty which they may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds, and to a daily penalty not exceeding five pounds: Provided that the operators shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency, and that the operators complied with the requirements of this section so far as was reasonable under the circumstances.

Laying of electric lines, etc., near sewers, etc., or gas or water pipes, or other electric lines.

18.—(1) Where the undertakers require to dig or sink any trench for laying down or constructing any new electric lines (other than service lines) or other works near to which any sewer, drain, watercourse, defence, or work under the jurisdiction or control of the local authority, or any main, pipe, syphon, electric line, or other work belonging to any gas, electric supply, or water company has been lawfully placed, or where any gas or water company require to dig or sink any trench for laying down or constructing any new mains or pipes (other than service pipes) or other works near to which any lines or works of the undertakers have been lawfully placed, the undertakers or the gas or water company (as the case may be), in this section referred to as the "operators," shall, unless it is otherwise agreed between the parties interested, or in case of a sudden emergency, give to the local authority or to the gas, electric supply, or water company, or to the undertakers (as the case may be), in this section referred to as the "owners," not less than three days' notice before commencing to dig or sink such trench as aforesaid, and those owners shall be entitled by their officer to superintend the work, and the operators shall conform with such reasonable requirements as may be made by the owners or the officer for protecting from injury every such sewer, drain, watercourse, defence, main, pipe, syphon, electric line, or work, and for securing access thereto, and they shall also, if required by the owners thereof, repair any damage that may be done thereto (*a*).

(2) Where the operators find it necessary to undermine but not alter the position of any pipe, electric line, or work, they shall temporarily support it in position during the execution of their works, and before completion provide a suitable and proper foundation for it where so undermined.

(3) Where the operators (being the undertakers) lay any electric line, crossing or liable to touch any mains, pipes, lines, or services belonging to any gas, electric supply, or water company, the conducting portion of the electric line shall be effectively insulated in a manner approved by the [Minister of Transport]; and the undertakers shall not, except with the consent of the gas, electric supply, or water company, as the case may be, and of the [Minister of Transport], lay their electric lines so as to come into contact with any such mains, pipes, lines, or services, or, except with the like consent, employ any such mains, pipes, lines, or services as conductors for the purposes of their supply of energy (*b*).

(4) Any question or difference which may arise under this section shall be determined by arbitration (*c*).

(*a*) For a case in which the Postmaster-General was held entitled to recover, under the provisions of a local tramway Act, for injury to a telephone cable through a leakage of electricity, see *Postmaster-General* v. *Blackpool, etc. Tramroad Co.*, [1921] 1 K. B. 114; 37 T. L. R. 20. As to the effect of an agreement between a corporation and the National Telephone Company, whereby the company agreed to hold the corporation free from liability for damage to the wires of the company arising from the existence in the streets of the mains and services of the corporation, see *Postmaster-General* v. *Liverpool Corporation*, 86 J. P. 157; affirmed in H. of L., [1923] A. C. 587; 87 J. P. 157.

(*b*) See Regulation 3 of the Regulations in App. II., *post*, p. 3258.

(*c*) As to appointment of arbitrator, see s. 28 of Electric Lighting Act, 1882, *ante*, p. 2452.

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(5) If the operators make default in complying with any of the requirements of this section they shall make full compensation to all owners affected thereby for any loss, damage, penalty, or costs which they may incur by reason thereof; and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds, and to a daily penalty not exceeding five pounds (*a*): Provided that the operators shall not be subject to any such penalty if the court are of opinion that the case was one of emergency, and that the operators complied with the requirements of this section so far as was reasonable under the circumstances, or that the default in question was due to the fact that the operators were ignorant of the position of the sewer, drain, watercourse, defence, main, pipe, syphon, electric line, or work affected thereby, and that that ignorance was not owing to any negligence on the part of the operators.

(6) For the purposes of this section the expression "gas company" shall mean any body or person lawfully supplying gas; the expression "water company" shall mean any body or person lawfully supplying water or water power; and the expression "electric supply company" shall mean any body or person supplying energy in pursuance of the principal Act but not in pursuance of the special order.

(7) Where the local authority are themselves the undertakers, the references in this section to the local authority, and to sewers, drains, watercourses, defences, or works under the jurisdiction or control of that local authority, shall not apply.

For protection of railway and canal companies.

19. In the exercise of any of the powers of the special order relating to the execution of works, the undertakers shall not in any way injure the railways, tunnels, arches, works, or conveniences belonging to any railway or canal (*b*) company, nor obstruct or interfere with the working of the traffic passing along any railway or canal.

For protection of telegraphic and telephonic wires (*c*).

20.—(1) The undertakers shall take all reasonable precautions in constructing, laying down, and placing their electric lines and other works of all descriptions, and in working their undertaking so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic, or electric signalling communication, or the currents in that wire or line, whether that wire or line be or be not in existence at the time of the laying down or placing of the electric lines or other works.

If any question arises between the undertakers and the owner of any such wire or line as to whether the undertakers have constructed, laid down, or placed their electric lines or other works or worked their undertaking in contravention of this sub-section, and as to whether the working of that wire or line or the current therein is or is not injuriously affected thereby, that question shall be determined by arbitration; and the arbitrator (unless he is of opinion that the wire or line, not having been so in existence at such time as aforesaid, has been placed in unreasonable proximity to the electric lines or works of the undertakers) may direct the undertakers to make any alterations in, or additions to, their system, so as to comply with the provisions of this section, and the undertakers shall make those alterations or additions accordingly.

(2) Seven days before commencing to lay down or place any electric line, or to use any electric line in any manner whereby the work of telegraphic or telephonic or electric signalling communication through any wire or line lawfully laid down or placed in any position may be injuriously affected, the undertakers shall, unless otherwise agreed between the parties interested, give to the owner of the wire or line notice in writing specifying the course, nature and gauge of the electric line, and the manner in which the electric line is intended to be used, and the amount and nature of the currents intended to be transmitted thereby, and the extent to and manner in which (if at all) earth returns are proposed to be used; and any owner

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(*a*) As to recovery of penalties, see s. 76, *post*, p. 2598. The offence of non-compliance with the requirements of the section is a continuing offence, and therefore s. 11 of the S. J. A., 1848, does not apply. The right to recover penalties is not barred by the reference to arbitration and the award (*Chepstow Electric Light and Power Co.* v. *Chepstow Gas and Coke Consumers Co.*, [1905] 1 K. B. 198; 69 J. P. 72).

(*b*) As to canals, see also the Electric Lighting Act, 1882, s. 16, *ante*, p. 2448. And see further note (*a*), *ante*, p. 2577, and the provisions of the Act of 1919, therein referred to.

(*c*) See note (*a*), *ante*, p. 2577.

entitled to receive that notice may serve a requisition on the undertakers, requiring them to adopt such precautions as may be therein specified in regard to the laying, placing, or user of the electric line for the purpose of preventing the injurious affection; and the undertakers shall conform with such reasonable requirements as may be made by the owner for the purpose of preventing the communication through the wire or line from being injuriously affected as aforesaid.

If any difference arises between any such owner and the undertakers with respect to the reasonableness of any requirements so made, that difference shall be determined by arbitration.

Provided that nothing in this sub-section shall apply to repairs or renewals of any electric line so long as the course, nature, and gauge of the electric line, and the amount and nature of the current transmitted thereby, are not altered.

(3) If in any case the undertakers make default in complying with the requirements of this section, they shall make full compensation to every such owner as aforesaid for any loss or damage which he may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding five pounds, and to a daily penalty not exceeding forty shillings: Provided that the undertakers shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency and that the undertakers complied with the requirements of this section so far as was reasonable under the circumstances, or that the default was due to the fact that the undertakers were ignorant of the position of the wire or line affected thereby, and that that ignorance was not owing to any negligence on the part of the undertakers.

(4) Nothing in this section contained shall be held to deprive any owner of any existing rights to proceed against the undertakers by indictment, action, or otherwise, in relation to any of the matters aforesaid.

COMPULSORY WORKS.

Mains, etc., to be laid down in streets specified in special order and in remainder of area of supply.

21.—(1) The undertakers shall, within a period of two years after the commencement of the special order, lay down suitable and sufficient distributing mains for the purposes of general supply throughout every street or part of a street specified in that behalf in the special order, and shall thereafter maintain those mains.

(2) In addition to the mains hereinbefore specified the undertakers shall, at any time after the expiration of eighteen months after the commencement of the special order, lay down suitable and sufficient distributing mains for the purposes of general supply throughout every other street or part of a street within the area of supply, upon being required to do so in manner provided by the special order.

All such mains as last above mentioned (unless already laid down) shall be laid down by the undertakers within six months after any requisition in that behalf served upon them in accordance with the provisions of the special order has become binding upon them, or within such further time as may in any case be approved by the [Ministry of Transport].

(3) When any such requisition is made in respect of any street not repairable by the local authority, which the undertakers are not specially authorised to break up by the special order, the undertakers shall (unless the authority, or person by whom that street is repairable, consent to the breaking up thereof) forthwith apply to the [Ministry of Transport] under section thirteen of the Electric Lighting Act, 1882 (*a*), for the written consent of the [Minister] authorising and empowering the undertakers to break up that street, and the requisition shall not be binding upon them if the [Ministry of Transport] refuse their consent in that behalf.

As to laying of electric line under special agreement.

22. Where the local authority are not themselves the undertakers, the undertakers shall, twenty-eight days at least before commencing to lay in any street any electric line which is intended for supplying energy to any particular consumer, and not for the purposes of general supply, serve upon the local authority, and upon the owner or occupier of all premises abutting on so much of the street as lies between the points of origin and termination of the electric line so to be laid, a notice stating that the undertakers intend to lay the electric line, and setting forth the effect of

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(*a*) *Ante*, p. 2446.

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this section, and if within that period any two or more of those owners or occupiers require in accordance with the provisions of the special order that a supply shall be given to their premises, the necessary distributing main shall be laid by the undertakers at the same time as the electric line intended for the particular consumer.

If undertakers fail to lay down mains, etc., order may be revoked.

23.—(1) If the undertakers, not being a local authority, make default in laying down any distributing mains in accordance with the provisions of the special order within the periods prescribed in that behalf respectively, they shall be liable for each default to a penalty not exceeding five pounds for each day during which the default continues, and if the [Ministry of Transport] are of opinion in any case that the default is wilful and unreasonably prolonged they may, after considering any representations of the local authority, deal with the special order in manner provided by this section.

(2) If the local authority are themselves the undertakers, and make default in laying down any distributing main in accordance with the provisions of the special order, within the periods prescribed in that behalf respectively, the [Ministry of Transport] may deal with the special order in manner provided by this section.

(3) Where the [Ministry of Transport] are authorised under this section to deal with a special order, they may either revoke the order as to the whole or any part of the area of supply, or, if the undertakers so desire, suffer it to remain in force as to that area or part thereof, subject to such conditions as they think fit to impose, and any conditions so imposed shall be binding on and observed by the undertakers, and shall be of the like force and effect in every respect as though they were contained in the special order: Provided that the [Ministry of Transport] shall not revoke the special order as to part only of the area of supply where the undertakers make a representation that they desire to be relieved of their liabilities as respects the rest of the area of supply, and in that case the [Ministry of Transport] shall not under this section revoke the special order otherwise than as to the whole of the area of supply.

Manner in which requisition is to be made.

24.—(1) Any requisition requiring the undertakers to lay down distributing mains for the purposes of general supply throughout any street or part of a street may be made by six or more owners or occupiers of premises along that street or part of a street, or, where the local authority are not themselves the undertakers and have the control and management of the public lamps in that street or part of a street, by the local authority.

(2) Every such requisition shall be signed by the persons making it, or by the local authority (as the case may be), and shall be served upon the undertakers.

(3) Forms of requisition shall be kept by the undertakers at their office, and a copy shall, on application, be supplied free of charge to any owner or occupier of premises within the area of supply and, where necessary, to the local authority, and any requisition so supplied shall be deemed valid in point of form.

Provisions on requisition by owners or occupiers.

25.—(1) Where any such requisition is made by any such owners or occupiers as aforesaid, the undertakers (if they think fit) may, within fourteen days after the service of the requisition upon them, serve a notice on all the persons by whom the requisition is signed, stating that they decline to be bound by the requisition unless those persons or some of them will bind themselves to take, or will guarantee that there shall be taken, a supply of energy for a period of three years at least, of such amount in the aggregate (to be specified by the undertakers in the notice) as will, at the rates of charge for the time being charged by the undertakers for a supply of energy from distributing mains to the ordinary consumers within the area of supply, produce annually such reasonable sum as is specified by the undertakers in the notice: Provided that in the notice the undertakers shall not, without the authority of the [Minister of Transport], specify any sum exceeding twenty per centum upon the expense of providing and laying down the required distributing mains and any other mains or additions to existing mains which may be necessary for the purpose of connecting those distributing mains with the nearest available source of supply.

(2) Where such a notice is served the requisition shall not be binding on the undertakers unless, within fourteen days after the service of the notice on all the persons signing the requisition has been effected, or in case of difference within four-

teen days after the delivery of the arbitrator's award, there be tendered to the undertakers an agreement severally executed by those persons or some of them, binding them to take or guaranteeing that there shall be taken a supply of energy for a period of three years at the least of such amount as will in the aggregate at the rates of charge above specified produce an annual sum amounting to the sum specified in the notice or determined by arbitration under this section, nor unless sufficient security for the payment to the undertakers of all moneys which may become due to them from those persons under the agreement is offered to the undertakers (if required by them by such notice as aforesaid) within the period limited for the tender of the agreement as aforesaid.

(3) If the undertakers consider that the requisition is unreasonable, or that, under the circumstances of the case, the provisions of this section ought to be varied, they may, within fourteen days after the service of the requisition upon them, appeal to the [Minister of Transport], and [the Minister] after such inquiry (if any) as [he] think[s] fit, may, by order, either determine that the requisition is unreasonable, and shall not be binding upon the undertakers, or may authorise the undertakers by their notice to require a supply of energy to be taken for such longer period than three years, and to specify such sum or percentage, whether calculated as hereinbefore provided or otherwise, as is fixed or directed by the order, and the terms of the abovementioned agreement shall be varied accordingly.

(4) In case of any appeal to the [Minister of Transport] under this section, any notice by the undertakers under this section may be served by them within fourteen days after the decision of the [Minister of Transport].

(5) If any difference arises between the undertakers and any persons signing any such requisition as to any such notice or agreement, that difference shall, subject to the provisions of this section and to the decision of the [Minister of Transport] upon any such appeal as aforesaid, be determined by arbitration.

Provisions on requisition by local authority.

26. Where any such requisition is made by the local authority it shall not be binding on the undertakers, unless at the time when the service is effected, or within fourteen days thereafter, there be tendered to the undertakers (if required by them) an agreement executed by the local authority, and binding them to take for a period of three years at the least a supply of energy for lighting such public lamps in the street or part of a street in respect of which the requisition is made as may be under their management or control.

SUPPLY (*a*).

Undertakers to furnish sufficient supply of energy to owners and occupiers within the area of supply.

27.—(1) The undertakers shall, upon being required to do so by the owner or occupier of any premises situate within fifty yards from any distributing main of the undertakers in which they are, for the time being, required to maintain or are maintaining a supply of energy for the purposes of general supply to private consumers under the special order or the [Ministry of Transport] regulations, give and continue to give a supply of energy for those premises in accordance with the provisions of the special order and of the said regulations, and they shall furnish and lay any electric lines (*b*) that may be necessary for the purpose of supplying the maximum power with

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(*a*) See also as to the application of this section to lines across railways, etc., the Electricity (Supply) Act, 1919, s. 22, *post*, p. 2795. Undertakers were under a contract to supply light to the inhabitants of a district and to the streets, public places and private property therein, and in order to carry out the undertaking to do certain specified things and to provide everything which might be necessary whether specified or not for the purpose of supplying electric light to the street lamps. In consideration of these requirements the appellants who were consumers were bound to pay " at such rates as will yield to the contractors a return equal to 10 per cent. over the actual cost of generating the light." It was held that the words " generating the light " covered the whole series of operations leading up to the production of light in the lamps and the " actual cost " included depreciation of plant, rent, rates, taxes and insurance (*Bulawayo Municipality* v. *Bulawayo Waterworks Co., Ltd.*, [1908] A. C. 241).

(*b*) As to payment of the cost of an electric installation for a country mansion as between tenant for life and remainderman, see *Re Freake's Settlement, Lord Kinnaird* v. *Freake*, [1902] 1 Ch. 97; but in a later case it was held that an electric installation was not an " addition " to a building within the meaning of s. 13 of the Settled Land Act, 1890 (*Re*

Schedule. which any such owner or occupier is entitled to be supplied under the special order subject to the conditions following: (that is to say,)—

The cost of so much of any electric line for the supply of energy to any owner or occupier as may be laid upon the property of that owner or in the possession of that occupier, and of so much of any such electric lines as it may be necessary to lay for a greater distance than sixty feet from any distributing main of the undertakers, although not on that property, shall, if the undertakers so require be defrayed by that owner or occupier.

(2) Every owner or occupier of premises requiring a supply of energy shall—

(a) Serve a notice upon the undertakers specifying the premises in respect of which the supply is required and the maximum power required to be supplied, and the day (not being an earlier day than a reasonable time after the date of the service of the notice) upon which the supply is required to commence; and

(b) If required by the undertakers, enter into a written contract with them to continue to receive and pay for a supply of energy for a period of at least two years of such an amount that the payment to be made for the supply, at the rate of charge for the time being charged by the undertakers for a supply of energy to ordinary consumers within the area of supply, shall not be less than twenty per centum per annum on the outlay incurred by the undertakers in providing any electric lines required under this section to be provided by them for the purpose of the supply, and if required by the undertakers give to them security for the payment to them of all moneys which may become due to them by the owner or occupier in respect of any electric lines to be furnished by the undertakers, and in respect of energy to be supplied by them (*a*).

(3) Provided always, that the undertakers may, after they have given a supply of energy in respect of any premises, by notice in writing. require the owner or occupier of those premises, within seven days after the date of the service of the notice, to give to them security for the payment of all moneys which may become due to them in respect of the supply, in case the owner or occupier has not already given that security, or in case any security given has become invalid or is insufficient; and in case any such owner or occupier fail to comply with the terms of the notice, the undertakers may, if they think fit, discontinue to supply energy for the premises so long as the failure continues (*b*).

(4) Provided also, that if the owner or occupier of any such premises as aforesaid uses any form of lamp or burner, or uses the energy supplied to him by the undertakers for any purposes, or deals with it in any manner so as to interfere unduly or improperly with the efficient supply of energy to any other body or person by the undertakers, the undertakers may, if they think fit, discontinue to supply energy to those premises so long as the lamp or burner is so used, or the energy is so used or dealt with.

(5) Provided also, that the undertakers shall not be compelled to give a supply of energy to any premises unless they are reasonably satisfied that the electric lines, fittings, and apparatus therein are in good order and condition, and not calculated to affect injuriously the use of energy by the undertakers or by other persons.

(6) If any difference arises under this section as to any improper use of energy or as to any alleged defect in any electric lines, fittings, or apparatus, that difference shall be determined by arbitration.

Clarke's Settlement, [1902] 2 Ch. 327); see also *Re Blagrave's Settled Estates* (1902), 87 L. T. 62. For a case in which undertakers were held liable for injury resulting to a workman owing to a live wire being left upon premises when they had previously disconnected the installation, see *Wheeler* v. *Marylebone Corporation* (1910), 32 M. C. C. 223.

(*a*) Where an owner who had complied with all the statutory conditions demanded a supply it was held that the undertaker could not successfully set up by way of defence to an information that certain trade unions would not permit the work to be done and that they were prevented by *force majeure* from providing a supply (*Hackney B. C.* v. *Dore*, [1922] 1 K. B. 431; 86 J. P. 45). As to the liability of the members of an electricity committee of a council for failure to supply during the general strike, see *Scammell & Nephew, Ltd.* v. *Hurley*, [1929] 1 K. B. 419; 93 J. P. 99. As to persons requiring a stand-by supply, see s. 23, Electricity (Supply) Act, 1919.

(*b*) See also the power of refusing a supply given by s. 18, Electric Lighting Act, 1909.

Maximum power.

28.—(1) The maximum power with which any consumer shall be entitled to be supplied shall be of such amount as he may require to be supplied with, not exceeding what may be reasonably anticipated as the maximum consumption on his premises: Provided that where any consumer has required the undertakers to supply him with a maximum power of any specified amount he shall not be entitled to alter that maximum except upon one month's notice to the undertakers, and any expenses reasonably incurred by the undertakers in respect of the service lines by which energy is supplied to the premises of that consumer, or any fittings or apparatus of the undertakers upon those premises, consequent upon the alteration, shall be paid by him to the undertakers, and may be recovered summarily as a civil debt.

(2) If any difference arises between any such owner or occupier and the undertakers as to what may be reasonably anticipated as the consumption on his premises or as to the reasonableness of any expenses under this section, that difference shall be determined by arbitration.

Supply of energy to public lamps.

29. Where the local authority are not themselves the undertakers, the undertakers shall, upon receiving reasonable notice from the local authority requiring them to supply energy to any public lamps within the distance of seventy-five yards from any distributing main of the undertakers in which they are for the time being required to maintain a current of energy for the purposes of general supply under the special order, or the [Ministry of Transport] regulations, give and continue to give a supply of energy to those lamps in such quantities as the local authority may require to be supplied.

Penalty for failure to supply (*a*).

30.—(1) Whenever the undertakers make default in supplying energy to any owner or occupier of premises to whom they may be and are required to supply energy under the special order, they shall be liable in respect of each default to a penalty not exceeding forty shillings for each day on which the default occurs.

(2) Where the local authority are not themselves the undertakers, and the undertakers make default in supplying energy to the public lamps to which they may be and are required to supply energy under the special order, the undertakers shall be liable in respect of each default to a penalty not exceeding forty shillings for each lamp, and for each day on which the default occurs.

(3) Whenever the undertakers made default in supplying energy in accordance with the terms of the [Ministry of Transport] regulations they shall be liable to such penalties as are prescribed by the regulations in that behalf.

(4) Provided that the penalties to be inflicted on the undertakers under this section shall in no case exceed in the aggregate in respect of any defaults not being wilful defaults on the part of the undertakers the sum of fifty pounds for any one day, and provided also that in no case shall any penalty be inflicted in respect of any default if the court are of opinion that the default was caused by inevitable accident or force majeure or was of so slight or unimportant a character as not materially to affect the value of the supply (*b*).

PRICE (*c*).

Methods of charging.

31.—(1) The undertakers may charge for energy supplied by them to any ordinary consumer (otherwise than by agreement)—

(*a*) See *Clegg, Parkinson & Co.* v. *Earby Gas Co., ante*, p. 2324. But this section only applies in the case of consumers to whom the undertakers are bound to make a supply. In the case of other consumers supplied by special agreement an action is maintainable for breach of the agreement (*Morris and Bastert* v. *Loughborough Corporation*, [1908] 1 K. B. 205; 71 J. P. 521). An injunction was granted to restrain a corporation from discontinuing or curtailing a supply under an agreement owing to increased cost of production (*Taylor* v. *West Bromwich Corporation* (1916), 38 M. C. C. 13).

(*b*) As to what amounts to *force majeure* within the meaning of this clause, see *Hackney B. C.* v. *Doré, ante*, p. 2586. Where a corporation had made an agreement for the supply of energy for power purposes, an interim injunction was granted to restrain them from discontinuing or curtailing the supply on the ground of the enhanced cost of production consequent on the war (*Taylor* v. *West Bromwich Corporation* (1916), 38 M. C. C. 13). And see note (*c*), *post*, p. 2588.

(*c*) See the Electric Lighting Act, 1882, ss. 19–21, *ante*, pp. 2449—2450, and notes, and s. 42, Electricity (Supply) Act, 1926, *post*, p. 2933. Orders authorising municipal electrical undertakings now frequently contain what is known as the Bermondsey clause. See *The Times*, June 29th, 1904.

Schedule.

(1) By the actual amount of energy so supplied; or

(2) By the electrical quantity contained in the supply; or

(3) By such other method as may for the time being be approved by the [Minister of Transport].

(2) . . . (*a*).

(3) Provided also, that before commencing to supply energy through any distributing main for the purposes of general supply, the undertakers shall, if the local authority are not themselves the undertakers, give notice to the local authority, and, if the local authority are themselves the undertakers, by public advertisement, by what method they propose to charge for energy supplied through that main; and, where the undertakers have given any such notice, they shall not be entitled to change that method of charging except after one month's notice of the change has been given by them, if the local authority are not themselves the undertakers to the local authority, and in any case to every consumer of energy who is supplied by them from the main.

Maximum prices.

32.—(1) The prices to be charged by the undertakers for energy supplied by them shall not exceed those stated in that behalf in the special order or in the case of a method of charge approved by the [Minister of Transport], such price as the [Minister of Transport] determine[s] on approving the method.

(2) (*b*) *Provided that if, in a case where the local authority are not themselves the undertakers, either the local authority or the undertakers, at any time after the expiration of seven years after the commencement of the special order, make a representation to the [Minister of Transport] that the prices or methods of charge stated in the special order or approved by the [Minister of Transport] ought to be altered, the [Ministry of Transport], after such inquiry as they may think fit, may make an order varying the prices or methods of charge stated in the special order or so approved as aforesaid, or substituting other prices or methods of charge in lieu thereof, and the prices or methods of charge so varied or substituted shall have effect on and after such day as may be mentioned in the order, as if they had been stated in the special order: Provided also that the prices and methods of charge for the time being in force may be altered in like manner at any time after the expiration of any or every period of seven years after they were last altered.*

Other charges by agreement.

33. Subject to the provisions of the special order and of the principal Act, and to the right of the consumer to require that he shall be charged according to some one or other of the methods above mentioned, the undertakers may make any agreement with a consumer as to the price to be charged for energy, and the mode in which those charges are to be ascertained, and may charge accordingly (*c*).

Price to public lamps.

34. Where the local authority are not themselves the undertakers, the price to be charged by the undertakers and to be paid to them for all energy supplied to the public lamps, and the mode in which those charges are to be ascertained, shall be settled by agreement between the local authority and the undertakers, and, in case of difference, shall be determined by arbitration, regard being had to the circumstances of the case and the distributing or other mains (if any) which may have to be laid for the purpose, and the prices charged to ordinary consumers in the district.

(*a*) Repealed by s. 22 Electricity Supply Act, 1922.

(*b*) A new sub-section making three years the ordinary period of revision of prices and allowing representations by undertakers, consumers, local authorities not undertakers and in certain cases in the county of London the London County Council has been substituted for this sub-section by s. 22 (2), Electricity Supply Act, 1922. The new provision is set out at p. 2848, *post*.

(*c*) If persons who are not entitled to require a supply under the Act make an agreement with the undertakers for a supply of electrical energy, they may bring an action against the undertakers to recover damages for an alleged breach of the agreement, there being no clear words in the statute confining the remedy to proceedings to recover a penalty under clause 30, *ante* p. 1823 (*Morris and Bastert, Ltd.* v. *Loughborough Corporation*, [1908] 1 K. B. 205; 71 J. P. 521). See also *Taylor* v. *West Bromwich Corporation*, *ante*, p. 2587.

See also *Bourne & Hollingsworth* v. *Marylebone B. C.* (1909), 72 J. P. 306; 24 T. L. R. 613.

As to stamp duty, see the Electric Lighting Act, 1909, s. 19, *post*, p. 2701.

ELECTRIC INSPECTORS.

Appointment of electric inspectors.

35.—(1) The local authority, so long as they are not themselves the undertakers, and, while the local authority are themselves the undertakers, the [Minister of Health], on the application of any consumer or of the undertakers, may appoint and keep appointed, one or more competent and impartial person or persons to be electric inspectors under the special order (*a*).

(2) If, in a case where the local authority are not themselves the undertakers, no electric inspector is appointed by the local authority, or the inspection of electric lines and works is imperfectly attended to by the local authority, or the local authority themselves become the undertakers for the purposes of the special order, the [Minister of Transport], on the application of any consumer, or of the undertakers, may appoint and keep appointed, one or more competent and impartial person or persons to be electric inspectors under the special order.

Duties of electric inspectors.

36.—(1) The duties of an electric inspector under the special order shall be as follows :—

(a) The inspection and testing, periodically and in special cases, of the undertakers' electric lines and works and the supply of energy given by them ;

(b) The certifying and examination of meters : and

(c) Such other duties in relation to the undertaking as may be required of him under the provisions of the special order or of the [Ministry of Transport] regulations.

(2) The local authority, with the approval of the [Minister of Transport], or the [Minister of Transport], if the inspector is appointed by [him], may prescribe the manner in which and the times at which any such duties are to be performed by an electric inspector, and also the fees to be taken by him, and those fees shall be accounted for and applied as may be directed by the local authority or the [Minister of Transport], as the case may be.

Remuneration of electric inspectors.

37.—(1) The local authority may pay to any electric inspector appointed by them under the special order such reasonable remuneration (if any) as they may determine, and that remuneration may be in addition to, or in substitution for, any fees directed to be paid to electric inspectors in respect of their duties under the special order or the [Ministry of Transport] regulations, according as the local authority determine.

(2) Where the local authority are themselves the undertakers, they shall pay to every electric inspector appointed under the provisions of the special order such reasonable remuneration (if any) as may be determined by the [Minister of Transport], and that remuneration may be in addition to, or in substitution for, any fees which are directed to be paid to electric inspectors for services rendered by them under the special order or the [Ministry of Transport] regulations, as may be settled by [the Minister]; and where any such remuneration is settled to be in substitution for fees, any fees payable by any party other than the undertakers, shall, in lieu of being paid to the electric inspector for his own use, be due and paid to him on behalf and for the use of the undertakers, and shall be carried by them to the credit of the local rate.

Notice of accidents and inquiries by [Minister of Transport].

38.—(1) The undertakers shall send to the [Minister of Transport] notice of any accident by explosion, or fire, and also of any other accident of such kind as to have caused, or to be likely to have caused, loss of life, or personal injury which has occurred in any part of the undertakers' works or their circuits, or in connection with those works or circuits, and also notice of any loss of life or personal injury occasioned by any such accident. The notice shall be sent by the earliest practicable post after the accident occurs, or, as the case may be, after the loss of life or personal injury becomes known to the undertakers (*b*).

(*a*) Where a dispute arises between the undertakers and a consumer as to whether a meter is not in proper order for correctly registering the amount of electricity supplied such dispute is to be determined under clause 57, *post*, by the inspector appointed under the clause. If no inspector has been appointed, no cause of action arises against the consumer for electricity supplied (*Hendon Electric Supply Co.* v. *Banks* (1917), 87 L. J. K. B. 790; 82 J. P. 228).

(*b*) As to the responsibility of the undertakers, see clause 77, *post*, p. 2599.

Schedule.

If the undertakers fail to comply with the provisions of this sub-section they shall be liable, for each default, to a penalty not exceeding twenty pounds.

(2) The [Minister of Transport] may also, if [he] deem[s] it necessary, appoint any electric inspector or other fit person to inquire and report as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with the undertakers' works, whether notice of the accident has or has not been received from the undertakers, or as to the manner and extent in and to which the provisions of the special order and the principal Act, and of the [Ministry of Transport] regulations, so far as those provisions affect the safety of the public, have been complied with by the undertakers; and any person appointed under this section, not being an electric inspector, shall for the purposes of his appointment have all the powers of an electric inspector under the special order.

TESTING AND INSPECTION.

Testing of mains.

39. On the occasion of the testing of any main of the undertakers reasonable notice thereof shall be given to the undertakers by the electric inspector, and the testing shall be carried out at such suitable hours as, in the opinion of the inspector, will least interfere with the supply of energy by the undertakers, and in such manner as the inspector thinks expedient, but, except under the provisions of an order made in each case in that behalf by the [Minister of Transport], he shall not be entitled to have access to or interfere with the mains of the undertakers at any points other than those at which the undertakers have reserved for themselves access to the said mains: Provided that the undertakers shall not be held responsible for any interruption in the supply of energy which may be occasioned by or required by the inspector for the purpose of any such testing as aforesaid. Provided also that the testings shall not be made in regard to any particular portion of a main oftener than once in any three months, unless in pursuance of an order made in each case in that behalf by the [Minister of Transport].

Testing of works and supply on consumer's premises.

40. An electric inspector, if and when required to do so by any consumer, shall, on payment by the consumer of the prescribed fee, test the variation of electric pressure at the consumer's terminals, or make such other inspection and testing of the service lines, apparatus, and works of the undertakers upon the consumer's premises as may be necessary for the purpose of determining whether the undertakers have complied with the provisions of the special order and the [Ministry of Transport] regulations.

Undertakers, not being local authority, to establish testing stations.

41.—(1) Where the local authority are not themselves the undertakers, the undertakers shall at such places, within a reasonable distance from a distributing main, establish at their own cost and keep in proper condition such reasonable number of testing stations, as the local authority think proper and sufficient for testing the supply of energy by the undertakers through the main, and shall place thereat proper and suitable instruments of a pattern to be approved by the [Minister of Transport], and shall connect those stations by means of proper and sufficient electric lines with the mains, and supply energy thereto for the purpose of the testing.

(2) If any dispute arises between the local authorities and the undertakers as to whether the number of the testing stations and the distance from the main at which they are established is reasonable or excesssive, or as to any excessive or improper use of energy for the testing, or as to the performance by the undertakers of their duties under this section, that dispute shall be determined by arbitration.

(3) Where the local authority are themselves the undertakers, a court of summary jurisdiction may upon the application of any ten consumers direct the undertakers, at their own cost, to establish at such places, within a reasonable distance from a distributing main, and keep in proper condition, such reasonable number of testing stations, as the court think proper and sufficient for testing the supply of energy by the undertakers through the main, and thereupon (*a*) the undertakers shall establish such testing places, and provide thereat such proper and suitable instruments of a pattern to be approved by the [Minister of Transport] as the court

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(*a*) There seems to be no right of appeal, even from the refusal of the application by the court of summary jurisdiction.

direct, and they shall connect those stations by means of proper and sufficient electric lines with the mains, and supply energy thereto for the purpose of the testing.

Schedule.

Undertakers to keep instruments on their premises.

42. The undertakers shall set up and keep upon all premises from which they supply energy by any distributing mains such suitable and proper instruments of such pattern and construction as may be approved or prescribed by the [Minister of Transport], and shall take and record, and keep recorded, such observations as the [Minister of Transport] may prescribe, and any observations so recorded shall be receivable in evidence.

Readings of instruments to be taken.

43.—(1) The undertakers shall keep in efficient working order all instruments which they are required by or under the special order to place, set up, or keep at any testing station or on their own premises, and any electric inspector appointed under the special order may examine and record the readings of those instruments, and any readings so recorded shall be receivable in evidence.

(2) Where the local authority are not themselves the undertakers, the examinations and readings under this section must be made at such times and in such manner as may be directed by the authority by whom the inspector is appointed.

Electric inspector may test undertakers' instruments.

44. Any electric inspector appointed under the special order shall have the right to have access at all reasonable hours to the testing stations and premises of the undertakers for the purpose of testing the electric lines and instruments of the undertakers, and ascertaining if they are in order, and in case they are not in order he may require the undertakers forthwith to have them put in order.

Representation of undertakers at testings.

45. The undertakers may, if they think fit, on each occasion of the testing of any main or service line, or the testing or inspection of any instruments of the undertakers by any electric inspector, be represented by some officer or other agent, but that officer or agent shall not interfere with the testing or inspection.

Undertakers to give facilities for testing.

46. The undertakers shall afford all facilities for the proper execution of the special order with respect to inspection and testing and the readings and inspection of instruments, and shall comply with all the requirements of or under the special order in that behalf; and in case the undertakers make default in complying with any of the provisions of this section they shall be liable in respect of each default to a penalty not exceeding five pounds, and to a daily penalty not exceeding one pound.

Report of results of testing.

47.—(1) Every electric inspector shall, on the day immediately following that on which any testing has been completed by him under the special order, make and deliver a report of the results of his testing to the authority or person by whom he was required to make the testing, and to the undertakers, and that report shall be receivable in evidence.

(2) If the undertakers or any such authority or person are or is dissatisfied with any report of any electric inspector, they or he may appeal to the [Minister of Transport] against the report, and thereupon the [Minister of Transport] shall inquire into and decide upon the matter of the appeal, and [his] decision shall be final and binding on all parties.

Expenses of electric inspector.

48.—(1) Save as otherwise provided by the special order or by the [Ministry of Transport] regulations, all fees and reasonable expenses (*a*) of an electric inspector shall, unless agreed be ascertained by a court of summary jurisdiction, or (where the inspector is appointed by them) by the [Minister of Transport], and shall be paid by the undertakers, and if a local authority are the undertakers may be recovered summarily as a civil debt (*b*).

(2) Provided that where the report of an electric inspector, or the decision of the [Minister of Transport], shows that any consumer was guilty of any default or negligence, the fees and expenses shall, on being ascertained as above mentioned,

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(*a*) That is, expenses specifically incurred by an electric inspector in making tests and inspections, but not salary appointed to him, nor the general expenses of his laboratory and staff (*Crawford* v. *City of London Electric Lighting Co.* (1899), 67 L. J. Q. B. 942; 78 L. T. 841); and compare s. 49 of the City of London Electric Lighting Order, 1899, confirmed by 62 & 63 Vict. c. cclxxv.

(*b*) That is under ss. 6 and 35 of the S. J. A., 1879.

be paid by the consumer as the court or the [Minister], by whom the fees are ascertained, having regard to the report or decision, direct, and may be recovered summarily as a civil debt.

(3) Provided also, that in any proceedings for penalties under the special order the fees and expenses of an electric inspector incurred in connection with the proceedings shall be payable by the complainant or defendant as the court direct.

METERS.

Meters to be used except by agreement.

49 (*a*). *The amount of energy supplied by the undertakers to any ordinary consumer under the special order, or the electrical quantity contained in the supply (according to the method by which the undertakers elect to charge), hereinafter referred to as "the value of the supply," shall, except as otherwise agreed* (*b*) *between the consumer and the undertakers, be ascertained by means of an appropriate meter duly certified under the provisions of the special order.*

Meter to be certified.

50 (*a*). *A meter shall be considered to be duly certified under the provisions of the special order if it be certified by an electric inspector appointed under the special order to be a correct meter, and to be of some construction and pattern, and to have been fixed and to have been connected with the service lines in some manner approved by the* [*Minister of Transport*], *and every such meter is hereinafter referred to as a "certified meter": Provided that where any alteration is made in any certified meter, or where any meter is unfixed or disconnected from the service lines, that meter shall cease to be a certified meter unless and until it is again certified as a certified meter under the provisions of the special order.*

Inspector to certfy meter.

51 (*a*). *An electric inspector, on being required to do so by the undertakers or by any consumer, and on payment of the prescribed fee* (*c*) *by the party so requiring him, shall examine any meter intended for ascertaining the value of the supply, and shall certify it as a certified meter if he considers it entitled to be so certified.*

Undertakers to supply meters if required to do so.

52. Where the value of the supply is under the special order required to be ascertained by means of an appropriate meter, the undertakers shall, if required by any consumer, supply him with an appropriate meter, and shall, if required, fix it upon the premises of the consumer and connect the service lines therewith and procure the meter to be duly certified under the provisions of the special order, and for those purposes may authorise and empower any officer or person to enter upon the premises at all reasonable times and execute all necessary works and do all necessary acts; provided that previously to supplying any such meter the undertakers may require the consumer to pay to them a reasonable sum in respect of the price of the meter, or to give security therefor, or (if he desires to hire the meter) may require him to enter into an agreement for the hire of the meter as hereinafter provided.

Meters not to be connected or disconnected without notice.

53 (*a*). *No consumer shall connect any meter used or to be used under the special order for ascertaining the value of the supply with any electric line through which energy is supplied by the undertakers, or disconnect any such meter from any such electric line, unless he has given to the undertakers not less than forty-eight hours' notice in writing of his intention to do so, and if any person acts in contravention of this section he shall be liable for each offence to a penalty not exceeding forty shillings.*

Consumer to keep his meter in proper order.

54.—(1) Every consumer shall at all times at his own expense keep all meters belonging to him (*d*), whereby the value of the supply is to be acertained, in proper order for correctly registering the value, and in default of his so doing the undertakers may cease to supply energy through the meter.

(2) The undertakers shall have access to and be at liberty to take off, remove, test, inspect, and replace any such meter at all reasonable times. Provided that all

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(*a*) As to ss. 49, 50, 51, 53, see s. 11 of the Electric Lighting Act, 1909, *post*, p. 2699, which in effect repealed them and substituted new sections contained in the schedule thereto. The substitution takes effect "subject to such adaptations (if any) as may be necessary," even in the case of Acts and Orders passed or confirmed before the Act of 1909.

(*b*) See *Gravesend and Northfleet Tramways, Ltd.* v. *Gravesend Corporation* (1910), 74 J. P. 156; 8 L. G. R. 445.

(*c*) Prescribed under clause 36 (2), *ante*, p. 2589.

(*d*) As to meters hired from the undertakers, see clauses 55, 56, *post*, p. 2593.

reasonable expenses of and incident to any such taking off, removing, testing, inspecting, and replacing, and the procuring the meter to be again duly certified where the re-certifying is thereby rendered necessary, shall, if the meter is found to be not in proper order, be paid by the consumer, but if it is found to be in proper order all expenses connected therewith shall be paid by the undertakers.

Power to the undertakers to let meters.

55. The undertakers may let for hire any meter for ascertaining the value of the supply, and any fittings thereto, for such remuneration in money and on such terms with respect to the repair of the meter and fittings, and for securing the safety and return to the undertakers of the meter and fittings, as may be agreed upon between the hirer and the undertakers, or, in case of difference, determined by the [Minister of Transport], and that remuneration shall be recoverable by the undertakers summarily as a civil debt (*a*).

Undertakers to keep meters let for hire in repair.

56. The undertakers shall, unless the agreement for hire otherwise provides, at all times, at their own expense, keep all meters let for hire by them to any consumer, whereby the value of the supply is ascertained, in proper order for correctly registering that value, and in default of their doing so the consumer shall not be liable to pay rent for the meters during such time as the default continues. The undertakers shall, for the purposes aforesaid, have access to and be at liberty to remove, test, inspect, and replace any such meter at all reasonable times: Provided that the expense of procuring any such meter to be again duly certified, where that re-certifying is thereby rendered necessary, shall be paid by the undertakers.

Differences as to correctness of meter to be settled by inspector.

57. If any difference arises between any consumer and the undertakers as to whether any meter, whereby the value of the supply is ascertained (whether belonging to the consumer or to the undertakers), is or is not in proper order for correctly registering the value, or as to whether that value has been correctly registered in any case by any meter, that difference shall be determined upon the application of either party by an electric inspector or, where the local authority are the consumers, by an inspector to be appointed by the [Minister of Transport], and that inspector shall also order by which of the parties the costs of and incidental to the proceedings before him shall be paid, and the decision of the inspector shall be final and binding on all parties (*b*).

Subject as aforesaid, the register of the meter shall be conclusive evidence (*c*) in the absence of fraud of the value of the supply.

Undertakers to pay expenses of providing new meters where method of charge altered.

58. Where any consumer who is supplied with energy by the undertakers from any distributing main is provided with a certified meter for the purpose of ascertaining the value of the supply and the undertakers change the method of charging for energy supplied by them from the main, the undertakers shall pay to that consumer the reasonable expenses to which he may be put in providing a new meter for the purpose of ascertaining the value of the supply according to the new method of charging, and those expenses may be recovered by the consumer from the undertakers summarily as a civil debt (*d*).

Undertakers may place meters to measure supply or to check measurement.

59. In addition to any meter which may be placed upon the premises of any consumer to ascertain the value of the supply, the undertakers may place upon his premises such meter or other apparatus as they may desire for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer or the number of hours during which the supply is given, or the maximum power taken by the consumer, or any other quantity or time connected with the supply: Provided that the meter or apparatus shall be of some construction and pattern and shall be fixed and connected with the service lines in some manner approved by the [Minister of Transport], and shall be supplied and maintained entirely at the cost of the undertakers, and shall not, except by agreement, be placed otherwise than between the mains of the undertakers' and consumer's terminals.

(*a*) That is, under ss. 6 and 35 of the S. J. A., 1879.

(*b*) If no Inspector has been appointed the undertakers cannot in case of dispute recover the value of electricity consumed. See *Hendon Electric Supply Co.* v. *Banks*, *ante*, p. 2589.

(*c*) Compare the Gasworks Clauses Act, 1871, s. 20, *ante*, p. 2302, as to registers of gas meters.

(*d*) That is, under ss. 6 and 35 of the S. J. A., 1879.

MAPS.

Map of area of supply to be made.

60.—(1) The undertakers shall forthwith after commencing to supply energy under the special order cause a map to be made of the area of supply, and shall cause to be marked thereon the line and depth below the surface of all their then existing mains, service lines, and other underground works and street boxes, and shall once in every year cause that map to be duly corrected so as to show the then existing lines. The undertakers shall also, if so required by the [Minister of Transport] or the Postmaster-General, cause to be made sections showing the level of all their existing mains and underground works other than service lines. The said map and sections shall be made on such scale or scales as the [Minister of Transport] prescribe.

(2) Every map and section so made or corrected, or a copy thereof, marked with the date when it was made or last corrected, shall be kept by the undertakers at their principal office within the area of supply, and shall at all reasonable times be open to the inspection of all applicants, and those applicants may take copies of it or any part thereof. The undertakers may demand and take from every such applicant such fee not exceeding one shilling for each inspection of the map, section, or copy, and such further fee not exceeding five shillings for each copy of it, or any part thereof, taken by the applicant, as they prescribe.

(3) The undertakers shall, if required by the [Minister of Transport] or the Postmaster-General, or, where the local authority are not themselves the undertakers, by the local authority, supply to them or him a copy of any such map or section and cause that copy to be duly corrected so as to agree with the original or originals thereof as kept for the time being at the office of the undertakers.

(4) If the undertakers fail to comply with any of the requirements of this section they shall for each default be liable to a penalty not exceeding ten pounds, and to a daily penalty not exceeding two pounds.

NOTICES, ETC.

Notices, etc., may be printed or written.

61. Notices, orders, and other documents under the special order may be in writing or in print, or partly in writing and partly in print, and where any notice, order, or document requires authentication by the local authority, the signature thereof by the clerk or surveyor to the local authority shall be sufficient authentication.

Service of notices, etc.

62.—(1) Any notice, order, or document required or authorised to be served upon any body or person under the special order or the principal Act may be served by being addressed to that body or person, and being left or transmitted through the post to the following addresses respectively:

(*a*) in the case of the [Minister of Transport], the [Ministry of Transport].
(*b*) in the case of the Postmaster-General, the General Post Office:
(*c*) in the case of any county council, the office of that council;
(*d*) in the case of any local authority, the office of that local authority;
(*e*) in the case of the undertakers, where the undertakers are not a local authority, the registered office of the undertakers;
(*f*) in the case of a company having a registered office, at that registered office, and in the case of a company having an office or offices, but no registered office, the principal office of that company;
(*g*) in the case of any other person, the usual or last-known place of abode of that person.

(2) A notice, order, or document by this Schedule required or authorised to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises) without further name or description.

(3) A notice, order, or document by the special order required or authorised to be served on the owner or occupier of premises may be served by delivering it, or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by fixing it on some conspicuous part of the premises.

Schedule.

(4) Subject to the provisions of the special order as to cases of emergency, where the interval of time between the service of any notice or document under the provisions of the special order and the execution of any works, or the performance of any duty or act, is less than seven days, the following days shall not be reckoned in the computation of that time: that is to say, Sunday, Christmas Day, Good Friday, any bank holiday under and within the meaning of the Bank Holiday Act, 1871, and any Act amending that Act, and any day appointed for public fast, humiliation, or thanksgiving.

34 & 35 Vict. c. 17.

REVOCATION OF SPECIAL ORDER.

Revocation of order where undertakers are insolvent.

63. If the [Minister of Transport], in any case where a local authority are not the undertakers, at any time after the commencement of the special order, have reason to believe that the undertakers have made any default in executing works or supplying energy in accordance with the provisions of that order, and that that default is in consequence of the insolvency of the undertakers, and that by reason of that insolvency the undertakers are unable fully and efficiently to discharge the duties and obligations imposed upon them by that order, the [Minister of Transport] may after such inquiry as they may think necessary, and after considering any representations of the local authority, revoke that order as to the whole or (with the consent of the undertakers) as to any part of the area of supply.

Revocation of order where undertaking cannot be carried on with profit.

64. If in any case where a local authority are not the undertakers, the undertakers at any time after the commencement of the special order represent to the [Minister of Transport] that the undertaking cannot be carried on with profit, and ought to be abandoned, the [Minister of Transport] shall inquire into the truth of the representation, and if upon that inquiry they are satisfied of the truth of the representation they may, if in their discretion they think fit, revoke the special order as to the whole or (with the consent of the undertakers and of the local authority) as to any part of the area of supply.

Revocation where local authority are undertakers and works are not executed.

65. If in a case where the local authority are themselves the undertakers, the [Minister of Transport], at any time after the commencement of the special order, have reason to believe that the undertakers have made default in executing works or supplying energy in accordance with the provisions of the special order, the [Minister of Transport] may, after such inquiry as they may think necessary, revoke the special order as to the whole or (with the consent of the undertakers) any part of the area of supply upon such terms as the [Minister of Transport] think just.

Revocation of order with consent.

66. In addition to any other powers which the [Minister of Transport] may have in that behalf, they may revoke the special order at any time with the consent and concurrence of the undertakers, and, where the local authority are not themselves the undertakers, also of the local authority upon such terms as the [Minister of Transport] think just.

Provisions where order revoked.

67. If the [Minister of Transport], in any case where the local authority are not themselves the undertakers, at any time revoke the special order as to the whole or any part of the area of supply, under any of the provisions of the special order, the following provisions shall have effect:

(*a*) The [Minister of Transport] shall serve a notice of the revocation upon the undertakers and upon the local authority, and shall in that notice fix a date at which the revocation shall take effect, and from and after that date all the powers and liabilities of the undertakers under the special order or this Act, for the supply of energy within such area, or part thereof as aforesaid, shall absolutely cease and determine.

(*b*) Within two months after the service of the notice by the [Minister of Transport] upon the local authority, the local authority, if they think fit, may by notice in writing require the undertakers to sell, and thereupon the undertakers shall sell, to them so much of the undertaking or such part thereof as aforesaid as is within the district of the local authority, upon terms of paying the then value of all land, buildings, works, materials, and plant of the undertakers suitable to and used by them for the purposes of the undertaking or such part thereof as aforesaid, that value being agreed or estimated in manner directed by the Electric Lighting Act, 1888, in the case of purchases effected by the local authority under section two of that Act (*a*).

(*c*) Where any purchase is so effected, the undertaking, or part thereof so purchased, shall vest in the local authority, freed from any debts, mortgages, or similar obligations of the undertakers, or attaching to the undertaking; and the revocation of the special order, as to the whole of the area of supply, or such part thereof as aforesaid, shall extend only to the revocation of the rights, powers, authorities, duties, and obligations of the undertakers from whom the undertaking, or such part thereof as aforesaid, is purchased in relation to the supply of energy within that area or part thereof, and, save as aforesaid, the special order shall remain in full force within that area or part thereof in favour of the local authority, by whom the undertaking or part thereof is purchased as aforesaid.

(*d*) Where no purchase has been effected under the preceding provisions of this section, the local authority, and any body or person who may be liable to repair any street or part of a street in which any works of the undertaker have been placed, may (subject however to any agreement between the local authority or that body or person and the undertakers providing for the removal of those works by the undertakers) forthwith remove those works with all reasonable care, and the undertakers shall pay to the local authority, or other such body or person as aforesaid, such reasonable costs of the removal, and of the reinstatement of the street or part of a street as may be specified in a notice to be served on the undertakers by the local authority or other body or person, or (if so required by the undertakers, within one week after the service of the notice upon them) as may be determined by arbitration.

If the undertakers fail to pay such reasonable costs as aforesaid within one month after the service upon them of the notice, or the delivery of the award of the arbitrator (as the case may be) the local authority, or other such body or person as aforesaid may, without any previous notice to the undertakers (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of any such works as aforesaid, either by public auction or private sale, and for such sum or sums and to such person or persons as they may think fit; and may, out of the proceeds of the sale, pay and reimburse themselves the amount of the costs so specified or settled as aforesaid and of the costs of sale and the balance (if any) of the proceeds of the sale shall be paid over by them to the undertakers.

(*e*) In case the local authority or any body or person may be entitled to compensation for any damage sustained by them by reason or in consequence of the execution of any works within such area, or part thereof as aforesaid, or the exercise of any powers granted by the special order to the undertakers, or for any expenses to which that local authority, body, or person may have been put in removing any works of the undertakers within the area, or part thereof, under the provisions of the special order, that compensation shall be a first charge on any money that may have been deposited or secured by the undertakers under the provisions of the special order in respect of that area, or part thereof, and which may not have been repaid or released by the undertakers, and that money shall be applied rateably in satisfying those claims, and in every such case the amount of compensation to be paid in respect of the various claims and the persons to whom it is to be paid, shall be determined by arbitration.

Provisions where local authority are undertakers and order is revoked.

68.—(1) If the [Minister of Transport], in a case where the local authority are themselves the undertakers, at any time revoke the special order as to the whole or any part of the area of supply, any persons who may be liable to repair any street or part of a street within that area or part thereof in which any works of the undertakers have been placed, may forthwith remove those works with all reasonable care, and the undertakers shall pay to those persons such reasonable costs of the removal as are specified in a notice to be served on the undertakers by those persons,

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(*a*) *Ante*, p. 2495.

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or if so required by the undertakers within one week after the service of the notice upon them as may be determined by arbitration.

(2) If the undertakers fail to pay such reasonable costs as aforesaid within one month after the service upon them of such notice or the delivery of the award of the arbitrator (as the case may be), such persons as aforesaid may without any previous notice to the undertakers (but without prejudice to any other remedy which they may have for the recovery of the amount), sell and dispose of any such works as aforesaid either by public auction or private sale, and for such sum or sums and to such person or persons as they think fit, and may out of the proceeds of the sale pay and reimburse themselves the amount of the costs so specified or determined as aforesaid, and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by them to the undertakers.

GENERAL.

Remedying of system and works.

69.—(1) If at any time it is established to the satisfaction of the [Minister of Transport]—

(*a*) that the undertakers are supplying energy otherwise than by means of a system which has been approved by the [Minister of Transport] or (except in accordance with the provisions of the special order) have permitted any part of their circuits to be connected with earth or placed any electric line above ground; or

(*b*) that any electric lines or works of the undertakers are defective, so as not to be in accordance with the provisions of the special order or the [Minister of Transport] regulations; or

(*c*) that any work of the undertakers or their supply of energy is attended with danger to the public safety, or injuriously affects any telegraphic line of the Postmaster-General.

the [Minister of Transport] may by order specify the matter complained of, and require the undertakers to abate or discontinue it within such period as is therein limited in that behalf, and if the undertakers make default in complying with the order they shall be liable to a penalty not exceeding twenty pounds for every day during which the default continues.

(2) The [Ministry of Transport] may also if they think fit by the same or any other order forbid the use of any electric line or work as from such date as may be specified in that behalf until the order is complied with, or for such time as may be so specified, and if the undertakers make use of any such electric line or work while the use thereof is so forbidden they shall be liable to a penalty not exceeding one hundred pounds for every day during which the user continues.

(3) In any case of non-compliance with an order under this section, whether a pecuniary penalty has been recovered or not the [Ministry of Transport], if in their opinion the public interest so requires, may revoke the special order on such terms as they think just.

Publication of regulations.

70.—(1) The [Ministry of Transport] regulations for the time being in force shall within one month after they have come into force, as made or last altered, be printed at the expense of the undertakers, and a true copy thereof, certified by or on behalf of the undertakers, shall be kept by the undertakers at their principal office within the area of supply, and supplied to any person demanding them at a price not exceeding sixpence for each copy, and where the local authority are not themselves the undertakers, a like copy shall also be forthwith served upon the local authority.

(2) If the undertakers make default in complying with the provisions of this section they shall be liable to a penalty not exceeding five pounds, and to a daily penalty not exceeding five pounds.

Nature and amount of security.

71. Where any security is required under the special order to be given to or by the undertakers, that security may be by way of deposit or otherwise, and of such amount as may be agreed upon between the parties, or as in default of agreement may be determined, on the application of either party, by a court of summary jurisdiction, and that court may also order by which of the parties the costs of the proceedings before them shall be paid, and the decision of the court shall be final

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and binding on all parties: Provided that where any such security is given by way of deposit the party to whom the security is given shall pay interest at the rate of four per centum per annum on every sum of ten shillings so deposited for every six months during which it remains in their hands.

Proceedings of [Minister of Transport].

72.—(1) All things required or authorised under the special order to be done by, to, or before the [Minister of Transport], may be done by, to, or before the [Minister] or secretary or assistant secretary of the [Ministry].

(2) All documents purporting to be orders made by the [Minister of Transport] and to be sealed with the seal of the [Ministry]; or to be signed by a secretary or assistant secretary of the [Ministry], or by any person authorised in that behalf by the [Minister]. shall be received in evidence, and shall be deemed to be those orders without further proof, unless the contrary is shown.

(3) A certificate, signed by the [Minister of Transport], that any order made or act done is the order or act of the [Minister], shall be conclusive evidence of the order or act so certified.

Approval or consent of [Minister of Transport].

73.—(1) Where the special order provides for any consent or approval of the [Minister of Transport], the [Minister] may give that consent or approval subject to terms or conditions, or may withhold [his] consent or approval, as in [his] discretion [he] may think fit.

(2) All costs and expenses of or incident to any approval, consent, certificate, or order of the [Minister of Transport] or of any inspector or person appointed by the [Minister of Transport], including the cost of any inquiry or tests for the purpose of determining whether the same should be given or made, to such an amount as the [Minister of Transport] certify to be due, shall be borne and paid by the applicant therefor.

Provided that where the approval is given by the [Minister of Transport] to any plan, pattern, or specification, they may require such copies of the plan, pattern, or specification as they think fit to be prepared and deposited at their office at the expense of the applicant, and may, as they think fit, revoke any approval so given, or permit the approval to be continued, subject to such modifications as they think necessary.

Notice of approval of [Minister of Transport], etc., to be given by advertisement

74. Where the [Minister of Transport]—

(1) upon the application of the undertakers, give any approval or grant any extension of any time limited for the performance of any duties by the undertakers; or

(2) in a case where the local authority are not themselves the undertakers, revoke the special order upon the application of the local authority or the undertakers as to the whole or any part of the area of supply; or

(3) in a case where the local authority are themselves the undertakers revoke the special order as to the whole or any part of the area of supply,

notice that the approval has been given, or the extension of time granted, or the revocation made, shall, if the [Minister of Transport] so direct, be published by public advertisement once at least in each of two successive weeks in some one and the same local newspaper by the undertakers, or, where the application for revocation has been made by the local authority, by the local authority.

Notice of application for extension of time, etc., to be given to local authority.

75. If, in a case where the local authority are not themselves the undertakers, any application is made to the [Minister of Transport] to extend any time limited for the performance of any duties by the undertakers, notice of the application shall be served on the local authority by the undertakers, and an opportunity shall be given to the local authority to make representations or objections with reference thereto.

Recovery and application of penalties.

76.—(1) All penalties, fees, expenses, and other moneys recoverable under the special order, or under the [Minister of Transport] regulations, the recovery of which is not otherwise specially provided for, may be recovered summarily in manner provided by the Summary Jurisdiction Acts.

(2) Any penalty recovered on prosecution by an officer of the local authority, in a case where the local authority are not themselves the undertakers, shall, if there is an electric inspector for the time being appointed by the local authority, be paid to that officer and by him to the local authority, and shall be applied in aid of the local rate.

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(3) Any penalty recovered on prosecution by any other body or person, or any part thereof, may, if the court so direct, be paid to that body or person.

Undertakers to be responsible for all damages.

77. The undertakers shall be answerable for all accidents, damages, and injuries happening through the act or default of the undertakers, or of any person in their employment, by reason of or in consequence of any of the undertakers' works, and shall save harmless all authorities, bodies, and persons by whom any street is repairable, and all other authorities, companies, and bodies collectively and individually, and their officers and servants, from all damages and costs in respect of those accidents, damages and injuries (*a*).

As to mortgages.

78. Nothing in the special order shall prevent the undertakers, in a case where a local authority are not the undertakers, from borrowing money on the security of mortgages of the undertaking, or shall make the consent or approval of the [Minister of Transport] necessary to the validity or effect of any such mortgage:

Provided that every mortgage of the undertaking shall be deemed to comprise all purchase money which may be paid to the undertakers in the event of any sale or transfer of the undertaking or any part thereof, under section two of the Electric Lighting Act, 1888, or under the special order, and that any mortgage granted by the undertakers shall not be a charge upon the undertaking, or any part thereof, in the event of the undertaking or that part being sold or transferred as aforesaid, and that every mortgage deed granted by the undertakers shall be endorsed with notice to that effect.

Saving for Postmaster-General.

79. Nothing in the special order shall affect any right or remedy of the Postmaster-General under the principal Act or the Telegraph Acts, 1863 to 1897, and all provisions contained in the special order in favour of the Postmaster-General shall be construed to be in addition to and not in modification of the provisions of those Acts.

Saving rights of the Crown in the aforeshore.

80. Although any shore, bed of the sea, river, channel, creek, bay, or estuary is included in the area of supply, nothing in the special order shall authorise the undertakers to take, use, or in any manner interfere with any portion of that shore or bed of the sea, or of the river, channel, creek, bay, or estuary, or any right in respect thereof belonging to the Queen's most Excellent Majesty in right of her Crown, and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of her Majesty (which consent the Board of Trade may give), neither shall anything in the special order contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exercisable by the Queen's Majesty.

Undertakers not exempted from proceedings for nuisance.

81. Nothing in the special order shall exonerate the undertakers from any indictment, action, or other proceedings for nuisance in the event of any nuisance being caused or permitted by them (*b*).

(*a*) See *Holliday* v. *National Telephone Co.*, [1899] 2 Q. B. 392; *Solomons* v. *Stepney Borough Council* (1905), 69 J. P. 360; 3 L. G. R. 912. Now see further as to the liability of the undertakers for the negligence of contractors employed by them the cases cited in the notes to the P. H. A., 1875, s. 144, *ante*, p. 274.

As to the application of this clause to lines across railways, etc., see the Electricity (Supply) Act, 1919, 9 & 10 Geo. 5, c. 100, s. 22, *post*, p. 2795.

Compare 33 & 34 Vict. c. 78, s. 55, *ante*, p. 1362, and see notes thereto.

(*b*) Compare 10 & 11 Vict. c. 15, s. 29, *ante*, p. 2173; and 34 & 35 Vict. c. 41, s. 9, *ante*, p. 2317, and see notes thereto. A plaintiff when walking in the public highway passed close to an electric lamp-post beside which was a chamber sunk into the street. As he passed, an explosion took place under ground which caused the metal plate to open and a flash to emanate. It was held that the fact of an explosion having happened was *primâ facie* evidence of negligence (*Farrell* v. *Limerick Corporation* (1912), 45 Ir. L. T. 169). But in England at any rate negligence need not be proved. Thus where a municipal corporation supplied electricity under a provisional order under the Electric Lighting Acts, 1882 and 1888, and containing a clause in the terms of this section, it was held that they were liable in damages for an explosion occasioned by a leakage of electricity from one of their mains which generated a gas escaping into the plaintiff's premises in an adjoining street (*Midwood* v. *Manchester Corporation*, [1905] 2 K. B. 597; 60 J. P. 348).

The plaintiffs were the owners of electric cables which had been laid under certain public streets. The defendants were the owners of hydraulic mains which had been laid

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Provisions as to general Acts.

82. Nothing in the special order shall exempt the undertakers or their undertaking from the provisions of, or deprive the undertakers of the benefits of, any general Act relating to electricity, or to the supply of, or price to be charged for, energy, which may be passed after the passing of the Act confirming the special order (*a*).

under the same streets under statutory powers. The mains burst in four different places, in each case damaging the plaintiff's cables. No negligence was attributed to the defendants. It was held that the doctrine of *Rylands* v. *Fletcher* ((1868), L. R. 3 H. L. 330; 33 J. P. 70) applies not only to cases in which the dangerous thing has escaped from the defendant's land on to the plaintiff's land and done damage there, but also to cases in which the site of the plaintiff's injury was occupied by him only under a licence and not under any right of property in the soil, and that in the absence of statutory authorisation of the nuisance the defendants were liable for the damage caused by the bursting of their mains, notwithstanding that they had not been guilty of any negligence (*Charing Cross, West End and City Electricity Supply Co.* v. *London Hydraulic Power Co.*, [1914] 3 K. B. 772). *Cf. Goodbody* v. *Poplar Borough Council* (1914), 79 J. P. 218; *Miles* v. *Forest Rock Granite Co., Ltd.* (1918), 34 T. L. R. 500; *Belvedere Fish Guano Co.* v. *Rainham Chemical Works, Ltd.*, [1920] 2 K. B. 487; 84 J. P. 185; affirmed, H. L., [1921] 2 A. C. 465.

The effect of this clause was considered by the Court of Appeal in *Farnworth* v. *Manchester Corporation*, [1929] 1 K. B. 533; 93 J. P. 73. In the House of Lords it was held that this clause did not apply, but the corporation were none the less held liable for a nuisance caused by the emission of fumes from a generating station ([1929], 94 J. P. 62, 27 L. G. R. 709).

(*a*) Clauses 83 and 84 relate to only the application of this Schedule to Scotland and Ireland, and are therefore omitted.

As to the omission of the Appendix, see note (*c*), *ante*, p. 2574.

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THE BODIES CORPORATE (JOINT TENANCY) ACT, 1899.

(62 & 63 VICT. c. 20) (*a*).

An Act for enabling Bodies Corporate to hold Property in Joint Tenancy.

[9th August, 1899.]

Power for corporations to hold property as joint tenants.

1.—(1) A body corporate shall be capable of acquiring and holding any real or personal property in joint tenancy in the same manner as if it were an individual; and where a body corporate and an individual, or two or more bodies corporate, become entitled to any such property under circumstances or by virtue of any instrument which would, if the body corporate had been an individual, have created a joint tenancy, they shall be entitled to the property as joint tenants.

Provided that the acquisition and holding of property by a body corporate in joint tenancy shall be subject to the like conditions and restrictions (*b*) as attach to the acquisition and holding of property by a body corporate in severalty.

(2) Where a body corporate is joint tenant of any property, then on its dissolution the property shall devolve on the other joint tenant.

(*a*) This statute altered the law as it had existed ever since Litt. ss. 281, 296, 297; Co. Litt. 182, 189 b., 190; 2 Bla. Com. 184; *Bennet* v. *Holbech* (1672), 2 Saund. 316 a.; *Law Guarantee and Trust Society* v. *Bank of England* (1890), 24 Q. B. D. 406. But by s. 264 of the Lunacy Act, 1890, it had already been enacted that lands acquired for the purposes of that Act might be conveyed where more than one local authority was interested to all the local authorities interested as joint tenants; and by s. 6 of the National Debt (Stockholders Relief) Act, 1892, that stock [*i.e.* stock transferable in the books of the Bank of England] may be transferred to and held in the names of an individual and a body corporate, or of two or more bodies corporate, and any such holding shall in its relation to the Bank be deemed a joint tenancy.

(*b*) *E.g.*, in certain cases the necessity for a licence in mortmain. See the Mortmain and Charitable Uses Act, 1888, *ante*, p. 2516, and note (*a*) thereto.

Short title.

2. This Act may be cited as "The Bodies Corporate (Joint Tenancy) Act, 1899."

THE BATHS AND WASHHOUSES ACT, 1899.

(62 & 63 VICT. c. 29) (*a*).

An Act to amend the Baths and Washhouses Acts. [9th August, 1899.]

41 & 42 Vict. c. 14.

Whereas it is expedient to amend the provisions of the Baths and Washhouses Act, 1878, *with respect to the use which may be made of baths provided under the Baths and Washhouses Acts*, 1846 *to* 1896 :

. . . . . .

Short title.

1. This Act may be cited for all purposes as "The Baths and Washhouses Act, 1899," and this Act and the Baths and Washhouses Acts, 1846 to 1896, may be cited together for all purposes as the Baths and Washhouses Acts, 1846 to 1899.

(*a*) See 9 & 10 Vict. c. 74, *ante*, p. 2143 ; 10 & 11 Vict. c. 61, *ante*, p. 2213 ; 41 & 42 Vict. c. 14, *ante*, p. 2402 ; 45 & 46 Vict. c. 30, *ante*, p. 2413 ; and the P. H. A., 1925, Pt. IX., *ante*, p. 1627.

Amendment 41 & 42 Vict. c. 14, s. 5.

2. From and after the passing of this Act the following proviso to section five of the Baths and Washhouses Act, 1878 (*a*), viz.,—

"Provided always, that no covered or open swimming bath, when closed, may be used for music or dancing,"

shall be repealed.

Provided always—

(*a*) That the commissioners appointed under the Baths and Washhouses Acts, 1846 to 1899, or any other body for the time being acting in the execution of those Acts, which commissioners or other body are hereinafter referred to as "such commissioners," shall, before any such bath is used for music or dancing, obtain such licence as may be required for the use of a place for that purpose under any enactment in force in the area for which such commissioners act, or, if no such enactment is in force, obtains a licence from the county council of the county in which the district of such commissioners is situate (*b*) :

(*b*) . . . (*c*).

(*c*) That such commissioners be responsible for any breach of the conditions on which the licence is granted, which may occur during any entertainments given on such premises by their permission.

(*a*) *Ante*, p. 2402.

(*b*) The effect of the proviso appears to be that in places to which the provisions of the Home Counties (Music and Dancing) Licensing Act, 1926, as to music and dancing apply, viz., places within twenty miles of the cities of London and Westminster, and not within the county of Middlesex, before the bath can be used for music or dancing, a licence must be obtained under that Act ; that where Part IV. of the P. H.A., 1890, *ante*, p. 9071, is in force a licence must be obtained from the licensing justices ; and that in any other place in an administrative county the county council are empowered to grant the necessary licence, unless there is some special enactment in operation making other provision for the grant of licences for music or dancing (*e.g.*, the Music and Dancing Licences (Middlesex) Act, 1894).

(*c*) This proviso, which prohibited the letting of closed baths other than occasionally and forbade the taking of money for admission at the doors was repealed by s. 9 and Sched. V. of the P. H. A., 1925. Local authorities have now a discretion as to the leasing of closed baths and as to the purposes for which they may be used, see s. 87, *ibid.*, *ante*, p. 1628.

Licence by county council. 25 Geo. 2, c. 36.

3. In places (*a*) in which the Disorderly Houses Act, 1751, is in force, a licence under that Act for music or dancing, or for both purposes, may be granted to such commissioners at any annual licensing meeting of the council

Section 3. authorised to grant such a licence, or at any other meeting of such council duly convened with fourteen days' previous notice.

(*a*) The Disorderly Houses Act, 1751, which applied to places in the cities of London or Westminster or within twenty miles thereof, but not in the administrative county of Middlesex, was repealed in so far as it related to music and dancing licences by the Home Counties (Music and Dancing) Licensing Act, 1926, 16 & 17 Geo. 5, c. 31, under which such licences are now granted in the same area.

Extent of Act. **4.** This Act shall not apply to the administrative county of London (*a*).

(*a*) As to the administrative county of London, see the Baths and Washhouses Act, 1896.

THE COMMONS ACT, 1899.

(62 & 63 VICT. c. 30) (*a*).

An Act to amend the Inclosure Acts, 1845 *to* 1882, *and the Law relating to Commons and Open Spaces.* [9th August, 1899.]

(*a*) See the Commons Act, 1876, *ante*, p. 2375. See further as to waste lands and commons the provisions of ss. 193 and 194 of the Law of Property Act, 1925, *post*, pp. 2880, 2881.

PART I.

REGULATION OF COMMONS.

Power for district council to make scheme for regulation of common.

1.—(1) The council of an urban or rural district (*a*) may make (*b*) a scheme for the regulation and management of any common (*c*) within their district (*d*) with a view to the expenditure of money (*e*) on the drainage, levelling, and improvement (*f*) of the common, and to the making of byelaws (*g*) and regulations for the prevention of nuisances and the preservation of order on the common.

39 & 40 Vict. c. 56.

(2) The scheme may contain any of the statutory provisions for the benefit of the neighbourhood mentioned in section seven of the Commons Act, 1876 (*h*).

(3) The scheme shall be in the prescribed (*i*) form, and shall identify by reference to a plan the common to be thereby regulated, and for this purpose an ordnance survey map shall, if possible, be used.

(*a*) As to county boroughs, see s. 13, *post*, p. 2605.

(*b*) As to amending or supplementing schemes, see s. 9, *post*, p. 2604.

(*c*) For definition of "common," see s. 15, *post*, p. 2605, and as to excepted commons, see s. 14, *post*, p. 2605,

(*d*) In a case of a common extending into two or more districts the powers of s. 57 of the L. G. A., 1894, *ante*, p. 1022, might be useful in relation to a joint scheme.

(*e*) As to expenses, see ss. 5, 11, and 12, *post*.

(*f*) This word is not defined, nor is s. 5 of the Commons Act, 1876, *ante*, p. 2377, expressly incorporated.

(*g*) As to byelaws, see s. 10, *post*, p. 2604.

(*h*) *Ante*, p. 2377.

(*i*) See s. 15, *post*, p. 2605. The Ministry of Agriculture and Fisheries have prescribed a form of scheme, and a form of notice of intention to make such scheme, by Commons Regulations, dated October 4th, 1924 (Stat. R. & O., 1924, No. 1157), in Appendix II., *post*, p. 3117, As to whether a scheme will be conclusive as to the limits and extent of the common, see *Cook* v. *Conservators of Mitcham Common*, [1901] 1 Ch. 387.

Procedure for making scheme.

2.—(1) Not less than three months before the making of a scheme under this Part of this Act the council shall give the prescribed (*a*) notice of their intention to make it, and shall state thereby where copies of the draft of the scheme may be obtained, and where the plan therein referred to may be inspected. They shall also send to the Board of Agriculture (*b*) as soon as possible a copy of the draft and plan.

Section 2.

(2) During the three months aforesaid any person may obtain copies of the draft on payment of a sum not exceeding sixpence per copy, and may inspect the plan at the prescribed place, and may make in writing to the Board of Agriculture (*b*) any objection or suggestion with respect to the scheme or plan.

(3) After the expiration of the said three months the Board of Agriculture (*b*) shall take into consideration any objections or suggestions so made, and for that purpose may, if they think fit, direct that an inquiry be held by an officer of the Board.

(4) The Board of Agriculture (*b*) may by order approve of the scheme, subject to such modifications, if any, as they may think desirable, and thereupon the scheme shall have full effect.

Provided that if, at any time before the Board have approved of the scheme, they receive a written notice of dissent either—

(*a*) from the person entitled as lord of the manor or otherwise to the soil of the common; or

(*b*) from persons representing at least one-third in value of such interests in the common as are affected by the scheme,

and such notice is not subsequently withdrawn, the Board shall not proceed further in the matter (*c*).

(*a*) See note (*i*) to s. 1, *ante*, p. 2602.

(*b*) The Board of Agriculture has now been superseded by the Minister of Agriculture and Fisheries.

(*c*) Note the differences from an application for regulation under s. 12 (5) of the Commons Act, 1876, *ante*, p. 2383, and note (*c*) thereon.

Management of regulated common.

3. The management of any common regulated by a scheme made by a district council under this Part of this Act shall be vested in the district council.

Provision for delegation of powers of district council to parish council.

4. A rural district council may delegate to a parish council any powers of management conferred by this Part of this Act on the district council in relation to any commons within the parish, and thereupon the Public Health Acts shall apply as if the parish council were a parochial committee (*a*).

(*a*) See P. H. A., 1875, s. 202, *ante*, p. 492. The power of delegation can only be exercised after the scheme is made, as the scheme itself cannot confer rights on a parish council. A rural district council may delegate its powers for a specified period, only resuming them at such time or under such conditions as it may prescribe. The Board of Agriculture and Fisheries were of opinion that the power to make byelaws under a scheme is not a power of management which can be delegated under this section.

Power for parish council to contribute to expenses.

5. A parish council may agree to contribute the whole or any portion of the expenses of and incidental to the preparation and execution of a scheme for the regulation and management of any common within their parish (including any compensation paid under this Act), and the provisions of section eleven of the Local Government Act, 1894 (*a*), shall apply to the expenses incurred by the parish council for the purposes of such contribution.

56 & 57 Vict. c. 73.

(*a*) This section provides as follows: (1) A parish council shall not, without the consent of a parish meeting, incur expenses or liabilities which will involve a rate exceeding fourpence in the pound for any local financial year, or which will involve a loan. (2) A parish council shall not, without the approval of the county council, incur any expense or liability which will involve a loan. (3) The sum raised in any local financial year by a parish council for their expenses (other than expenses under the adoptive Acts), shall not exceed a sum equal to a rate of eightpence in the pound on the rateable value of the parish at the commencement of the year, and for the purpose of this enactment the expression "expenses" includes any annual charge, whether of principal or interest, in respect of any loan.

Note to Section 5.

(4) Subject to the provisions of this Act, the expenses of a parish council and of a parish meeting, including the expenses of any poll, shall be paid out of the general rate; and where there is a parish council that council shall pay the said expenses of the parish meeting of the parish; and the parish council, and where there is no parish council the chairman of the parish meeting, shall, for the purpose of obtaining payment of such expenses, have the same powers as a board of guardians have for the purpose of obtaining contributions to their common fund. (5) The demand note for any rate levied for defraying the expenses of a parish council or a parish meeting, together with other expenses, shall state in the prescribed form the proportion of the rate levied for the expenses of the council or meeting and the proportion (if any) levied for the purpose of any of the adoptive Acts. See also the R and V. Act, 1925, *ante*, p. 1633.

As to the limits of amount laid down by this section, see *R.* v. *Stoke Parish Council* (1900), 64 J. P. 343; 82 L. T. 198. The amounts as set out above are the amended limits provided by the L. G. A., 1929, s. 75. These limits may in special cases be increased by an order of the Minister, *ibid.*, *ante*, p. 1940.

The usual way in which the amounts will be collected is by precept to the rating authority under s. 9, R. and V. Act, 1925, at p. 1653.

An alternative method by which the expenses of promoting a scheme for the regulation of a common in a rural district can be thrown upon the parish or parishes more particularly benefiting is for the rural district council to apply to the Minister of Health for a "special expenses" order (see P. H. A., 1875, s. 229, and P. H. A., 1890, s. 49, *ante*, pp. 514, 906). The Minister would probably not issue such an order, however, unless the parish council or councils had unreasonably refused to contribute.

Provision for compensation.

6. No estate, interest, or right (*a*) of a profitable or beneficial nature in, over, or affecting any common shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by any scheme under this Part of this Act without compensation being made or provided for the same by the council making the scheme, and such compensation shall, in case of difference, be ascertained and provided in the same manner as if it were for the compulsory purchase and taking, or the injurious affecting, of lands under the Lands Clauses Acts (*b*).

(*a*) The right of maintaining a publichouse sign-post in a spot where it had stood for over forty years was held to be a right of a profitable or beneficial nature within the words of a similar enactment (*Hoare* v. *Metropolitan Board of Works* (1874), L. R. 9 Q. B. 296; 38 J. P. 535). See generally on this subject *Att.-Gen.* v. *Amhurst* (1879), 23 Sol. J. 443, and judgment in full, Hunter on Open Spaces, 2nd ed., App. III., p. 468.

(*b*) See 8 & 9 Vict. c. 18, s. 68, *ante*, p. 2108. Sections 25—57 of the same Act, *ante*, pp. 2097—2105, provide for settling cases of disputed compensation.

Power for district council to acquire property in regulated common.

7. A district council may acquire the fee simple or any estate in or any rights in or over any common regulated by a scheme under this Part of this Act by gift or by purchase by agreement, and hold the same without licence in mortmain (*a*) for the purposes of the scheme, and the expenses thereby incurred by the district council shall be part of their expenses of executing the scheme (*b*).

(*a*) See note (*a*), *ante*, p. 2516.

(*b*) As to expenses, see ss. 5, 11 and 12. It has been suggested that the power of acquiring the fee, etc., may be exercised by one council in respect of a common regulated by another council, and that this may be found useful in the case of a common in a rural district near to a town in an urban district.

Digging of gravel. 39 & 40 Vict. c. 56.

8. Section twenty of the Commons Act, 1876 (which relates to the digging of gravel) (*a*), shall apply to any common regulated by a scheme under this Part of this Act.

(*a*) *Ante*, p. 2387.

Power to amend scheme.

9. The power to make a scheme under this Part of this Act shall include power to amend or supplement any such scheme.

Provisions as to byelaws.

10. The provisions with respect to byelaws contained in sections one hundred and eighty-two to one hundred and eighty-six, both inclusive, of the Public Health Act, 1875 (*a*), and any enactment amending or extending those sections, shall apply to all byelaws made in pursuance of a scheme under this Part of this

Act, and any fine imposed by any such byelaw shall be recoverable summarily and be payable to the council in whom the management of the common is vested.

Section 10.

(a) *Ante*, pp. 453—468. Sections 16 and 17 of the Commons Act, 1876, *ante*, p. 2386, do not apply to these byelaws.

Expenses

11.—(1) All expenses incurred by the Board of Agriculture (*a*) in relation to a scheme under this Part of this Act, and all expenses of and incidental to the preparation and execution of the scheme (including any compensation paid under this Act) (*b*) shall be paid by the district council.

(2) All expenses incurred by a district council under this Part of this Act shall be treated as part of the expenses of the district council in the execution of the powers conferred by the Public Health Acts (*c*).

(3) A district council may for the purposes of this Act borrow money in like manner and subject to the like conditions as they may borrow for defraying expenses incurred in the execution of the Public Health Acts, and the said Acts shall apply accordingly (*d*).

(*a*) Now Minister of Agriculture and Fisheries.
(*b*) See s. 6, *ante*, p. 2604.
(*c*) And will, therefore, be payable out of the general rate (see P. H. A., 1875, s. 207, *ante*, p. 495) and the R. and V. Act, 1925, *ante*, p. 1633. See, however, note (*a*) to s. 5, *ante*, p. 2603.
(*d*) See P. H. A., 1875, ss. 233 *et seq.*, *ante*, p. 519.

Power for urban district council to contribute towards expenses.

12. The council of any urban district may, with a view to the benefit of the inhabitants of their district, and subject to the approval of the Local Government Board (*a*), enter into an undertaking with any other council making or having made a scheme under this Part of this Act to contribute any portion of the expenses incurred by that council in executing the scheme.

(*a*) Now Minister of Health.

Application to county boroughs.

13. This Part of this Act shall apply to the council of a county borough in like manner as if that council were the council of an urban district.

Saving for commons regulated under other Acts.

14. A scheme under this Part of this Act shall not apply to any common which is or might be the subject of a scheme made under the Metropolitan Commons Acts, 1866 to 1878, or is regulated by a provisional order under the Inclosure Acts, 1845 to 1882, or has been acquired, or managed as an open space, under the powers of the Corporation of London (Open Spaces) Act, 1878, or any Act therein referred to, or is the subject of any private or local and personal Act of Parliament having for its object the preservation of the common as an open space (*a*), or is subject to byelaws made by a parish council under section eight of the Local Government Act, 1894 (*b*).

41 & 42 Vict. c. cxxvii.

(*a*) See the Open Spaces Act, 1906, s. 2, *post*, p. 2676.
(*b*) This section enables a parish council to exercise with respect to any recreation ground, village green, open space, or public walk which is for the time being under their control or to the expense of which they have contributed, powers similar to those of local authorities under the P. H. A., 1875, s. 164, *ante*, p. 388, and the P. H. A., 1890, s. 44, *ante*, p. 904.

Definitions.

15. In this Part of this Act, unless the context otherwise requires,—

The expression "common" shall include any land subject to be inclosed under the Inclosure Acts, 1845 to 1882, and any town or village green (*a*);

The expression "prescribed" shall mean prescribed by regulations made by the Board of Agriculture (*b*).

(*a*) As to town or village greens, see the Commons Act, 1876, s. 29, *ante*, p. 2390, and notes.
(*b*) See the Commons Regulations, dated October 4th, 1924 (Stat. R. & O., 1924, No. 1157), *post*, App. II., p. 3117. For Board of Agriculture now read Minister of Agriculture and Fisheries.

PART II.

MISCELLANEOUS.

Surplus rents from field gardens and recreation grounds.

16.—(1) Surplus rents arising from field gardens may, in addition to the purposes for which they are now applicable (*a*), be applied for any of the purposes for which surplus rents arising from recreation grounds may be applied.

(2) Surplus rents arising from any field garden or recreation ground may be applied towards the redemption of any land tax, tithe rentcharge, or other charge on the garden or ground.

(*a*) See the Commons Act, 1876, s. 27, *ante*, p. 2389. The same section regulates the application of surplus rents arising from recreation grounds.

17. [*Amendment of* 50 *&* 51 *Vict. c.* 32 *as to open spaces*] (*a*),

(*a*) This section is repealed by s. 23 and the schedule to the Open Spaces Act, 1906, other provision having been made by that Act to the like effect.

Power to modify provisions as to recreation grounds, etc.

18. Any provisions with respect to allotments for recreation grounds, field gardens, or other public or parochial purposes contained in any Act relating to inclosure or in any award or order made in pursuance thereof, and any provisions with respect to the management of any such allotments contained in any such Act, order, or award, may, on the application of any district or parish council interested in any such allotment, be dealt with by a scheme of the Charity Commissioners in the exercise of their ordinary jurisdiction, as if those provisions had been established by the founder in the case of a charity having a founder (*a*).

(*a*) See the Charitable Trusts Act, 1853, ss. 54—59.

The Charity Commissioners are of opinion that the restrictive provisions of s. 19 of the Commons Act, 1876 (*ante*, p. 2387), are not affected by s. 18 of the Commons Act, 1899, and that accordingly the Charity Commissioners are not at liberty to sanction the sale or letting on building lease of any part of an allotment falling within the section first above mentioned. Hunter on Open Spaces, 2nd ed., p. 231, note.

Amendment of 8 & 9 Vict. c. 118.

19. Section one hundred and fifty of the Inclosure Act, 1845 (*a*), shall have effect as if "two successive weeks" were therein inserted instead of "three successive weeks," and as if "one month" were therein inserted instead of "three calendar months."

(*a*) This section relates to notices of divisions of intermixed lands under s. 148 and exchanges of inconvenient allotments under s. 149 of the same Act.

Amendment of law as to adjournment of meetings.

20. Where notice has been given of any sitting, whether original or by adjournment, to be held by an officer of the Board of Agriculture (*a*) under the Metropolitan Commons Acts, 1866 to 1878, that officer may, by notice to be published in such manner as the Board direct, adjourn the sitting without attending for the purpose of the adjournment (*b*).

(*a*) Now Minister of Agriculture and Fisheries.

(*b*) For procedure under the Metropolitan Commons Acts, see Hunter on Open Spaces, 2nd ed., pp. 264, 265.

Annual report to Parliament. 29 & 30 Vict. c. 122.

21. (*a*) *Section twenty of the Metropolitan Commons Act*, 1866, *is hereby repealed, and* the Board of Agriculture (*nn*) shall include in an annual report to Parliament a statement of their proceedings under Part I. of this Act and under the Metopolitan Commons Acts, 1866 to 1878, during the year ending the thirty-first day of December then last past, with such particulars as to their proceedings under the last-mentioned Acts as are required by section twenty-one of the Metropolitan Commons Act, 1866 (*b*).

Note to Section 21.

(*a*) The S. L. R. A., 1908, repealed the italicised words in s. 21, the opening words of s. 23 and Schedule II. The Acts repealed (as having "been made unnecessary by" or being "inconsistent with subsequent enactments") were the Inclosure Acts, 1756 and 1757, the Inclosure (Consolidation) Act, 1801, the Inclosure Act, 1821, the Common Fields Exchange Act, 1834, the Inclosure Acts, 1836 and 1840, and the Inclosure Act, 1845, ss. 121, 122.

(*b*) By this section the Minister must, in his annual report, set forth in full every scheme certified by him during the year to which the report relates, and state the grounds of his approval, and the objections (if any) made to it and overruled, and all proceedings had in respect of these objections and the grounds on which they were overruled.

Restrictions on inclosures under scheduled Acts (*a*).

22.—(1) A grant or inclosure of common purporting to be made under the general authority of any of the Acts mentioned (*b*) in the First Schedule hereto or any Act incorporating the same, or any provisions thereof, shall not be valid unless it is either—

(*a*) specially authorised by Act of Parliament; or

(*b*) made to or by any Government Department; or

(*c*) made with the consent of the Board of Agriculture (*c*).

(2) The Board of Agriculture (*c*), in giving or withholding their consent under this section, shall have regard to the same considerations, and shall, if necessary, hold the same inquiries as are directed by the Commons Act, 1876, to be taken into consideration and held by the Board before forming an opinion whether an application under the Inclosure Acts shall be acceded to or not.

39 & 40 Vict. c. 56

(*a*) See also the restrictions on inclosure of commons in s. 194 of the Law of Property Act, 1925, *post*, p. 2881.

(*b*) These include the Lands Clauses Consolidation Act, 1845. See ss. 99—107 of that Act as to extinction of commoners' rights, *ante*, pp. 2124—2126.

(*c*) Now Minister of Agriculture and Fisheries.

Repeal.

23. [*Repeal of Acts in second Schedule.*] (*a*)

This repeal shall not affect the construction or effect of any local and personal Act of Parliament passed before the commencement of this Act, whereby any provisions of the said enactments are intended to be incorporated.

(*a*) See note (*a*) to s. 21, *supra*.

Short title

24. This Act may be cited as "The Commons Act, 1899," and shall be read with the Inclosure Acts, 1845 to 1882.

SCHEDULES.

[S. 22.]

FIRST SCHEDULE.

ENACTMENTS RELATING TO INCLOSURES SUBJECT TO RESTRICTIONS UNDER THE ACT.

Session and Chapter.	Title or Short Title.
43 Eliz. c. 2	The Poor Relief Act, 1601.
17 Geo. 3, c. 53	The Clergy Residences Repair Act, 1776.
51 Geo. 3, c. 115	The Gifts for Churches Act, 1811.
58 Geo. 3, c. 45	The Church Building Act, 1818.
1 & 2 Will. 4, c. 42	The Poor Relief Act, 1831.
1 & 2 Will. 4, c. 59	The Crown Lands Allotments Act, 1831.
5 & 6 Will. 4, c. 69	The Union and Parish Property Act, 1835.
4 & 5 Vict. c. 38	The School Sites Act, 1841.
8 & 9 Vict. c. 18	The Lands Clauses Consolidation Act, 1845.
17 & 18 Vict. c. 112	The Literary and Scientific Institutions Act, 1854.

[S. 23.]

SECOND SCHEDULE (*a*).

(*a*) See note (*a*) to s. 21, *supra*.

THE TELEGRAPH ACT, 1899.

(62 & 63 VICT. c. 38) (*a*).

An Act to make further Provisions for the Improvement of Telephonic Communication, and otherwise with respect to Telegraphs. [9th August, 1899.]

* * * * * *

Payment of expenses of exercise of powers under telephone licence.

2.—(1) Where the council of a borough or an urban district are licensed (*b*) by the Postmaster-General to provide a system of public telephonic communication, they may defray the expenses of exercising the powers conferred by the licence in the case of a borough out of the borough fund or borough rate (*c*), and in the case of an urban district not a borough out of the rate out of which the general expenses of the council in the execution of the Public Health Acts are defrayed (*d*), and may borrow money for the purpose in accordance with the Public Health Acts (*e*), but in the case of a borough any money so borrowed shall be borrowed on the security of the borough fund or borough rate (*c*); and the council may, subject to the provisions of the Telegraph Acts, 1863 to 1897, and of the licence, exercise their powers under the licence throughout the area for which it is granted, although part of that area may be outside the borough or urban district (*f*).

. . . . . .

(*a*) In *Att.-Gen.* v. *Edison Telephone Co. of London* (1880), 6 Q. B. D. 244, it was held that the terms "telegrams" and "telegraphs" as used in the Telegraph Acts include telephonic messages and telephones, so that it is necessary for the purpose of setting up telephones and transmitting telephone communications to obtain a licence from the Postmaster-General under s. 5 of the Telegraph Act, 1869, in order to avoid the infringement of his exclusive privilege under s. 4 of that Act. Moreover, the Electric Lighting Act, 1882, whilst it authorises local authorities to undertake the supply of electricity in certain cases for certain purposes, excludes from those purposes "the transmission of any telegram" (s. 3 (4), *ante*, p. 2499), and contains in s. 35, *ante*, p. 2454, a special saving for the exclusive privileges of the Postmaster-General. Consequently a licence from him is necessary in all cases where local authorities desire to provide a system of telephonic communication. This Act provides for their expenses when they have obtained such a licence. Section 1 relates merely to the grant of public moneys to the Postmaster-General for the purposes of the Telegraph Acts, and is therefore omitted.

(*b*) Under s. 5 of the Telegraph Act, 1869.

By s. 5 of the Telegraph Act, 1892, (1) Where the Postmaster-General has, either before or after the passing of this Act, licensed any company or person to transmit any telegrams within the meaning of the Telegraph Acts, 1863 to 1889, he may by the same or any other licence, authorise such company or person (in this Act referred to as "the licensee") during the time and within the area specified in the licence, to exercise the powers which are conferred on the Postmaster-General by the Telegraph Acts, 1863 and 1878, and by the provisions of this Act relating to provisional orders, or such of those powers as are specified in the licence, and thereupon the enactments conferring those powers or relating to the exercise thereof, including any penal provisions, shall apply accordingly: (2) Provided as follows:—(a) A licensee shall not exercise any powers under the said enactments except in an urban sanitary district or such area adjoining an urban sanitary district as is described in the licence: (b) Notwithstanding anything in the Telegraph Act, 1878, a licensee shall not exercise any powers under the said enactments without the consent, in London of the county council, and in any urban sanitary district outside London of the urban sanitary authority, and elsewhere of the county council, and shall be subject to any terms and conditions which the county council or urban sanitary authority may attach to any such consent, and shall comply with any regulations of such council or authority from time to time in force in relation to telegraphic lines.

The refusal of their consent by the urban sanitary authority under this section is not a "difference" between that body and the Postmaster-General which may be referred to a stipendiary magistrate or county court judge under s. 4 of the Telegraph Act, 1878 (*National Telephone Co.* v. *Tunbridge Wells Corporation* (1901), 85 L. T. 368, affirming 64 J. P. 756; 48 W. R. 686). The conditions which the urban authority are entitled to impose must not relate to matters entirely outside the scope of their duty as road authority. For instance, a condition that the wires should not be laid unless the licensees were prepared to provide an improved service at a reduced cost is not within the power of the urban authority to impose (*Postmaster-General* v. *London Corporation* (1898), 62 J. P. 380; 78 L. T. 120). But in the case of overhead wires they may impose conditions for securing the public safety (*Wandsworth District L. B.* v. *Postmaster General* (1884), 4 Rail. & Can. Cas. 301). The regulations referred to in the latter part of the above section seem to mean byelaws under Part II., ss. 13 *et seq.* of the P. H. A., 1890, *ante*, p. 873, or s. 25 of P. H. A., 1925, *ante*, p. 1564.

(*c*) Now the general rate fund and general rate, see the R. and V. Act, 1925, *ante*, p. 1633.

(*d*) These expenses will now be defrayed out of the general rate fund or general rate. See the P. H. A., 1875, s. 207, *ante*, p. 495, and the R. and V. Act, 1925, *ante*, p. 1633.

(*e*) See P. H. A., 1875, ss. 233 *et seq.*, *ante*, p. 519.

(*f*) Sub-sections (2) and (3) relate to Scotland and Ireland only, and are therefore omitted.

Provisions as to existing companies.

3.—(1) Where any existing company have before the passing of this Act, under a licence from the Postmaster-General, provided a system of public telephonic communication in any exchange area (*a*), and it is proposed to grant a new licence to a local authority or to another company to provide public telephonic communication in the same exchange area, or any part thereof, then, if the existing company consent to it being made a condition of their licence—

(a) that they will not give favour or preference (*b*) to any person whomsoever within the area specified in the new licence, and will not, within that area, as a condition of giving a service, require from any person the grant of any facility except for the purpose of supplying telephonic communication to that person; and

(b) that their charges shall not, within the area specified in the new licence, exceed the maximum rates or fall below the minimum rates authorised in that behalf by the Postmaster-General within that area (*c*),

it shall be a condition of the grant of the new licence, that where it is proved to the satisfaction of the Postmaster-General that the existing company have incurred or contracted to incur, in the area specified in the new licence, material expenditure in laying down underground wires, and have by agreement with any local authority within that area acquired powers for that purpose, those powers shall continue for the period specified in the new licence for the duration thereof (*d*), but, subject as aforesaid, on the terms and conditions specified in the agreement (including any provisions thereof for determination on breach of covenant), except so far as they may be varied by any subsequent agreement with the local authority.

(2) Where an existing company is at the passing of this Act under a licence from the Postmaster-General supplying public telephonic communication in any exchange area, a licence to provide a system of public telephonic communication within the same area, or any part thereof, shall not be granted by the Postmaster-General to any person or body other than the council of a borough or urban district, unless it is shown to the satisfaction of the Postmaster-General that the application for the licence is approved by the council of each borough or urban district within which it is proposed by the application to establish a telephonic exchange.

(3) An existing company shall not, without the consent of the Postmaster-General given after the passing of this Act in each case, open an exchange in any exchange area in which they had not, before the passing of this Act, established an effective exchange.

(4) Where a local authority or a new company, under a licence from the Postmaster-General, provides a system of public telephonic communication in the whole or any part of an exchange area in competition with an existing company licensed by the Postmaster-General before the passing of this Act,

Section 3. then, if the existing company consent to it being made a condition of their licence—

(a) that they will not give favour or preference to any person whomsoever within the whole of the exchange area in question, and will not, within that exchange area as a condition of giving a service, require from any person the grant of any facility except for the purpose of supplying telephonic communication to that person; and

(b) that their charges shall not within the whole of the exchange area in question exceed the maximum rates and (where the company are empowered by agreement with the local authority to lay underground wires) shall not fall below the minimum rates authorised in that behalf by the Postmaster-General within the area specified in the new licence,

the licence of the existing company shall within the whole of the exchange area in question be extended and continue for the period specified in the new licence of the local authority or new company for the duration of such new licence, but, except as varied by this Act, the provisions of the licence of the existing company (including any provisions thereof for determination on breach of covenant) shall remain in force.

(5) If the licence of an existing company is, under the provisions of this section, extended in respect of any exchange area for a period of not less than eight years beyond the term existing at the passing of this Act, the company shall, at the request of any other licensee of the Postmaster-General providing public telephonic communication in the whole or any part of that exchange area, and under such circumstances and on such terms and conditions as may, within six months from the passing of this Act, be prescribed by an order of the Postmaster-General, made with the approval of the Treasury, afford all proper facilities for the transmission of telephonic messages between persons using the system of the company (either in the whole or in part of the exchange area, as the Postmaster-General may prescribe) and persons using the system of such other licensee, provided that the licensee so requiring intercommunication shall in any such case afford similar facilities.

(6) For the purposes of this section the expression " exchange area " means an exchange area as defined by an agreement made by an existing company with the Postmaster-General before the passing of this Act.

(*a*) Defined in sub-s. (6).

(*b*) The allowance of a commission for collecting messages is not a preference (*Reuter* v. *Electric Telegraph Co.* (1857), 6 E. & B. 341; 26 L. J. Q. B. 46).

In connection with the subject of charges the following cases should be noted.

A telephone company supplied the use of a telephone wire and apparatus under an agreement for three years at a rent payable quarterly. After the expiration of the three years the parties continued the agreement by mutual consent, but on the last day of a full quarter the company gave the customer notice determining the agreement forthwith and stating their intention to cut off the wire and remove the apparatus, at the same time demanding rent up to one day beyond the quarter. This rent was duly paid to and accepted by them, and the customer moved for an injunction to restrain the company from interfering with the wire and apparatus:—*Held*, that the agreement created the relation of landlord and tenant, and therefore the acceptance of the rent for the extra day was a waiver of the notice to determine the contract, and the injunction was granted (*Keith, Prowse & Co.* v. *National Telephone Co.*, [1894] 2 Ch. 147; 58 J. P. 373).

As to stamp duty on the ordinary form of agreement with a customer, see *National Telephone Co.* v. *Inland Revenue Commissioners*, [1900] A. C. 1; 64 J. P. 420.

(*c*) Section 2 of the Telegraph Act, 1885, gave the Postmaster-General general power for fixing the sums to be from time to time paid on account of the transmission of telegrams, which include telephonic communications.

(*d*) That is, of the powers, not of the licence (*National Telephone Co.* v. *Kingston-upon-Hull Corporation* (1903), 68 J. P. 62; 89 L. T. 291). An action by the telephone company against the local authority for the purpose of raising the question whether the duration of the powers conferred by the agreement was extended is not within the Public Authorities Protection Act, 1893, and consequently the defendants succeeding were only entitled to party and party costs (*National Telephone Co.* v. *Kingston-upon-Hull Corporation* (1904), 52 W. R. 26).

4. This Act may be cited as the Telegraph Act, 1899, and may be cited with the Telegraph Acts, 1863 to 1897. Short title.

THE BURIAL ACT, 1900.

(63 & 64 VICT. c. 15) (*a*).

An Act to amend the Law relating to Burial Grounds. [10th July, 1900.]

1.—(1) The burial authority for any burial ground (*b*) may, if they think fit, apply to the bishop to consecrate any portion of the burial ground approved in that behalf by the Secretary of State. Consecration.

(2) If the burial authority do not make the application within a reasonable time after a request in that behalf, and the Secretary of State is satisfied that a reasonable number of the persons for whom, or within the area for which, the burial ground is provided desire that a portion of it be consecrated, and that the consecration fees have been paid or reasonably secured, the Secretary of State may make the application in respect of an approved portion of the burial ground, and the bishop may consecrate accordingly, and it shall be the duty of the burial authority to make such arrangements as may be necessary for the consecration (*c*).

(*a*) This being one of the Burial Acts, it is strictly outside the scope of the present work, except so far as it affects the powers and duties of urban and rural councils who provide and maintain cemeteries under the powers of the Public Health (Interments) Act, 1879, *ante*, p. 751.

(*b*) The expression "burial authority" is defined by s. 11, *post*, p. 2615. It includes a local authority maintaining a cemetery under the Public Health (Interments) Act, 1879, *ante*, p. 751.

For a form of petition, see Enc. of Forms and Precedents, vol. II., p. 611, Form No. 22.

(*c*) The local authority had previously a discretion as to whether they should apply for consecration. See the Cemeteries Clauses Act, 1847, s. 23, *ante*, p. 2219. The text practically gives an appeal against the refusal of the local authority to make the application.

It seems that the persons who make the request of the Secretary of State under this section must themselves pay or secure the consecration fees. A table of those fees will be found in Mr. Brooke Little's work on the Burial Acts (3rd ed.), p. 739.

2.—(1) A burial authority may at their own cost erect on any part of their burial ground, which is not consecrated or set apart for the exclusive use of any particular denomination, any chapel which they consider necessary for the due performance of funeral services, but any chapel so erected after the passing of this Act shall not be consecrated or reserved for the exclusive use of any denomination. Chapels.

(2) A burial authority may at the request and cost of the residents within their district belonging to any particular denomination, erect, furnish, and maintain a chapel for funeral services according to the rites of that denomination on the ground appropriated to their use.

(3) Where such a request is made and the estimated costs are tendered to the burial authority or reasonably secured, then, if the burial authority refuse to grant the request or fail to give effect to it within a reasonable time, a Secretary of State may, if he thinks fit, by order in writing, require the burial authority to erect, furnish, and maintain, or to give facilities for

Section 2. erecting, furnishing, and maintaining, such a chapel in accordance with directions given in the order, and the burial authority shall comply with the order.

(4) Subject to the provisions of this section the obligation of a burial authority to build a chapel within the consecrated part of a burial ground provided under the Public Health (Interments) Act, 1879, shall cease (*a*). 42 & 43 Vict. c. 31.

(*a*) This section had an important effect on the powers and duties of a local authority who provide a cemetery under the Act of 1879. They are not bound to build a chapel on the consecrated portion of the cemetery as formerly under s. 25 of the Cemetery Clauses Act, 1847, *ante*, p. 2220. And they cannot erect a chapel on the consecrated portion (see sub-s. (1) of this section) except at the cost of residents under sub-s. (2).

Fees.

3.—(1) Every burial authority shall submit to the Secretary of State a table of fees to be received by them in respect of services rendered by any minister of religion or sexton, and the Secretary of State may approve the table with or without modifications. Provided that such fees shall be of the same amount in respect of burial service in the consecrated and the unconsecrated parts of a burial ground (*a*).

(2) If the burial authority fail to submit such a table on being requested to do so by the Secretary of State, he may make a table of fees.

(3) The fees fixed by the table shall be payable to and collected by the burial authority, together with the other fees payable to them, and shall be paid by the burial authority to the minister or sexton in such manner as may be agreed on, or as in default of agreement may be directed by the Secretary of State (*b*).

(4) Subject to the provisions of this section, no fee shall be payable to any incumbent of a parish in respect of any right of exclusive burial, or the erection of a monument, or any other matter whatsoever, in any burial ground maintained by a burial authority, except for services rendered by him (*c*), and this enactment shall apply to any such fee which is by law or custom payable to the churchwardens of any parish or to trustees or other persons for any parochial purpose, or for the discharge of any debt or liability, in like manner as it applies to fees payable to an incumbent.

Provided as follows:

(i) Where, at the passing of this Act, fees other than for services rendered are payable in respect of any matter arising in any burial ground attached to or used for the purposes of a parish, and laid out and used before the passing of this Act (*d*), the like fees shall continue to be paid during the incumbency of the person who, at the passing of this Act, is the incumbent of the parish, or during a period of fifteen years from the passing of this Act, whichever is longer, or if the fees are not paid to the incumbent, or to any person claiming through or under him, then during the said period of fifteen years, and shall be applicable to the like purposes as heretofore, and the burial authority shall collect and pay these fees in like manner as the fees to be paid for services rendered;

(ii) The Ecclesiastical Commissioners may at the request and subject to the approval of the incumbent, or other person interested, agree with any burial authority for such payment, periodical or otherwise, as may be thought equitable in commutation of the fees other than those claimed for services rendered, and an agreement so approved shall be binding on the persons for the time being interested, and the burial authority may make accordingly any payment so agreed upon. Where the fees are paid to an incumbent, or to any person claiming through or under him, the Ecclesiastical Commissioners shall apply the commutation money in the first instance to such compensation of the existing incumbent as they may deem equitable, regard being had to all the circumstances of the case; and the residue, if any, for the augmentation of the benefice (*e*).

(5) No fee, other than fees payable to a sexton for services rendered by him, shall be paid to any clerk or other ecclesiastical officer in respect of interments in a burial ground maintained by a burial authority. Provided that any clerk or other ecclesiastical officer who at the passing of this Act is entitled to fees in respect of interments in any such burial ground may apply to the burial authority for compensation for the pecuniary loss caused to him by the foregoing enactment, and the burial authority shall receive and consider the application, and pay to him such sum of money as equitable compensation for his loss and in such manner as may be agreed on, or in default of agreement may be directed by the Secretary of State (*f*).

(6) For the purposes of this section, a burial authority may borrow in like manner and subject to the like conditions as they may borrow for the provision of a burial ground (*g*).

(7) The provisions of this section, except those as to collection, shall apply to any fixed annual sum substituted for fees in pursuance of section thirty-seven of the Burials Act, 1852 (*h*), in like manner as they apply to fees.

(*a*) As to fees in respect of a burial service before, at, or after cremation, see s. 12 of the Cremation Act, 1902, *post*, p. 2657.

(*b*) In a cemetery provided by a local authority under the Public Health (Interments) Act, 1879, it appears that no fees were payable to an incumbent under the Cemeteries Clauses Act, 1847, s. 52. Such fees will now be payable under s. 7, *post*, p. 2614, according to the table fixed as stated in the text.

(*c*) Thus no fees can be due in respect of burials of non-conformists in consecrated ground conducted without any service in respect of burial being rendered by the incumbent (*Williams* v. *Briton Ferry Burial Board*, [1905] 2 K. B. 565; 69 J. P. 313).

(*d*) An addition to a burial ground purchased before the passing of this Act, although laid out and adapted for burial purposes, but not consecrated nor actually used until after the passing of the Act, was held not to come within this proviso (*Young* v. *Kingston-on-Thames, etc. Joint Burials Committee*, [1907] 1 K. B. 416; 71 J. P. 121). But where before the passing of the London Government Act, 1899, separate burial grounds had been provided for parishes which after the passing of that Act were united by a scheme made in pursuance of that Act into one parish, it was held that the rector of one of these parishes was not entitled to fees other than for services actually rendered in respect of interments in these burial grounds, after the passing of the Burial Act, 1900, in respect of which he was not before the passing of this Act entitled (*Anderson* v. *Wandsworth Borough Council*, [1908] W. N. 118).

(*e*) These provisions cannot apparently apply in the case of a cemetery provided by a local authority; for, as already stated, no fees were payable to incumbents under the Public Health (Interments) Act, 1879, or, consequently, under s. 52 of the Cemeteries Clauses Act, 1847.

(*f*) A clerk might be appointed in a cemetery under the Cemeteries Clauses Act, 1847, s. 34, *ante*, p. 2221, but he was paid by stipend, not by fees, and the provision in the text does not appear to apply to such a clerk.

(*g*) In the case of a local authority the borrowing powers depend on ss. 233, 234 of the P. H. A., 1875, *ante*, pp. 519, 526.

(*h*) This section enables a vestry with the consent of the bishop to substitute a fixed payment for fees payable to the incumbent, clerk, and sexton and other persons and bodies under the Act of 1852.

Transfer of powers to [Ministry of Health].

4. The powers and duties of the Secretary of State under or referred to in the enactments in the First Schedule to this Act shall be transferred to the [Ministry of Health] (*a*), and those enactments shall have effect as if any reference therein to a Secretary of State were a reference to the [Ministry of Health] (*a*).

(*a*) The L. G. B. has now been superseded by the Ministry of Health (Ministry of Health Act, 1919). Speaking generally, all questions relating to sanitation, and to the constitution,

Note to Section 4.

powers, and finances of burial authorities, are now matters for the Ministry of Health, whilst matters affecting the interests of the church and other religious denominations and their officers are referred to the Secretary of State, whether such matters arise in connection with burial grounds under the Burial Acts or with cemeteries under the Public Health (Interments) Act, 1879.

The transfer hereby effected related principally to the following matters :—

The closing of burial grounds and the prohibition of the opening of new ones.

The approval of new burial grounds, and of additions to existing grounds.

The adoption of the Burial Acts and the constitution, powers, and areas of burial authorities.

The inspection and regulation of burial grounds.

Certain provisions as to the borrowing powers and expenses of burial authorities.

Fees other than Ecclesiastical Fees to be taken by burial authorities.

The purchase, sale, and letting of land.

The sanitary regulation of vaults and places of burial.

The grant of licences for interment in closed burial grounds.

The Secretary of State remains the central authority regarding the consecration of burial grounds, the allotment of parts thereof for the use of particular denominations, the building of chapels, and the removal of human remains; and new functions are entrusted to him by this Act, with respect to the fixing, varying, or commutation of, or compensation for, fees payable to ministers of religion, ecclesiastical officers, and sextons.

Inquiries by Secretary of State.

5.—(1) The Secretary of State may, if he thinks fit, appoint any person to inquire into any matter relating to the consecration of any part of a burial ground, or the building of any chapel therein, or the fixing, varying, or commutation of or compensation for any fees payable to ministers of religion, ecclesiastical officers, and sextons in connection therewith.

(2) The Secretary of State may make such order as he thinks just as to the payment by the burial authority or other parties of the whole or any part of the costs of the inquiry, including the remuneration and expenses hereinafter mentioned. Any such order may direct payment to be made to the Exchequer or other parties, and may be enforced as if it were an order of the High Court.

(3) The Secretary of State may assign to any person appointed under this section such remuneration not exceeding five guineas a day as he may think fit, and a suitable allowance for expenses, and the remuneration and allowance so assigned shall, except so far as otherwise provided, be paid out of moneys provided by Parliament.

Protection of unconsecrated burial ground.

6. Unconsecrated ground which is maintained by a burial authority and set apart for the purposes of burial (*a*) shall not be applied to any other purpose except by leave of the [Ministry of Health] (*b*).

(*a*) As to what is meant by "set apart for the purposes of burial," see *Re Ponsford and Newport District School Board*, [1894] 1 Ch. 454; *Nicholl* v. *Llantwit Major Parish Council*, [1924] 2 Ch. 214; *London C. C.* v. *Greenwich Corporation*, [1929] 1 Ch. 305. See also the Disused Burial Grounds Act, 1884, *ante*, p. 2484, as amended by the Open Spaces Act, 1887, s. 4, *ante*, p. 2493, s. 17 of the Burial Act, 1855, s. 177 of the P. H. A., 1875, *ante*, p. 443, and s. 95 of the P. H. A., 1907, *ante*, p. 1161. Difficult questions arise from time to time as to whether pieces of unconsecrated land vesting in burial authorities which it is proposed to devote to other purposes are "set apart for the purposes of burial," and as to the precise statutory provisions governing the proposed appropriation. In such cases it is advisable to consult the Ministry of Health in the matter. And see *St. George's, Hanover Square* (*Rector and Churchwardens*) v. *Westminster Corporation*, [1910] A. C. 225; 74 J. P. 153.

(*b*) See note (*a*), to s. 4, *ante*, p. 2613.

Obligation of incumbent as to burial.
42 & 43 Vict. c. 31.

7. The incumbent of any ecclesiastical parish situate wholly or partly within the area for which a burial ground is provided under the Public Health (Interments) Act, 1879, shall, with respect to his own parishioners, and persons dying in his parish, be under the same obligation to perform funeral services in that burial ground as he is to perform funeral services in a burial

42 & 43 Vict. c. 31.

ground provided under the Burial Acts, and the power of the burial authority to appoint a chaplain for a burial ground provided under the Public Health (Interments) Act, 1879, shall cease, and where there is no chaplain for a burial ground so provided, burials in the consecrated part of the ground shall be registered in like manner, and subject to the like provisions as burials in the unconsecrated part (*a*).

(*a*) The duty of appointing a chaplain was imposed by the Cemeteries Clauses Act, 1847, s. 27, *ante*, p. 2220. The registration of burials in the consecrated portion of the cemetery is regulated by the Cemeteries Clauses Acts, 1847, s. 32, *ante*, p. 2220. When in future there is no chaplain the registration of all burials in the cemetery will be regulated by the Registration of Burials Act, 1864. Under the Births and Deaths Registration Act, 1926, s. 1 (1), the body of a deceased person shall not be disposed of before a certificate of the registrar given in pursuance of that Act or an order of the coroner has been delivered to the person by whom or whose officer the register of burials in which the disposal is to be registered is kept, subject to a proviso that a written declaration that a certificate or order has been issued may be accepted in lieu of such certificate or order. See also s. 5 of the same Act as to the burial of still-born children and the Cremation Regulations, 1927, made under s. 10, *ibid.*, and set out in App. II., *post*, p. 3137.

Generally as to the duty of an incumbent to perform funeral services, see note to s. 11 of the Cremation Act, 1902, *post*, p. 2657.

Notice of intention to bury. 43 & 44 Vict. c. 41.

8. The notice to be given of intention to bury in a burial ground maintained by a burial authority shall be given at such time and to such person as the burial authority may direct, and so much of section one of the Burial Laws Amendment Act, 1880, as requires forty-eight hours' notice to be given in any such case shall be repealed (*a*).

(*a*) For a form of notice, see Enc. of Forms and Precedents, Vol. II., p. 617, Form No. 28.

Application of certain provisions of Burial Acts to cemeteries under 42 & 43 Vict. c. 31.

9. The provisions of section seven of the Burial Act, 1853, as to allotment of the unconsecrated part of a burial ground, and the Burial Laws Amendment Act, 1880, as amended by this Act, shall apply to burial grounds provided under the Public Health (Interments) Act, 1879, as if the burial authority were a burial board (*a*).

(*a*) The Burials Act, 1853, s. 7, provides that in all cases in which any burial board shall provide a new burial ground, that new burial ground shall be divided into consecrated and unconsecrated parts in such proportions, and the unconsecrated part thereof shall be allotted in such manner and in such portions as may be allowed by one of her Majesty's principal Secretaries of State. The application of this section to a cemetery provided by a local authority takes away from such authority the unfettered discretion which they formerly had under the Cemeteries Clauses Act, 1847, s. 35, *ante*, p. 2221. Where part of a burial ground has been allotted under s. 7 of the 1853 Act to a particular denomination, an injunction will be granted at the suit of the Att.-Gen. to restrain the burial of persons not of that denomination in the part so allotted (*Preston Corporation* v. *Pyke*, [1929] W. N. 105; 45 T. L. R. 398).

Boundary fences. 10 & 11 Vict. c. 65.

10. Section fifteen of the Cemeteries Clauses Act, 1847 (relating to boundary fences), shall not apply to a burial ground provided under the Public Health (Interments) Act, 1879.

Meaning of burial authority. 42 & 43 Vict. c. 31.

11. In this Act the expression "burial authority" shall mean any burial board, any council, committee, or other local authority having the powers and duties of a burial board, and any local authority maintaining a cemetery under the Public Health (Interments) Act, 1879, or under any local Act.

Repeal.

12. [*Repeal of Acts in Schedule II*] (*a*).

(*a*) Sections 12, 13 (2) and Schedule II., repealed by S. L. R. A., 1908.

Short title and commencement.

13.—(1) This Act may be cited as "The Burial Act, 1900," and may be cited and shall be construed with the Burial Acts, 1852 to 1885.

(2) [*Commencement of Act, January 1st*, 1901] (*a*).

(*a*) Sections 12, 13 (2) and Sched. II., repealed by S. L. R. A., 1908.

Schedules.

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS GIVING OR REFERRING TO POWERS WHICH ARE TO BE TRANSFERRED TO THE LOCAL GOVERNMENT BOARD.

Session and Chapter.	Short Title.	Enactments.
15 & 16 Vict. c. 85 .	The Burial Act, 1852 .	Sections two, six, seven, nine, ten, and forty-four.
16 & 17 Vict. c. 134 .	The Burial Act, 1853 .	Sections one, four, five, and six.
18 & 19 Vict. c. 128 .	The Burial Act, 1855 .	Sections three, six, seven, eight, and seventeen.
20 & 21 Vict. c. 81 .	The Burial Act, 1857 .	Sections nine, ten, twenty-three, and twenty-four.
22 Vict. c. 1 . .	The Burial Act, 1859 .	Section one.
23 & 24 Vict. c. 64 .	The Burial Act, 1860 .	Section four.
34 & 35 Vict. c. 33 .	The Burial Act, 1871 .	Section one.

* * * * * *

THE PUBLIC LIBRARIES ACT, 1901.

(1 EDW. 7, C. 19) (*a*).

An Act to amend the Acts relating to Public Libraries, Museums, and Gymnasiums. [17th August, 1901.]

AMENDMENT OF PUBLIC LIBRARIES ACTS, 1892 AND 1893.

Short title and construction. 55 & 56 Vict. c. 53. 56 & 57 Vict. c. 11.

1. This Act may be cited as "The Public Libraries Act, 1901," and shall be construed as one with the Public Libraries Act, 1892 (hereinafter referred to as the principal Act), and the Public Libraries (Amendment) Act, 1893, and those Acts and this Act may be together cited as the Public Libraries Acts, 1892 to 1901.

(*a*) See the Public Libraries Act, 1892, and the Public Libraries (Amendment) Act, 1893, *ante*, pp. 2542, 2562. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894. Part of the title of this Act as to the liability of managers of libraries to proceedings for libel was repealed by S. L. R. A., 1927. Reference should also be made to the Public Libraries Act, 1919, *post*, p. 2777. Under s. 1 of that Act power is given to county councils to adopt the Public Libraries Acts, and where a county council become the library authority for any area the power of adoption of the council of a district comprised in that area is to cease. Section 2 of the same Act enables a district council to relinquish to a county council its powers and duties under the Public Libraries Acts. Section 3 provides for the reference and delegation of library powers to education committees.

Qualification of library commissioners.

2.—(1) Any commissioners appointed for a library district under the principal Act (*a*) may be either voters in the district or persons who, though not voters, would, if the district were a rural parish having a parish council, be qualified for election as parish councillors.

56 & 57 Vict. c. 73.

(2) Section forty-six of the Local Government Act, 1894 (*b*), relating to disqualifications for election to, or membership of, certain authorities, shall

have effect as if a library authority, being a body of commissioners appointed under the principal Act, were one of the authorities mentioned in that section

(*a*) See s. 5 (1) of that Act, *ante*, p. 2543.
(*b*) *Ante*, p. 1002.

Power to library authority to make byelaws.

3.—(1) A library authority may make byelaws (*a*) for all or any of the following purposes relating to any library, museum, art gallery, or school, which by virtue of the principal Act or this Act is under their control, that is to say:

(a) for regulating the use of the same and of the contents thereof, and for protecting the same and the fittings, furniture, and contents thereof from injury, destruction or misuse;

(b) for requiring from any person using the same any guarantee or security against the loss of, or injury to, any book or other article;

(c) for enabling the officers and servants of the library authority to exclude or remove therefrom persons committing any offence against the Libraries Offences Act, 1898 (*b*), or against byelaws.

61 & 62 Vict. c. 53.

(2) All byelaws under this section shall be made subject and according to the provisions respecting byelaws contained in sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875 (*c*), and those sections shall apply as if the expression "local authority" therein included in every case a library authority.

38 & 39 Vict. c. 55.

(3) All offences and penalties under any such byelaw may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts (*d*).

(*a*) The power of making byelaws conferred by this section is not in substitution for the power of making regulations conferred by s. 15 of the Public Libraries Act, 1892, *ante*, p. 2546, which is still retained. Such regulations do not require confirmation by the Ministry of Health, but are not enforceable by penalties. In ordinary cases, however, regulations are sufficient for the attainment of the objects for which they are made; and it is not anticipated that library authorities will be desirous of making byelaws except where experience has shown them to be required.
(*b*) *Ante*, p. 2568.
(*c*) *Ante*, pp. 453—468. The power to confirm, allow or disallow byelaws hereunder is now transferred to the Board of Education, see Order in Council, 17th May, 1920, in App. II., *post*, p. 3451.
(*d*) Defined by the Interpretation Act, 1889, s. 13 (10).

Extension of 61 & 62 Vict. c. 53.

4. The Libraries Offences Act, 1898 (*a*), shall apply to any museum, art gallery or school provided under the Public Libraries Act, 1892.

(*a*) This Act originally extended only to libraries and reading rooms. See s. 2, *ante*, p. 2568.

Power to library authorities to make agreements for use of library

5.—(1) The library authorities of two or more library districts may agree to share, in such proportions and for such period as may be determined by the agreement, the cost of the purchase, erection, repair and maintenance of any library building in one of those districts, and also the cost of the purchase of books and newspapers for such library, and all other expenses connected with the same, and may also agree as to the management and use of the library, and as to the interchange, hire and use of books and newspapers belonging to such authorities respectively (*a*).

(2) This section shall apply, with the necessary modifications, to a museum, school for science, art gallery or school for art in like manner as to a library.

(*a*) This provision is in substitution for s. 16 (1) of the Public Libraries Act, 1892, which is repealed by s. 14, and Sched., *post*, and any library authority, including an urban authority or a parish council, may enter into an agreement as contemplated by the section with any other library authority whether commissioners or other. Moreover, the agreement may relate to a museum, school for science or art, or art gallery as well as to a library.

Section 6.

Amendment of 55 & 56 Vict. c. 53, s. 18, as to expenses in parishes.

6. In a library district, being a parish, the sanction of the parish meeting or vestry shall not be required annually (*a*) for raising the sums from time to time due from the parish for defraying the expenses incurred by the library authority, and those sums shall be paid by the overseers (*b*) on the order of the library authority. But in any parish in a rural district the sanction of the parish meeting shall be required in the year one thousand nine hundred and eleven, and in every tenth year thereafter · Provided that nothing in this section shall affect the operation of section eleven of the Local Government Act, 1894 (*c*).

56 & 57 Vict. c. 73.

(*a*) This was formerly necessary under the Public Libraries Act, 1892, s. 18 (2), as affected by s. 7 (3) of the L. G. A., 1894.

(*b*) Overseers were abolished by the R. and V. Act, 1925, s. 62, *ante*, p. 1741, and their duties in respect to rates are now exercised by the rating authorities.

(*c*) See note (*a*) to s. 5 of the Commons Act, 1899, *ante*, p. 2603.

The adoptive Acts in the above section include the Public Libraries Acts. The limitation on the amount of the rate imposed by s. 2 of the 1892 Act was repealed by s. 11 and Sched. of the 1919 Act, *post*, p. 2781.

Application of 54 & 55 Vict. c. 22, to museum provided under principal Act.

7. An urban authority for whose district the Museums and Gymnasiums Act, 1891 (*a*), has been adopted, either wholly or so far as it relates to museums only, may appropriate for the purposes of that Act a museum provided for the district under the principal Act, and thereupon the Museums and Gymnasiums Act, 1891, shall apply to the museum, as if it were provided under that Act (*b*).

(*a*) See that Act, *ante*, p. 2528.

(*b*) See, however, s. 9 of the 1919 Act, *post*, p. 2780.

Notice to Local Government Board (*a*).

8. On the adoption of the principal Act for any library district, the library authority shall forthwith give notice in writing of such adoption to the Local Government Board (*a*). The library authority of every district in which the Act has already been adopted shall give the like notice within three months after the passing of this Act.

(*a*) Now the M. of H. Notice must also be given to the Board of Education, see Order in Council, 17th May, 1920, in App. II., *post*, p. 3451.

Definition of "voter."

56 & 57 Vict. c. 73.

9. In any library district every person who is a parochial elector within the meaning of the Local Government Act, 1894 (*a*), shall be a voter for the purposes of the principal Act and this Act ; and parochial electors shall for all the purposes of the principal Act, be substituted for county electors (*b*).

(*a*) For "parochial electors" now read "local government electors." See Representation of the People Act, 1918, Sched. VI., 2, and s. 3, *ante*, pp. 1264, 1246. The expression "local government elector" when used with reference to a parish in an urban district, or in the county of London or any county borough, means any person who would be a local government elector of the parish if it were a rural parish (L. G. A., 1894, s. 75 (2), *ante*, p. 1036).

(*b*) The definition of the expression "votor" in s. 27 of the principal Act is consequently repealed.

10. . . . (*a*).

(*a*) This section was repealed by s. 11 and the Schedule to the Public Libraries Act, 1919, *post*, p. 2781. That Act repealed s. 2 of the Public Libraries Act, 1892, and other enactments relating to the limitations on the rate.

EXTENT OF ACT.

Act not to apply to Scotland.

11. This Act shall not apply to Scotland.

APPLICATION OF ACT TO IRELAND.

Section 12.

12. [*Application of certain provisions to Ireland. Repealed and replaced by the Public Libraries* (*Ireland*) *Act*, 1902 (2 *Edw.* 7, *c.* 20).]

APPLICATION OF THE MUSEUMS AND GYMNASIUMS ACT, 1891, AND PUBLIC LIBRARIES (AMENDMENT) ACT, 1893, TO LONDON.

Application to London of 54 & 57 Vict. c. 22 and 56 & 57 Vict. c. 11.

13. The Museums and Gymnasiums Act, 1891 (*a*), and the Public Libraries (Amendment) Act, 1893 (*b*), shall extend to the administrative county of London, and for the purpose of such extension shall be modified as follows:

The expression "urban authority" shall include the common council of the city of London (*c*) and a metropolitan borough council, and the expression "district" or "urban district" shall include the city of London and a metropolitan borough;

Any expenses incurred by the common council of the city of London or by a metropolitan borough council under the Museums and Gymnasiums Act, 1891, so far as they are not defrayed by fees and other money received under the said Act, shall be defrayed in the manner in which expenses incurred by that council under the principal Act are payable (*d*).

(*a*) *Ante*, p. 2528.

(*b*) *Ante*, p. 2552.

(*c*) As to the city of London, see s. 21 of the principal Act, *ante*, p. 2549.

(*d*) See s. 10 of the Museums and Gymnasiums Act, 1891, *ante*, p. 2531.

REPEAL.

14. *The Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule* (*a*). Repeal.

(*a*) This section and the Schedule were repealed by S. L. R. A., 1927.

SCHEDULE.

Section 14.

Session.	*Short Title.*	*Extent of Repeal.*
54 & 55 Vict. c. 22 .	*The Museums and Gymnasiums Act,* 1891.	*In section two, the words "or the administrative county of London."*
55 & 56 Vict. c. 53 .	*The Public Libraries Act,* 1892.	*Section three, in so far as it is inconsistent with this Act.* *Sub-section one of section sixteen.* *Sub-section two of section eighteen, and in sub-section three of the same section the words "but the sanction of the vestry shall not be required for raising the sums from time to time due from the parish for meeting those expenses."* *So much of section twenty-seven as relates to the definition of a "voter."* *The First Schedule.*

THE FACTORY AND WORKSHOP ACT, 1901.

(1 EDW. 7, c. 22) (*a*).

An Act to consolidate with Amendments the Factory and Workshop Acts.
[17th August, 1901.]

PART I.

HEALTH AND SAFETY.

(i) *Health.*

Sanitary conditions of factory (*b*).

1.—(1) The following provisions shall apply to every factory as defined by this Act (*c*), except a domestic factory (*d*):

(a) It must be kept in a cleanly state;

(b) It must be kept free from effluvia rising from any drain, watercloset, earth closet, privy, urinal, or other nuisance;

(c) It must not be so overcrowded while work is carried on therein as to be dangerous or injurious to the health of the persons employed therein (*e*):

(d) It must be ventilated in such a manner as to render harmless, so far as is practicable, all the gases, vapours, dust or other impurities generated in the course of the manufacturing process or handicraft carried on therein, that might be injurious to health (*f*).

38 & 39 Vict. c. 55.

(2) The provisions of section ninety-one of the Public Health Act, 1875 (*g*), with respect to a factory, workshop or workplace not kept in a cleanly state, or not ventilated, or overcrowded, shall not apply to any factory to which this section applies.

(3) For the purpose of securing the observance of the requirements in this section as to cleanliness in factories, all the inside walls of the rooms of a factory, and all the ceilings or tops of those rooms (whether those walls, ceilings, or tops are plastered or not), and all the passages and staircases of a factory, if they have not been painted with oil or varnished once at least within seven years, shall (subject to any special exceptions made in pursuance of this section) be limewashed once at least within every fourteen months, to date from the time when they were last limewashed; and, if they have been so painted or varnished, shall be washed with hot water and soap once at least within every fourteen months, to date from the time when they were last washed.

(4) Where it appears to the Secretary of State that in any class of factories or parts thereof the provisions of this section with respect to limewashing or washing are not required for the purpose of securing therein the observance of the requirements of this Act as to cleanliness, or are by reason of special circumstances inapplicable, he may, if he thinks fit, by special order (*h*) grant to that class of factories or parts thereof a special exception that the said provisions shall not apply thereto.

(5) A factory in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

(*a*) This Act has been amended by the Factory and Workshop Act, 1907, *post*, p. 2688, and the Factory and Workshop (Cotton Cloth Factories) Act, 1929, *post*, p. 3020. Only those sections of this Act which bear upon the duties of sanitary authorities are here set out. The definitions of "factory" and "workshop" in this Act are of particular importance to urban authorities and rural district councils as rating authorities because of their application to the definition of "industrial hereditaments" under the R. and V. Acts, 1925—1929. These definitions will be found set out, *post*, at p. 2646.

(*b*) This section reproduces 41 & 42 Vict. c. 16, ss. 3 and 23, as amended by 54 & 55 Vict. c. 75, ss. 3 and 5, and 58 & 59 Vict. c. 37, ss. 1 and 24.

Note to Section 1.

(c) See s. 149, *post*, p. 2646. As to tenement factories, see s. 87, *post*, p. 2628, and as to laundries, see the Factory and Workshop Act, 1907, ss. 3 and 4, *post*, p. 2689.

(d) Defined by s. 115, *post*, p. 2637. See also s. 111 (5), *post*, p. 2636.

(e) See s. 3, *infra*, as to overcrowding.

(f) See s. 7, *post*, p. 2623, as to means of ventilation.

(g) *Ante*, p. 174.

(h) Defined by s. 156, *post*, p. 2649. See Order dated November 2nd, 1903 (Stat. R. & O., Rev. 1904, vol. 4, tit. Factory & Workshop, p. 1), and s. 161 (2), *post*, p. 2650.

Sanitary condition of workshops and workplaces. 38 & 39 Vict c. 55.

2.—(1) The provisions of section ninety-one of the Public Health Act, 1875 (*a*), with respect to a factory, workshop or workplace not kept in a cleanly state, or not ventilated, or overcrowded, shall apply to every factory, workshop and workplace, except any factory to which the last preceding section applies.

(2) Every workshop and every workplace within the meaning of the Public Health Act, 1875, must be kept free from effluvia arising from any drain, watercloset, earthcloset, privy, urinal or other nuisance, and, unless so kept, shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to public health.

(3) Where, on the certificate of a medical officer of health or inspector of nuisances, it appears to any district council that the limewashing, cleansing or purifying of any such workshop or of any part thereof is necessary for the health of the persons employed therein, the council shall give notice in writing to the owner or occupier of the workshop to limewash, cleanse or purify the same or part thereof, as the case may require.

(4) If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a fine not exceeding ten shillings for every day during which he continues to make default, and the council may, if they think fit, cause the workshop or part to be limewashed, cleansed, or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

(5) This section shall not apply to any workshop or workplace to which the Public Health (London) Act, 1891, applies. 54 & 55 Vict. c. 76

(*a*) *Ante*, p. 174.

Overcrowding of factory and workshop.

3.—(1) A factory shall, for the purposes of this Act, and a workshop shall, for the purposes of the law relating to public health, be deemed to be so overcrowded as to be dangerous or injurious to the health of the persons employed therein, if the number of cubic feet of space in any room therein bears to the number of persons employed at one time in the room a proportion less than two hundred and fifty or, during any period of overtime, four hundred cubic feet of space to every person (*a*).

(2) Provided that the Secretary of State may, by special order (*b*), modify this proportion for any period during which artificial light other than electric light is employed for illuminating purposes, and may, by like order, as regards any particular manufacturing process or handicraft, substitute for the said figures of two hundred and fifty and four hundred respectively any higher figures, and thereupon this section shall have effect as modified by the order.

(3) Where a workshop or workplace, not being a domestic workshop (*c*), is occupied by day as a workshop and by night as a sleeping apartment, the Secretary of State may, by special order (*d*) modify the proportion of cubic feet of space prescribed by this section and substitute therefor any higher figures, and thereupon this section shall have effect as modified by the order.

(4) There shall be affixed in every factory and workshop a notice specifying the number of persons who may be employed in each room of the factory or workshop by virtue of this section.

Note to Section 3.

(*a*) It had been found by experience previous to the passing of the Factory and Workshop Act, 1895, s. 1, from which this enactment is taken, that the limits here prescribed afforded a good general working rule, and the then Home Secretary so stated in the House of Commons before the passing of that Act.

(*b*) Defined in s. 156, *post*, p. 2649. See Order dated 30th December, 1903, as to certain bakehouses, in App. II., *post*, p. 3300.

(*c*) Defined by s. 115, *post*, p. 2637.

(*d*) Defined by s. 156, *post*, p. 2649. See Order dated 17th January, 1902, as to workshops used as sleeping places, in App. II., *post*, p. 3300.

Power of Secretary of State to act in default of local authority (*a*).

4.—(1) If the Secretary of State is satisfied that the provisions of this Act, or of the law relating to public health in so far as it affects factories, workshops and workplaces, have not been carried out by any district council, he may, by order, authorise an inspector to take, during such period as may be mentioned in the order, such steps as appear necessary or proper for enforcing those provisions.

(2) An inspector authorised in pursuance of this section shall, for the purpose of his duties thereunder, have the same powers with respect to workshops and workplaces as he has with respect to factories, and he may, for that purpose, take the like proceedings for enforcing the provisions of this Act or of the law relating to public health, or for punishing or remedying any default, as might be taken by the district council; and he shall be entitled to recover from the district council all such expenses in and about any proceedings as he may incur and as are not recovered from any other person (*b*).

(*a*) This section reproduces and extends the Factory and Workshop Act, 1891, s. 2, except as to laundries, as to which see the Act of 1907, *post*, p. 2688.

It does not appear how the Secretary of State is to be satisfied of the default, but no doubt opportunity will be given to the district council alleged to be in default, to answer the case against them before any order under this section is made.

The provisions of this section should be compared with those of s. 299 of the P. H. A., 1875, *ante*, p. 634, and s. 57 (3) of the L. G. A., 1929, *ante*, p. 1921, and the differences noted.

(*b*) There are no provisions as to recovery of these expenses like those contained in s. 300 of the P. H. A., 1875, *ante*, p. 637. It would seem, therefore, that in order to recover them, the inspector must bring his action on the statute against the defaulting district council and prove his case in the ordinary way.

Powers of inspector as to sanitary defects in factory or workshop remediable by sanitary authority (*a*).

5.—(1) Where it appears to an inspector that any act, neglect or default in relation to any drain, watercloset, earthcloset, privy, ashpit, water-supply, nuisance or other matter in a factory or workshop is punishable or remediable under the law relating to public health, but not under this Act, that inspector shall give notice in writing of the act, neglect or default, to the district council in whose district the factory or workshop is situate, and it shall be the duty of the district council to make such inquiry into the subject of the notice, and take such action thereon, as seems to that council proper for the purpose of enforcing the law, and to inform the inspector of the proceedings taken in consequence of the notice.

(2) An inspector may, for the purposes of this section, take with him into a factory or a workshop a medical officer of health, inspector of nuisances or other officer of the district council.

(3) Where notice of an act, neglect or default is given by an inspector under this section to a district council, and proceedings are not taken within one month for punishing or remedying the act, neglect or default, the inspector may take the like proceedings for punishing or remedying the same as the district council might have taken, and shall be entitled to recover from the district council all such expenses in and about the proceedings as the inspector incurs and as are not recovered from any other person and have not been incurred in any unsuccessful proceedings (*b*).

Note to Section 5.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 4, as amended by the Factory and Workshop Act, 1891, s. 2, and the Factory and Workshop Act, 1895, s. 3. An inspector has power to make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health are complied with so far as respects a factory or workshop, and the persons employed therein. See s. 119 (1) (d), *post*, p. 2638.

(*b*) See note (*b*) to s. 4 on p. 2622.

Temperature in factories and workshops (*b*).

6.—(1) In every factory and workshop adequate measures (*a*) must be taken for securing and maintaining a reasonable temperature in each room in which any person is employed ; but the measures so taken must not interfere with the purity of the air of any room in which any person is employed.

(2) The Secretary of State may, by special order (*c*), direct, with respect to any class of factories or workshops, that thermometers be provided, maintained and kept in working order, in such place and position as may be specified in the order.

(3) A factory or workshop in which there is any contravention of this section, or of any order under this section, shall be deemed not to be kept in conformity with this Act.

(*a*) See *Peter Robinson, Ltd.* v. *Plowden* (1903), 67 J. P. 152.

(*b*) This section reproduces the Factory and Workshop Act, 1895, s. 32, adding the amendment embodied in sub-s. (2), but that sub-section does not apply to domestic factories or domestic workshops. See s. 111 (4) (e), *post*, p. 2636. As to laundries, see the Factory and Workshop Act, 1907, s. 3, *post*, p. 2689. This section does not apply to men's workshops. See s. 157, *post*, p. 2649.

(*c*) Defined by s. 156, *post*, p. 2649. No such order has as yet been made.

Ventilation (*a*).

7.—(1) In every room in any factory or workshop sufficient means of ventilation shall be provided, and sufficient ventilation shall be maintained.

(2) The Secretary of State may, by special order (*b*), prescribe a standard of sufficient ventilation for any class of factories or workshops, and that standard shall be observed in all factories and workshops of that class ; and an order made under this power may supersede any provision of this Act or order of the Secretary of State with respect to ventilation in cotton cloth factories (*c*).

(3) A factory in which there is a contravention of the provisions of this section shall be deemed not to be kept in conformity with this Act, and a workshop in which there is a contravention of the provisions of this section shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to public health.

(4) If the occupier of a factory or workshop (including a cotton cloth factory in which humidity of the atmosphere is artificially produced) alleges that the whole or part of the expenses of providing the means of ventilation required by this Act ought to be borne by the owner (*d*), he may, by complaint, apply to a court of summary jurisdiction, and that court may make such order concerning the expenses or their apportionment as appears to the court to be just and equitable under the circumstances of the case, regard being had to the terms of any contract between the parties (*e*).

(*a*) This section does not apply to domestic factories or domestic workshops (see s. 111 (4) (e), *post*, p. 2636), nor to men's workshops (see s. 157, *post*, p. 2649). As to laundries, see the Factory and Workshop Act, 1907, s. 3, *post*, p. 2689.

(*b*) Defined by s. 156, *post*, p. 2649. See Order dated 4th February, 1902, as to certain humid textile factories other than cotton cloth factories (Stat. R. & O. Rev., 1904, vol. 4, tit. Factory and Workshop, p. 4), in App II., *post*, p. 3300.

(*c*) See ss. 90—96.

(*d*) Defined by s. 156, *post*, p. 2649.

(*e*) Compare ss. 14 (4) and 101 (8), *post*, pp. 2625, 2632.

Drainage of floors (*a*).

8.—(1) In every factory or workshop or part thereof in which any process is carried on which renders the floor liable to be wet to such an extent that

Section 8. the wet is capable of being removed by drainage, adequate means shall be provided for draining off the wet.

(2) A factory in which there is a contravention of the provisions of this section shall be deemed not to be kept in conformity with this Act, and a workshop in which there is a contravention of the provisions of this section shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to public health.

(*a*) See note (*a*) to s. 7, *ante*, p. 2623.

Sanitary conveniences in factories and workshops (*a*).

9.—(1) Every factory and workshop must be provided with sufficient and suitable accommodation in the way of sanitary conveniences, regard being had to the number of persons employed in, or in attendance at, the factory or workshop, and also where persons of both sexes are, or are intended to be, employed or in attendance, with proper separate accommodation for persons of each sex.

(2) The Secretary of State shall, by special order (*b*), determine what is sufficient and suitable accommodation within the meaning of this section.

(3) A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

(4) This section does not apply to the administrative county of London, or to any place where section twenty-two of the Public Health Acts Amendment Act, 1890, is in force (*c*).

53 & 54 Vict. c. 59.

(*a*) This section reproduces with an amendment embodied in sub-s. (2) the provisions of the Factory and Workshop Act, 1895, s. 35. As to laundries, see the Factory and Workshop Act, 1907, s. 1, *post*, p. 2688.

(*b*) Defined by s. 156, *post*, p. 2649. See the Sanitary Accommodation Order of the 4th February, 1903 (Stat. R. & O. Rev., 1904, vol. 4, tit. Factory and Workshop, p. 5, and Appendix II., *post*, p. 3301), and accompanying Home Office Circular, 16th February, 1903; 1 L. G. R., Part III., p. 57.

(*c*) *Ante*, p. 885.

(ii) *Safety.*

* * * * * *

Provision of means of escape in case of fire (*a*).

14.—(1) Every factory of which the construction was not commenced on or before the first day of January one thousand eight hundred and ninety-two and in which more than forty persons are employed and every workshop of which the construction was not commenced before the first day of January one thousand eight hundred and ninety-six and in which more than forty persons are employed must be furnished with a certificate from the district council of the district in which the factory or workshop is situate that the factory or workshop is provided with such means of escape in case of fire for the persons employed therein as can reasonably be required under the circumstances of each case, and if the factory or workshop is not so furnished it shall be deemed not to be kept in conformity with this Act; and it shall be the duty of the council to examine every such factory and workshop and, on being satisfied that the factory or workshop is so provided, to give such a certificate as aforesaid. The certificate must specify in detail the means of escape so provided.

(2) With respect to all factories and workshops to which the foregoing provisions of this section do not apply and in which more than forty persons are employed (*b*), it shall be the duty of the district council of every district from time to time to ascertain whether all such factories and workshops within their district are provided with such means of escape as aforesaid and, in the case of any factory or workshop which is not so provided, to serve on the owner (*c*) of the factory or workshop a notice in writing specifying the measures necessary for providing such means of escape as aforesaid

Section 14.

and requiring him to carry them out before a specified date, and thereupon the owner shall, notwithstanding any agreement with the occupier, have power to take such steps as are necessary for complying with the requirements (*d*); and, unless the requirements are complied with, the owner shall be liable to a fine not exceeding one pound for every day that the non-compliance continues.

(3) In case of a difference of opinion between the owner (*c*) of the factory or workshop and the council under the last foregoing sub-section, the difference shall, on the application of either party, to be made within one month after the time when the difference arises, be referred to arbitration, and thereupon the provisions of the First Schedule to this Act shall have effect, and the award on the arbitration shall be binding on the parties thereto, and the notice of the council shall be discharged, amended or confirmed in accordance with the award.

(4) If the owner (*c*) alleges that the occupier of the factory or workshop ought to bear or contribute to the expenses of complying with the requirements, he may apply to the county court having jurisdiction where the factory or workshop is situate, and thereupon the county court, after hearing the occupier, may make such order as appears to the court just and equitable under all the circumstances of the case (*e*).

(5) For the purpose of enforcing the foregoing provisions of this section, an inspector may give the like notice and take the like proceedings as under the foregoing provisions of this Act with respect to matters punishable or remediable under the law relating to public health but not under this Act, and those provisions shall apply accordingly (*f*).

(6) The means of escape in case of fire provided in any factory or workshop shall be maintained in good condition and free from obstruction, and if it is not so maintained the factory or workshop shall be deemed not to be kept in conformity with this Act.

(7) For the purposes of this section the whole of a tenement factory or workshop shall be deemed to be one factory or workshop, and the owner shall be substituted for the occupier (*g*).

(8) All expenses incurred by a district council in the execution of this section shall be defrayed—

(a) In the case of an urban district council, as part of their expenses of the general execution of the Public Health Act, 1875 (*h*); and

38 & 39 Vict. c. 55.

(b) In the case of a rural district council, as special expenses incurred in the execution of the Public Health Act, 1875 (*i*);

and those expenses shall be charged to the contributory place in which the factory or workshop is situate.

(*a*) This section reproduces with amendments embodied in sub-ss. (6) and (7) the provisions of the Factory and Workshop Act, 1891, s. 7, as amended by the Factory and Workshop Act, 1895, ss. 10 and 11. It seems to extend to movable as well as to fixed fire-escapes. As to the application of this section to the administrative county of London see s. 153.

(*b*) Adjoining houses let on separate leases by the same owner to the same tenant, who occupied them as one set of manufacturing premises, although in one of them less than forty persons were employed, more than forty being employed in the other, were held to have been rightly dealt with as a single factory under this section (*Re Tubbs and London C. C.* (1904), 68 J. P. 29; 1 L. G. R. 746).

(*c*) Defined by s. 156, *post*, p. 2649. See *London C. C.* v. *Leyson* (1914), 78 J. P. 91; 110 L. T. 200.

(*d*) This gives the owner the right to enter and do works required in respect of the property included in his demise.

Whether the works are reasonably required or not is to be determined in manner directed by the Act (*Toller* v. *Spiers and Pond, Ltd.*, [1903] 1 Ch. 362; 67 J. P. 234).

(*e*) The effect of this sub-section is to exclude the jurisdiction of the High Court in any action upon any covenant by the lessee to pay these expenses, and notwithstanding

Note to Section 14.

any such covenant the county court judge may apportion the expenses as may seem to him just and equitable under the circumstances, though he may take into consideration the terms of the tenancy as part of the circumstances (*Horner* v. *Franklin*, [1905] 1 K. B. 479; 69 J. P. 117). This case apparently overrules *Shephard* v. *Barber* (1903), 67 J. P. 238; 1 L. G. R. 157; and approves *Monk* v. *Arnold*, [1902] 1 K. B. 761. *Cf. Monro* v. *Lord Burghclere* (1917), 82 J. P. 86, a case decided under the London Building Acts (Amendment) Act, 1905, s. 20. Compare also s. 7 (4), *ante*, p. 2623, and s. 101 (8), *post*, p. 2632.

(*f*) See s. 5, *ante*, p. 2622.

(*g*) "Tenement factory" is defined by s. 149, *post*, p. 2646. This sub-section does not meet the defect in the previous Acts disclosed by *London C. C.* v. *Lewis*, [1900] 69 L. J. Q. B. 277; 64 J. P. 39, where the upper floors of a building were "factories" within the meaning of the Acts, but the first floor and basement were not and were let to other tenants, and it was held that the owner of the whole building could not be required to provide as a means of escape in case of fire for the persons employed in such factories, a staircase which would encroach on the lower floors of the building. See also *London C. C.* v. *Brass* (1902), 17 T. L. R. 504, where it was held that a notice to provide means of escape specifying works that would involve a trespass, was held not sufficient to justify a conviction for non-compliance; and see *Toller* v. *Spiers and Pond, Ltd.*, *ante*, p. 2625.

(*h*) See s. 207 of the P. H. A., 1875, *ante*, p. 495, as amended by the R. and V. Act, 1925.

(*i*) See s. 229 of the P. H. A., 1875, *ante*, p. 514, as amended by the R. and V. Act, 1925.

Byelaws for means of escape from fire.

15. Every district council shall, in addition to any powers which they possess with reference to the prevention of fire (*a*), have power to make byelaws providing for means of escape from fire in the case of any factory or workshop, and sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875 (*b*), shall apply to any byelaws so made.

(*a*) See s. 157 (2) of the P. H. A., 1875, *ante*, p. 346.

(*b*) See these sections, *ante*, pp. 453—468.

Doors of factory or workshop to open from inside (*a*).

16.—(1) While any person employed in a factory or workshop is within the factory or workshop for the purpose of employment or meals, the doors of the factory or workshop, and of any room therein in which any such person is, must not be locked or bolted or fastened in such a manner that they cannot be easily and immediately opened from the inside.

(2) In every factory or workshop the construction of which was not commenced before the first day of January one thousand eight hundred and ninety-six, the doors of each room in which more persons than ten are employed shall, except in the case of sliding doors, be constructed so as to open outwards.

(3) A factory or workshop in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

(*a*) This section reproduces and extends 58 & 59 Vict. c. 37, s. 10 (2) and (3).

* * * * * *

Power to make order as to unhealthy or dangerous factory or workshop (*a*).

18.—(1) A court of summary jurisdiction may, on complaint by an inspector, and on being satisfied that any place used as a factory or workshop or as part of a factory or workshop is in such a condition that any manufacturing process or handicraft carried on therein cannot be so carried on without danger to health or to life or limb, by order, prohibit the use of that place for the purpose of that process or handicraft, until such works have been executed as are, in the opinion of the court, necessary to remove the danger.

(2) Provided that proceedings shall not be taken under this section in case where proceedings might be taken by or at the instance of any district council under the provisions of the law relating to public health, unless the inspector is authorised to take proceedings under the foregoing provisions of this Act (*b*) with respect to the enforcement of sanitary provisions in workshops or with respect to matters punishable or remediable under the law relating to public health but not under this Act.

(3) If there is any contravention of an order under this section, the occupier of the place shall be liable to a fine not exceeding forty shillings a day during the contravention.

(*a*) This section reproduces 58 & 59 Vict. c. 37, s. 2.
(*b*) See ss. 4 and 5, *ante*, p. 2622.

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PART II.

EMPLOYMENT.

* * * * * *

Supplemental.

Power to impose sanitary requirements as condition of special exceptions (*a*).

58.—(1) Where it appears to the Secretary of State—

(a) That the adoption of any special means or provision for the cleanliness or ventilation of a factory or workshop is required for the protection of the health of women, young persons or children employed, in pursuance of an exception under this part of this Act, either for a longer period than is otherwise allowed by this Act or at night; or

(b) That the adoption of a special provision as to the total number of hours of employment in each week, the periods of employment and the intervals between such periods is required for the protection of the health of any women or young persons employed in pursuance of such an exception at night,

he may, by special order (*b*), direct that the adoption of the means or provision shall be a condition of such employment.

(2) If it appears to the Secretary of State that the adoption of any such means or provision is no longer required or is, having regard to all the circumstances, inexpedient, he may, by special order, rescind the order directing the adoption, without prejudice to the subsequent making of another order.

(*a*) This section reproduces the provisions of the Factory and Workshop Act, 1878, s. 63, as amended by the Factory and Workshop Act, 1895, s. 14 (3).

(*b*) Defined by s. 156, *post*, p. 2649. See Order dated 20th December, 1882, as to fish-curing shops made under s. 43 of the Factory and Workshop Act, 1878 (Stat. R. & O. Rev., 1904, vol. 4, tit. Factory and Workshop, p. 6). See also Order dated 15th April, 1884, as to workrooms in connection with drapers' actual establishments in the Boroughs of Manchester and Salford (*ibid.*, p. 8), and Order dated 27th April, 1887, as to factories and workshops for the manufacture of straw hats and bonnets (*ibid.*, p. 9).

By another Order dated the 20th December, 1882 (*ibid.*, p. 31) (App. II., *post*, p. 3303), it was imposed as a condition of the employment in any factory or workshop mentioned in Part III. of Schedule III. of the Act of 1878 of any young person or woman in pursuance of an exception under s. 53 of that Act that there shall be a cubic space of at least 400 feet for every young person and woman so employed.

So far as factories are concerned, s. 1 of the Act of 1895, superseded the provisions of this last-mentioned Order. In the case of workshops, however, the effect of that section was not to supersede the Order, but to give the local sanitary authority a co-ordinate power to deal with overcrowding under the law relating to public health. See now s. 3 of the present Act. The Order therefore remains in full force as to workshops, and the conditions which it imposes as to the working of overtime in workshops are enforceable by the factory inspectors.

Power to rescind orders as to special exceptions (*a*).

59. Where an exception has been granted or extended under this Act by an order of the Secretary of State and it appears to the Secretary of State that the exception is injurious to the health of the women, young persons or children employed in, or is no longer necessary for the carrying on of the business in, the class of factories or workshops or parts thereof to which the exception was so granted or extended, he may, by special order, rescind the grant or extension, without prejudice to the subsequent making of another order.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 64.

Section 60.

Notices, registers, etc., relating to special exceptions (*a*).

60.—(1) An occupier of a factory or workshop, not less than seven days before he avails himself of any special exception made by or in pursuance of this Act, shall serve (*b*) on the inspector for the district, and affix in his factory or workshop notice of his intention so to avail himself and, whilst he avails himself of the exception, shall keep the notice so affixed.

(2) Before the service of the notice on the inspector, the special exception shall not be deemed to apply to the factory or workshop and, after the service of the notice on the inspector, it shall not be competent in any proceeding under this Act for the occupier to prove that the exception does not apply to his factory or workshop, unless he has previously served on the inspector for the district notice that he no longer intends to avail himself of the exception.

(3) The notice so served and affixed must, except as otherwise provided by this Act, specify the hours for beginning and end of the period of employment and the times to be allowed for meals to every woman, young person and child, where they differ from the ordinary hours or times.

(4) An occupier of a factory or workshop shall enter in the prescribed (*c*) register and report to the inspector for the district the prescribed (*c*) particulars respecting the employment of a woman, young person or child in pursuance of a special exception ; and, in the case of employment overtime, he shall also cause a notice containing the prescribed (*c*) particulars respecting the employment to be kept affixed in the factory or workshop during the prescribed (*c*) time, and he shall send the report required by this subsection to the inspector not later than eight o'clock in the evening on which any woman, young person or child is employed overtime in pursuance of the exception.

(5) Where the occupier of a factory or workshop avails himself of a special exception made by or in pursuance of this Act and a condition for availing himself of that exception (whether specified in this Act, or in an order of the Secretary of State made under this Act) is not observed in that factory or workshop, then

(a) If the condition relates to the cleanliness, ventilation or overcrowding of the factory or workshop, the factory or workshop shall be deemed not to be kept in conformity with this Act ; and

(b) In any other case a woman, young person or child employed in the factory or workshop, in alleged pursuance of the exception, shall be deemed to be employed contrary to the provisions of this Act.

(6) Where an occupier of a factory or workshop has served on an inspector a report, in pursuance of this section, of his intention to employ any persons overtime by virtue of a special exception, the report shall, unless withdrawn, be *primâ facie* evidence, in any proceedings under this Act, that the occupier has in fact employed persons overtime in accordance with the report.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 66, as amended by the Factory and Workshop Act, 1891, s. 14, with the addition of the amendment embodied in sub-s. (6).

(*b*) See s. 148, *post*, p. 2645.

(*c*) Defined by s. 156, *post*, p. 2649.

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PART V.

SPECIAL MODIFICATIONS AND EXTENSIONS.

(i) *Tenement Factories.*

Duties of owner of tenement factory (*b*).

87.—(1) The owner (*a*) (whether or not he is one of the occupiers) of a tenement factory (*c*) shall, instead of the occupier, be liable for the observance and punishable for non-observance of the following provisions of this Act, namely, the provisions with respect to— **Section 87.**

(i) the cleanliness, freedom from effluvia, overcrowding and ventilation of factories, contained in section one of this Act, including, so far as they relate to any engine-house, passage or staircase or to any room which is let to more than one tenant, the provisions with respect to limewashing and washing of the interior of a factory;

(ii) the fencing of machinery and penal compensation for neglect to fence machinery in a factory, except so far as relates to such parts of the machinery as are supplied by the occupier;

(iii) the notices to be affixed in a factory with respect to the period of employment, times for meals and system of employment of children;

(iv) the prevention of the inhalation of dust, gas, vapour or other impurity, so far as that provision requires the supply of pipes or other contrivances necessary for working the fan or other means for that purpose; and

(v) the fixing of an abstract and notices in a factory.

Provided that any occupier may affix in his own tenement the notice with respect to the period of employment, times for meals and system of employment of children, and thereupon that notice shall, with respect to persons employed by that occupier, have effect in substitution for the corresponding notice affixed by the owner.

(2) The provisions of this Act with respect to the power to make orders in the case of dangerous premises shall apply in the case of a tenement factory as if the owner were substituted for the occupier.

(3) In the case of any tenement factory or class of tenement factories used wholly or partly for the weaving of cotton cloth, the owner shall, if the Secretary of State by order so directs, be substituted for the occupier for the purpose of the requirements of section seven and section ninety-four of this Act or of any order of the Secretary of State with respect to ventilation.

(4) Where, by or under this section, the owner of a tenement factory is substituted for the occupier with respect to any provisions of this Act, any summons, notice or proceeding, which for the purpose of any of those provisions is by this Act required or authorised to be served on or taken in relation to the occupier, is hereby required or authorised (as the case may be) to be served on or taken in relation to the owner.

(a) Defined by s. 156, *post*, p. 2649.

(b) This section reproduces 58 & 59 Vict. c. 37, s. 24, with certain amendments.

(c) Defined by s. 149, *post*, p. 2646. Note the omission of the former provision as to occupiers paying a rent in excess of £200 a year.

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(ii) *Cotton Cloth and other Humid Factories.*

* * * * * *

94. In every cotton cloth factory the following regulations (*a*) for the protection of health shall have effect, viz.: Regulations for the protection of health.

(1) The water used for the purpose of producing humidity shall either be taken from a public supply of drinking water or other source of pure water or shall be effectively purified to the satisfaction of the inspector before being introduced in the form of steam into the factory, and all ducts for the introduction of humidified air shall be kept clean.

(2) The pipes for the introduction of steam into a cotton cloth factory in which the temperature is seventy degrees Fahrenheit or over shall, so far as they are within the shed, be as small both in diameter and length as is reasonably practicable and shall be effectively covered with non-conducting material to the satisfaction of the inspector, so as to minimise the amount of heat thrown off by them into the shed.

(3) In the case of a cotton cloth factory in which humidity of the atmosphere is produced by any artificial means whatsoever (except by gas used for lighting purposes only), the arrangements for ventilation shall be such that during working hours in no part of the cotton cloth factory shall the proportion of carbonic acid (carbon dioxide) in the air be greater than nine volumes of carbonic acid to every ten thousand volumes of air.

(4) Unless some other method certified by the inspector to be equally satisfactory is adopted, the outside of the roof of every cotton cloth factory shall be whitewashed every year before the thirty-first day of May, and such whitewash shall be effectively maintained until the thirty-first day of August.

(5) In every cotton cloth factory erected after the second day of February one thousand eight hundred and ninety-eight, a sufficient and suitable cloak room, or cloak rooms, shall be provided for the use of all the persons employed therein, and shall be ventilated and kept at a suitable temperature.

(*a*) Under the Factory and Workshop (Cotton Cloth Factories) Act, 1929, *post*, p. 3020, the Secretary of State has made regulations (S. R. & O., 1929, No. 300) which are to be substituted for the provisions in the text in so far as they relate to cotton cloth factories.

And a local authority may not approve plans for the erection of or conversion of a building for use as a cotton cloth factory until they have a certificate of the superintending inspector of factories that the building will comply with the regulations.

Penalties for non-compliance (*a*).

95. If in the case of any cotton cloth factory there is a contravention of or non-compliance with any of the foregoing provisions with regard to cotton cloth factories, the inspector shall give notice in writing to the occupier (*b*) of the factory of the acts or omissions constituting the contravention or non-compliance and, if those acts or omissions or any of them are continued or not remedied or are repeated within twelve (*c*) months after the notice has been given, the occupier of the factory shall be liable, for the first offence, to a fine not less than five pounds and not exceeding ten pounds and, for every subsequent offence, to a fine not less than ten pounds and not exceeding twenty pounds.

(*a*) This section reproduces the Cotton Cloth Factories Act, 1889, s. 13.

(*b*) As to the liability of the owner in certain cases, see s. 87 (3) and (4), *ante*, p. 2629.

(*c*) Twenty-four months under the Factory and Workshop (Cotton Cloth Factories) Act, 1929, s. 1 (2), *post*, p. 3020.

Application of foregoing provisions to other humid factories (*a*).

96. The foregoing provisions of this Act with respect to cotton cloth factories shall apply to every textile factory in which atmospheric humidity is artificially produced by steaming or other mechanical appliances and in which regulations under Part IV. of this Act with respect to humidity are not for the time being in force, but subject to the following qualifications, namely:

(a) The Secretary of State may, by special order, modify the provisions of the Fourth Schedule to this Act with respect to the maximum limits of humidity;

(b) The reading of the thermometer between seven and eight o'clock in the forenoon shall not be required; and

(c) Section ninety-four, respecting regulations for the protection of health in cotton cloth factories, shall not apply; and

(d) The regulations in section ninety-two distinguished as (b), (c), (d), and (e), which are required to be observed with reference to the employment of thermometers, shall not apply to cotton spinning mills.

(a) This section reproduces the Factory and Workshop Act, 1895, s. 31, with certain amendments. It is here inserted simply for the purpose of showing that the application of s. 94 of this Act to other humid factories other than cotton cloth factories is excluded. A special order, dated 24th December, 1898, made under the corresponding provisions of s. 31 of the Factory and Workshop Act, 1895, now repealed, is in force with regard to factories where the spinning of merino, cashmere, and wool by the French or dry process is carried on.

(iii) *Bakehouses* (*a*).

(*a*) The M. of H., is now the central department in relation to ss. 97—100. (Order of 27 July, 1921, in App. II., *post*, p. 3306).

Sanitary regulations for bakehouses (*a*).

97.—(1) It shall not be lawful to let or suffer to be occupied or to occupy any room or place as a bakehouse, unless the following regulations are complied with:

(a) A watercloset, earthcloset, privy or ashpit must not be within or communicate directly with the bakehouse;

(b) Every cistern for supplying water to the bakehouse must be separate and distinct from any cistern for supplying water to a watercloset;

(c) A drain or pipe for carrying off fæcal or sewage matter must not have an opening within the bakehouse.

(2) If any person lets or suffers to be occupied or occupies any room or place as a bakehouse in contravention of this section he shall be liable to a fine not exceeding forty shillings, and to a further fine not exceeding five shillings for every day during which any room or place is so occupied after a conviction under this section.

(*a*) This section reproduces the Factory and Workshop Act, 1883, s. 15, as amended by the Factory and Workshop Act, 1895, s. 27 (2).

Penalty for bakehouse being unfit on sanitary grounds (*a*).

98.—(1) Where a court of summary jurisdiction is satisfied, on the prosecution of an inspector or a district council, that any room or place used as a bakehouse is in such a state as to be on sanitary grounds unfit for use or occupation as a bakehouse, the occupier of the bakehouse shall be liable to a fine not exceeding, for the first offence, forty shillings and, for any subsequent offence, five pounds.

(2) The court of summary jurisdiction, in addition to or instead of inflicting a fine, may order means to be adopted by the occupier, within the time named in the order, for the purpose of removing the grounds of complaint. The court may, on application, enlarge the time so named; but, if after the expiration of the time as originally named or enlarged by subsequent order the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day that the non-compliance continues.

(*a*) This section reproduces the Factory and Workshop Act, 1883, s. 16.

Limewashing, painting, and washing of bakehouses (*a*).

99.—(1) All the inside walls of the rooms of a bakehouse, and all the ceilings or tops of those rooms (whether those walls, ceiling or tops are plastered or not) and all the passages and staircases of a bakehouse must either be painted with oil or varnished or be limewashed, or be partly painted or varnished and partly limewashed; and

(a) where the bakehouse is painted with oil or varnished, there must be three coats of paint or varnish and the paint or varnish must be renewed once at least in every seven years and must be washed with hot water and soap once at least in every six months; and

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(b) where the bakehouse is limewashed, the limewashing must be renewed once at least in every six months.

(2) A bakehouse in which there is a contravention of this section shall be deemed not to be kept in conformity with this Act.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 34, as extended by the Factory and Workshop Act, 1895, s. 27.

Provision as to sleeping places near bakehouses (*a*).

100.—(1) A place on the same level with the bakehouse and forming part of the same building may not be used as a sleeping place, unless it is constructed as follows; that is to say,

(a) is effectually separated from the bakehouse by a partition extending from the floor to the ceiling; and

(b) has an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet in area are made to open for ventilation.

(2) If any person lets or occupies or continues to let or knowingly suffers to be occupied any place contrary to this section, he shall be liable to a fine not exceeding, for the first offence, twenty shillings and, for any subsequent offence, five pounds.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 35, as extended by the Factory and Workshop Act, 1895, s. 27.

Prohibition of underground bakehouses (*a*).

101.—(1) An underground bakehouse shall not be used as a bakehouse unless it was so used at the passing of this Act (*b*).

(2) Subject to the foregoing provision, after the first day of January one thousand nine hundred and four an underground bakehouse shall not be used unless certified by the district council to be suitable for that purpose (*c*).

(3) For the purpose of this section an underground bakehouse shall mean a bakehouse any baking room of which is so situate that the surface of the floor is more than three feet below the surface of the footway of the adjoining street or of the ground adjoining or nearest to the room. The expression "baking room" means any room used for baking or for any process incidental thereto.

(4) An underground bakehouse shall not be certified as suitable unless the district council is satisfied that it is suitable as regards construction, light, ventilation and in all other respects.

(5) This section shall have effect as if it were included among the provisions relating to bakehouses which are referred to in section twenty-six of the Public Health (London) Act, 1891.

54 & 55 Vict. c. 76.

(6) If any place is used in contravention of this section, it shall be deemed to be a workshop not kept in conformity with this Act.

(7) In the event of the refusal of a certificate by the district council, the occupier of the bakehouse may, within twenty-one days from the refusal, by complaint apply to a court of summary jurisdiction, and, if it appears to the satisfaction of the court that the bakehouse is suitable for use as regards construction, light, ventilation and in all other respects, the court shall thereupon grant a certificate of suitability of the bakehouse, which shall have effect as if granted by the district council.

(8) Where any place has been let as a bakehouse, and the certificate required by this section cannot be obtained unless structural alterations are made, and the occupier alleges that the whole or part of the expenses of the alterations ought to be borne by the owner, he may by complaint apply to a court of summary jurisdiction, and that court may make such order concerning the expenses or their apportionment as appears to the court to be just and equitable, under the circumstances of the case, regard being

had to the terms of any contract between the parties; or in the alternative the court may, at the request of the occupier, determine the lease (*d*).

(*a*) The first sub-section of this section reproduced the Factory and Workshop Act, 1895, s. 27 (3), but the rest was new.

(*b*) Premises which have been long used as an underground bakehouse, although vacant at the passing of this Act, may, if the owner was then seeking a tenant for them as a bakehouse, be considered to be used as a bakehouse within the meaning of this sub-section (*Schwerzerhof* v. *Wilkins*, [1898] 1 Q. B. 641; 62 J. P. 247).

(*c*) This sub-section absolutely prohibits the use of underground bakehouses after 1st January, 1904, unless certified as structurally suitable for the purpose by the local authority (*Evans* v. *Gallon* (1904), 68 J. P. 537; 2 L. G. R. 1004).

(*d*) Compare s. 7 (4), and s. 14 (4), *ante*, pp. 2623, 2625. The jurisdiction of the High Court in an action on a covenant in a lease by the lessee to pay expenses under this section is excluded by this sub-section (*Stuckey* v. *Hooke*, [1906] 2 K. B. 20; 70 J. P. 393). As to whether the court of summary jurisdiction in making an apportionment can disregard a covenant by the tenant to pay outgoings, etc., see *Goldstein* v. *Hollingsworth*, [1904] 2 K. B. 578; 68 J. P. 383; *Morris* v. *Beal*, [1904] 2 K. B. 585; 68 J. P. 542, and *Stuckey* v. *Hooke*, *supra* (*per* Moulton, L.J.). *Cf. Monro* v. *Lord Burghclere* (1917), 82 J. P. 86, a case decided under the London Building Acts (Amendment) Act, 1905, s. 20.

Enforcement of law as to retail bakehouses by sanitary authorities (*a*).

102. As respects every retail bakehouse, the provisions of this Part of this Act shall be enforced by the district council of the district in which the retail bakehouse is situate, and not by an inspector; and for the purposes of this section the medical officer of health of the district council shall have and may exercise all the powers of entry, inspection, taking legal proceedings and otherwise of an inspector (*b*).

In this section the expression "retail bakehouse" means any bakehouse or place, not being a factory, the bread, biscuits or confectionery baked in which are sold, not wholesale, but by retail, in some shop or place occupied with the bakehouse.

(*a*) This section reproduces the Factory and Workshop Act, 1883, s. 17, and the definition of "retail bakehouse" in s. 18 of that Act.

(*b*) See s. 119, *post*, p. 2638. It is very questionable, however, whether a medical officer of health can be authorised to conduct proceedings under s. 120, *post*, p. 2639, like an inspector.

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PART VI.

HOME WORK.

List of outworkers to be kept in certain trades (*b*).

107. (*a*) In the case of persons employed in such classes of work as may from time to time be specified by special order (*c*) of the Secretary of State—

(1) The occupier of every factory and workshop and every contractor employed by any such occupier in the business of the factory or workshop shall—

(a) keep in the prescribed (*d*) form and manner and with the prescribed particulars lists showing the names and addresses of all persons directly employed by him, either as workmen or as contractors, in the business of the factory or workshop outside the factory or workshop and the places where they are employed; and

(b) send to an inspector such copies of or extracts from those lists as the inspector may from time to time require; and

(c) send on or before the first day of February and the first day of August in each year copies of those lists to the district council of the district in which the factory or workshop is situate (*e*).

(2) Every district council shall cause the lists received in pursuance of this section to be examined and shall furnish the name and place of employment of every outworker included in any such list whose

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place of employment is outside its district to the council of the district in which his place of employment is.

(3) The lists kept by the occupier or contractor shall be open to inspection by any inspector under this Act and by any officer duly authorised by the district council, and the copies sent to the council and the particulars furnished by one council to another shall be open to inspection by any inspector under this Act.

(4) This section shall apply to any place from which any work is given out and to the occupier of that place and to every contractor employed by any such occupier in connexion with the said work, as if that place were a workshop.

(5) In the event of a contravention of this section by the occupier of a factory, workshop or place or by a contractor, the occupier or contractor shall be liable to a fine not exceeding forty shillings and, in the case of a second or subsequent offence, not exceeding five pounds.

(*a*) For the effect of s. 157, *post*, p. 2649, on this section, see *Seal* v. *Alexander* (1912), 76 J. P. 156.

(*b*) This section reproduces with amendments the Factory and Workshop Act, 1891, s. 27, as amended by the Factory and Workshop Act, 1895, s. 42.

(*c*) Defined by s. 156, *post*, p. 2649. See the Home Work Order, s. of 1911, 1912 and 1913, in App. II., *post*, pp. 3303 *et seq.*

(*d*) Defined by s. 156, *post*, p. 2649.

(*e*) Together with the provisions of the following sub-section and sub-s. (3), this provision will enable the district council to perform their duties under s. 108, *infra.*

Employment of person in unwholesome premises (*a*).

108.—(1) If the district council within whose district is situate a place in which work is carried on for the purpose of or in connexion with the business of a factory or workshop give notice in writing to the occupier of the factory or workshop or to any contractor employed by any such occupier that that place is injurious or dangerous to the health of the persons employed therein, then, if the occupier or contractor, after the expiration of one month from receipt of the notice, gives out work to be done in that place, and the place is found by the court having cognisance of the case to be so injurious or dangerous, he shall be liable to a fine not exceeding ten pounds.

(2) This section shall apply in the case of the occupier of any place from which any work is given out as if that place were a workshop.

(3) This section shall not apply except in the case of persons employed in such classes of work as the Secretary of State may specify by special order (*b*).

(*a*) This section reproduces the Factory and Workshop Act, 1895, s. 5, but with this difference, that the execution of the law is now made the duty of the district council, and not of the inspector.

(*b*) Defined by s. 156, *post*, p. 2649. See the Home Work Order, s. of 1911, 1912 and 1913, in App. II., *post*, pp. 3303 *et seq.*

Making of wearing apparel where there is scarlet fever or small-pox (*a*).

109. If the occupier of a factory or workshop or of any place from which any work is given out or any contractor employed by any such occupier causes or allows wearing apparel to be made, cleaned or repaired in any dwelling-house or building occupied therewith whilst any inmate of the dwelling-house is suffering from scarlet fever or small-pox then unless he proves that he was not aware of the existence of the illness in the dwelling-house and could not reasonably have been expected to become aware of it, he shall be liable to a fine not exceeding ten pounds.

(*a*) This section reproduces 58 & 59 Vict. c. 37, s. 6.

Section 110.

Prohibition of home work in places where there is infectious disease.

110.—(1) If any inmate of a house is suffering from an infectious disease to which this section applies, the district council of the district in which the house is situate may make an order forbidding any work to which this section applies to be given out to any person living or working in that house or such part thereof as may be specified in the order, and any order so made may be served on the occupier of any factory or workshop or any other place, from which work is given out or on the contractor employed by any such occupier (*a*).

(2) The order may be made notwithstanding that the person suffering from an infectious disease may have been removed from the house (*b*), and the order shall be made either for a specified time or subject to the condition that the house or part thereof liable to be infected shall be disinfected to the satisfaction of the medical officer of health (*c*) or that other reasonable precautions (*d*) shall be adopted.

(3) In any case of urgency the powers conferred on the district council by this section may be exercised by any two or more members of the council acting on the advice of the medical officer of health.

(4) If any occupier or contractor on whom an order under this section has been served contravenes the provisions of the order, he shall be liable to a fine not exceeding ten pounds.

(5) The infectious diseases to which this section applies are the infectious diseases required to be notified under the law for the time being in force in relation to the notification of infectious diseases (*e*), and the work to which this section applies is the making, cleaning, washing, altering, ornamenting, finishing and repairing of wearing apparel and any work incidental thereto and such other classes of work as may be specified by special order (*f*) of the Secretary of State (*g*).

(*a*) See the Order, s. of 1911, 1912 and 1913, in App. II., *post*, pp. 3303 *et seq.*

(*b*) Either under s. 124 of the P. H. A., 1875, *ante*, p. 244, or otherwise.

(*c*) Disinfection may also be separately ordered under s. 120 of the P. H. A., 1875, *ante*, p. 240, or s. 5 of the Infectious Disease (Prevention) Act, 1890, *ante*, p. 856.

(*d*) For example, disinfection of bedding, etc., which may be separately ordered under s. 6 of the Infectious Disease (Prevention) Act, 1890, *ante*, p. 858.

(*e*) See s. 6 of the Infectious Disease (Notification) Act, 1889, *ante*, p. 847.

(*f*) See note (*b*) to s. 108, *ante*, p. 2634.

(*g*) Now the M. of H. who is the central department for this and the last section, see the Order of 27 July, 1921, in App. II., *post*, p. 3306.

Application of Act to domestic factories and workshops (*a*).

111. The application of this Act to domestic factories and domestic workshops (*b*) shall be subject to the following provisions:

(1) The regulations with respect to the hours of employment of women, young persons and children shall not apply to any such factory or workshop, and in lieu thereof the following regulations shall be observed therein:

(a) A young person or child shall not be employed in the factory or workshop except during the period of employment hereinafter mentioned; and

(b) The period of employment for a young person shall, except on Saturday, begin at six o'clock in the morning and end at nine o'clock in the evening and shall, on Saturday, begin at six o'clock in the morning and end at four o'clock in the afternoon; and

(c) There shall be allowed to every young person for meals and absence from work during the period of employment not less, except on Saturday, than four hours and a half and, on Saturday than two hours and a half; and

(d) The period of employment for a child on every day either shall begin at six o'clock in the morning and end at one o'clock in the afternoon or shall begin at one o'clock in the afternoon and end at eight o'clock in the evening, or, on Saturday, at four o'clock in the afternoon; and for the purpose of the provisions of this Act respecting education such child shall be deemed, according to circumstances, to be employed in a morning or afternoon set; and

(e) A child shall not be employed before the hour of one in the afternoon in two successive periods of seven days, nor after that hour in two successive periods of seven days; and a child shall not be employed on Saturday in any week before the hour of one in the afternoon if on any other day in the same week he has been employed before that hour, nor after that hour if on any other day of the same week he has been employed after that hour; and

(f) A child shall not be employed continuously for more than five hours without an interval of at least half an hour for a meal.

(2) The requirement as to making certain entries and reports when a woman, young person or child is employed in pursuance of an exception shall not apply except so far as may be prescribed from time to time by the Secretary of State.

(3) The provisions of this Act with respect to certificates of fitness for employment shall apply to a domestic factory as if it were a workshop and not a factory.

(4) The following provisions shall not apply to a domestic factory or to a domestic workshop, namely:

(a) the provisions as to meal hours being simultaneous and as to prohibition of employment during meal times;

(b) the provisions as to affixing notices and abstracts and as to specifying certain matters in notices so affixed;

(c) the provisions as to holidays;

(d) the provisions as to notices of accidents;

(e) the provisions as to means of ventilation (*c*), the drainage of floors (*d*), and thermometers (*e*);

(f) the provisions as to the keeping of a general register (*f*).

(5) The provisions of section one of this Act (relating to the sanitary condition of a factory) shall not apply to a domestic factory (*g*).

(*a*) This section reproduces the Factory and Workshop Act, 1878, ss. 16, 61, with amendments.

(*b*) "Domestic factory" and "domestic workshop" are defined in s. 115, *post*, p. 2637.

(*c*) See s. 7, *ante*, p. 2623.

(*d*) See s. 8, *ante*, p. 2623.

(*e*) See s. 6, *ante*, p. 2623.

(*f*) See s. 129, *post*, p. 2640.

(*g*) Domestic factories and domestic workshops also are, however, subject to the provisions of ss. 91 *et seq.* of the P. H. A., 1875, *ante*, p. 174.

Dangerous processes in domestic factories and workshops.

112. If any manufacture, process or description of manual labour, which in pursuance of this Act has been certified by the Secretary of State to be dangerous (*a*), is carried on in a domestic factory or workshop, all the provisions of this Act shall apply, as if the place were a factory or workshop other than a domestic factory or workshop.

(*a*) By s. 79 of this Act, where the Secretary of State is satisfied that any manufacture, machinery, plant, process, or description of manual labour, used in factories or workshops is dangerous or injurious to health, or dangerous to life or limb, either generally or in the case of women, children, or any other class of persons, he may certify that manufacture, machinery, plant, process, or description of manual labour, to be dangerous.

Note to Section 112.

Under the corresponding provisions of the Factory and Workshop Act, 1891, s. 8, the Secretary of State has certified various processes as dangerous, but there is no express provision that such certificates remain in force under this Act.

Abstracts for domestic factories and workshops.

113. The Secretary of State shall give notice of the provisions of this Act relating to domestic factories and workshops by the publication of the prescribed (*a*) abstract or otherwise, as he thinks fit.

(*a*) Defined by s. 156, *post*, p. 2649. No such order has as yet been made.

Non-application of Act to certain domestic workshops (*a*).

114.—(1) The exercise in a private house or private room by the family dwelling therein or by any of them (*b*) of manual labour by way of trade or for purposes of gain in or incidental to any of the following handicrafts, namely—

(i) straw plaiting, or
(ii) pillow-lace making, or
(iii) glove making,

shall not of itself constitute the house or room a workshop within the meaning of this Act.

When it is proved to the satisfaction of the Secretary of State that, by reason of the light character of the handicraft carried on in any private house or private room by the family dwelling therein, or by any of them, it is expedient to extend the provisions of this sub-section to that handicraft, he may, by special order (*c*) extend the same accordingly. Part Two of this Act shall apply so far as circumstances admit, as if the order were an order extending an exception.

(2) The exercise in a private house or private room by the family dwelling therein or by any of them of manual labour for the purposes of gain in or incidental to any of the following purposes, namely—

(i) the making of any article or part of any article; or
(ii) the altering, repairing, ornamenting (*d*) or finishing of any article; or
(iii) the adapting for sale of any article,

shall not of itself constitute that house or room a workshop (*e*), where the labour is exercised at irregular intervals, and does not furnish the whole or principal means of living to the family.

(*a*) This section reproduces 41 & 42 Vict. c. 16, ss. 97, 98.

(*b*) The labour must be exercised only by members of the family living in the house, and plaiting and lace-making schools are not within the section. See *Beadon* v. *Parrott* (1871), L. R. 6 Q. B. 718; 39 J. P. 647.

(*c*) See note (*a*) to s. 113, *supra*.

(*d*) As applied to laundries, the words "washing, cleaning" should be read in here (see the Factory and Workshop Act, 1907, s. 4, *post*, p. 2689).

(*e*) See definitions of "non-textile factory" and of "workshop" in s. 149, *post*, p. 2646.

Definitions of "domestic factory" and "domestic workshop" (*a*).

115. The expressions "domestic factory" and "domestic workshop" mean a private house, room or place which, though used as a dwelling, is by reason of the work carried on there a factory or a workshop, as the case may be, within the meaning of this Act (*b*) and in which neither steam, water nor other mechanical power is used in aid of the manufacturing process carried on there and in which the only persons employed are members of the same family dwelling there.

(*a*) This section is taken from 41 & 42 Vict. c. 16, s. 16.

(*b*) See s. 149, *post*, p. 2646.

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PART VIII.

ADMINISTRATION.

(i) *Inspection.*

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Powers of inspectors (*a*).

119.—(1) An inspector shall, for the purpose of the execution of this Act, have power to do all or any of the following things; namely,—

(a) To enter, inspect and examine at all reasonable times, by day and night, a factory and a workshop and every part thereof, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a factory or workshop; and

(b) To take with him in either case a constable into a factory or workshop in which he has reasonable cause to apprehend any serious obstruction in the execution of his duty; and

(c) To require the production of the registers, certificates, notices and documents kept in pursuance of this Act, and to respect, examine and copy the same; and

(d) To make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health and the enactments of this Act are complied with, so far as respects the factory or workshop and the persons employed therein; and

(e) To enter any school in which he has reasonable cause to believe that children employed in a factory or workshop are for the time being educated; and

(f) To examine, either alone or in the presence of any other person, as he thinks fit, with respect to matters under this Act, every person whom he finds in a factory or workshop or such a school as aforesaid or whom he has reasonable cause to believe to be or to have been within the preceding two months, employed in a factory or workshop, and to require every such person to be so examined and to sign a declaration of the truth of the matters respecting which he is so examined; and

(g) To exercise such other powers as may be necessary for carrying this Act into effect.

(2) The occupier of every factory and workshop, his agents and servants, shall furnish the means required by an inspector as necessary for an entry, inspection, examination, inquiry or the exercise of his powers under this Act in relation to that factory or workshop.

(3) If any person wilfully delays an inspector in the exercise of any power under this section or fails to comply with the requisition of an inspector in pursuance of this section or to produce any certificate or document which he is required by or in pursuance of this Act to produce or conceals or prevents or attempts to conceal or prevent a woman, young person or child from appearing before or being examined by an inspector, that person shall be deemed to obstruct an inspector in the execution of his duties under this Act:

Provided that no one shall be required under this section to answer any question or to give any evidence tending to criminate himself.

(4) Where an inspector is obstructed in the execution of his duties under this Act, the person obstructing him shall be liable to a fine not exceeding five pounds; and where an inspector is so obstructed in a factory or workshop, other than a domestic factory or a domestic workshop, the occupier of that factory or workshop shall be liable to a fine not exceeding five, or

where the offence is committed at night twenty pounds; and, where an inspector is so obstructed in a domestic factory or a domestic workshop, the occupier shall be liable to a fine not exceeding one pound or, where the offence is committed at night, five pounds; and, in the case of a second or subsequent conviction under this section in relation to a factory within two years from the last conviction for the same offence, a fine not less than one pound shall be imposed for each offence.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 68, as amended by the Factory and Workshop Act, 1891, s. 28, and the Factory and Workshop Act, 1895, ss. 22, 23, 45.
It is here inserted for the elucidation of s. 102, *ante*, p. 2633, and s. 125, *infra*.

Right of inspector to conduct proceedings before magistrates (*a*).

120. An inspector, if so authorised in writing under the hand of the Secretary of State, may, although he is not a counsel or solicitor or law agent, prosecute, conduct or defend before a court of summary conviction or justice, any information, complaint or other proceeding arising under this Act or in the discharge of his duty as inspector.

(*a*) This section reproduces the Factory and Workshop Act, 1895, s. 51. It is here inserted with reference to s. 102, *ante*, p. 2633, and s. 125, *infra*, but it is very doubtful if it applies to every officer of a district council acting under those sections.

Certificate of appointment of inspector (*a*).

121. Every inspector shall be furnished with the prescribed certificate of his appointment and, on applying for admission to a factory or workshop, shall, if so required, produce the said certificate to the occupier.

(*a*) This section reproduces the first paragraph of the Factory and Workshop Act, 1878, s. 70. It is here inserted with reference to s. 102, *ante*, p. 2633, and s. 125, *infra*, but it is very doubtful whether any officer of the district council acting under those sections can be required to produce any certificate or other evidence of his appointment on applying for admission to a retail bakehouse, or to a workshop or workplace.

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(iii) *Local Authorities.*

Powers of local authorities and their officers.

125. For the purpose of their duties with respect to workshops and workplaces under this Act and under the law relating to public health, the district council and their officers shall, without prejudice to their other powers, have all such powers of entry, inspection, taking legal proceedings or otherwise as an inspector under this Act (*a*).

(*a*) As to the powers of an inspector, see ss. 119—121, *ante*, pp. 2638, 2639. It will be observed that the powers hereby conferred are conferred without prejudice to their other powers. See, as to powers of entry, note (*a*) to s. 305 of the P. H. A., 1875, *ante*, p. 642, and as to legal proceedings, s. 259 of that Act, *ante*, p. 579.

(iv) *Special Orders.*

Provisions as to special orders of Secretary of State (*a*).

126. The following provisions shall apply to such orders made by the Secretary of State in pursuance of this Act as are in this Act referred to as special orders:

(1) The order shall be under the hand of the Secretary of State and shall be published in such manner as the Secretary of State thinks best adapted for the information of all persons concerned and shall come into operation at the date of its publication or at any later date mentioned in the order:

(2) The order may be temporary or permanent, conditional or unconditional and, whether granting or extending an exception or prohibition or directing the adoption of any special means or provision or rescinding

a previous order or effecting any other thing, may do so either wholly or partly :

(3) The order shall be laid as soon as may be before both Houses of Parliament and, if either House of Parliament, within the next forty days after the order has been so laid before that House, resolves that the order ought to be annulled, it shall, after the date of that resolution, be of no effect, without prejudice to the validity of anything done in the meantime under the order or to the making of a new order :

(4) The order, while it is in force, shall, so far as is consistent with the tenor thereof, apply, as if it formed part of the enactment which provides for the making of the order.

(*a*) This section reproduces 41 & 42 Vict. c. 16, s. 65, as amended by 58 & 59 Vict. c. 37, s. 47. It is here inserted with reference to ss. 1 (4), 3 (2), (3), 6 (2), 7 (2), 9 (2), 58 (1), 59, 107, 108 of this Act.

(v) *Notices, Registers and Returns.*

Notice of occupation of factory or workshop (*a*).

127.—(1) Every person shall, within one month after he begins to occupy a factory or workshop, serve on the inspector for the district a written notice containing the name of the factory or workshop, the place where it is situate, the address to which he desires his letters to be addressed, the nature of the work, the nature and amount of the moving power therein and the name of the person or firm under which the business of the factory or workshop is to be carried on.

(2) In the event of a contravention of this section by the occupier of a factory or workshop, he shall be liable to a fine not exceeding five pounds.

(3) Where an inspector receives notice in pursuance of this section with respect to a workshop, he shall forthwith forward the notice to the district council of the district in which the workshop is situate.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 75, as extended by the Factory and Workshop Act, 1891, s. 26, and amended by the Factory and Workshop Act, 1895, ss. 41, 44 (1).

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General registers (*a*).

129.—(1) In every factory and workshop there shall be kept a register, called the general register, showing in the prescribed form the prescribed particulars as to—

(a) the children and young persons employed in the factory or workshop ; and

(b) the lime-washing of the factory or workshop ; and

(c) every accident occurring in the factory or workshop of which notice is required to be sent to an inspector ; and

(d) every special exception of which the occupier of the factory or workshop avails himself ; and

(e) such other matters as may be prescribed.

(2) Where any entry is required by this Act to be made in the general register, the entry made by the occupier of a factory or workshop on his behalf shall, as against him, be admissible as *primâ facie* evidence of the facts therein stated, and the failure to make any entry so required with respect to the observance of any provision of this Act shall be admissible as *primâ facie* evidence that that provision has not been observed.

(3) The register shall at all reasonable times be open to inspection by the certifying surgeon of the district.

(4) The occupier of a factory or workshop shall send to an inspector such extracts from the general register as the inspector from time to time requires for the execution of his duties under this Act.

(5) If in any factory or workshop any requirement of this section is not complied with, the occupier shall be liable to a fine not exceeding five pounds.

(a) This section reproduces the Factory and Workshop Act, 1878, s. 77, as amended by the Factory and Workshop Act, 1895, ss. 15 and 43, with amendments.

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Registers of workshops.

131. Every district council shall keep a register of all workshops situate within their district.

Report of medical officer of health on administration of Act (a).

132. The medical officer of health of every district council shall, in his annual report to them, report specifically on the administration of this Act in workshops and workplaces, and he shall send a copy of his annual report or so much of it as deals with this subject to the Secretary of State.

(a) This section was new. As to the annual report of the medical officer of health, see the Sanitary Officers Order, 1926, set out in Appendix II., *post*, p. 3612.

Miscellaneous Provisions.

Notice by medical officer of health of employment of woman, young person or child in workshops (a).

133. Where any woman, young person or child is employed in a workshop in which no abstract of this Act is affixed as by this Act required, and the medical officer of the district council becomes aware thereof, he shall forthwith give written notice thereof to the inspector for the district.

(a) This section reproduces the Factory and Workshop Act, 1891, s. 3 (3).

Certificate of birth in case of young person under 16 and children.

134. Where the age of any young person under the age of sixteen years or child is required to be ascertained or proved for the purposes of this Act, *or for any purpose connected with the employment in labour or elementary education of the young person or child* (a), any person shall on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the [Minister of Health], and on payment of a fee of sixpence, be entitled to obtain a certified copy under the hand of a registrar or superintendent registrar of the entry in the register, under the Births and Deaths Registration Acts, 1836 to 1874, of the birth of that young person or child; and such form of requisition shall on request be supplied without charge by every superintendent registrar and registrar of births deaths, and marriages.

(a) Words in italics, repealed by Education Act, 1921.

PART IX.

Legal Proceedings.

Fine for not keeping factory or workshop in conformity with Act (a).

135.—(1) If a factory or workshop is not kept in conformity with this Act, the occupier (b) thereof shall be liable to a fine not exceeding ten pounds, and, in the case of a second or subsequent conviction in relation to a factory within two years from the last conviction for the same offence, not less than one pound for each offence.

(2) The court of summary jurisdiction, in addition to or instead of inflicting a fine, may order certain means to be adopted by the occupier, within the time named in the order, for the purpose of bringing his factory or workshop into conformity with this Act. The court may, on application, enlarge the time so named, but if, after the expiration of the time as originally named or enlarged by subsequent order the order is not complied with, the occupier shall be liable to a fine not exceeding one pound for every day on which the non-compliance continues.

Note to Section 135.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 81, as amended by the Factory and Workshop Act, 1891, s. 28.

(*b*) In the case of a tenement factory the owner is under s. 87, *ante*, p. 2628, made liable for certain offences instead of the occupier. The occupier may also, under s. 141, *post*, p. 2643, exempt himself on conviction of the actual offender. As to the time within which proceedings must be taken, see s. 146, *post*, p. 2644.

Fines in case of death or injury (*b*).

136. (*a*) If any person is killed or dies or suffers any bodily injury or injury to health, in consequence of the occupier (*c*) of a factory or workshop having neglected to observe any provision of this Act or any regulation made in pursuance of this Act, the occupier of the factory or workshop shall be liable (*d*) to a fine not exceeding one hundred pounds and, in the case of a second or subsequent conviction in relation to a factory within two years from the last conviction for the same offence, not less than one pound for each offence; and the whole or any part of the fine may be applied for the benefit of the injured person or his family or otherwise, as the Secretary of State determines:

Provided as follows:

(a) In the case of injury to health the occupier shall not be liable under this section, unless the injury was caused directly by the neglect (*e*):

(b) The occupier shall not be liable to fine under this section if an information against him for not observing the provision or regulation to the breach of which the death or injury was attributable has been heard and dismissed previous to the time when the death or injury was inflicted (*f*).

(*a*) See the case of *R.* v. *Taylor*, in the notes to s. 146, *post*, p. 2645.

(*b*) This section reproduces the Factory and Workshop Act, 1878, s. 82, as amended by the Factory and Workshop Act, 1895, s. 13, with the further amendments embodied in the proviso.

(*c*) In the case of a tenement factory the owner is, under s. 87, *ante*, p. 2628, made liable instead of the occupier.

(*d*) Notwithstanding the penalty imposed by this section, an action for damages will also lie in respect of personal injuries received by a workman through a breach by the employer of his statutory duty to fence; and in such action the defence of common employment is not applicable (*Groves* v. *Lord Wimborne*, [1898] 2 Q. B. 402).

(*e*) In the case of bodily injury it was held in *Blenkinsop* v. *Ogden*, [1898] 1 Q. B. 783, that contributory negligence was no answer to a complaint under the Factory and Workshop Act, 1878, s. 82.

(*f*) It appears to make no difference whether the information was dismissed on the merits or not.

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Forgery of certificates, false entries, and false declarations (*a*).

139. If any person—

(a) forges or counterfeits any certificate for the purposes of this Act (for the forgery or counterfeiting of which no other punishment is provided); or

(b) gives or signs any such certificate, knowing the same to be false in any material particular; or

(c) knowingly utters or makes use of any certificate so forged, counterfeited or false as aforesaid; or

(d) knowingly utters or makes use of, as applying to any person, a certificate which does not so apply; or

(e) personates any person named in a certificate; or

(f) falsely pretends to be an inspector; or

(g) wilfully connives at the forging, counterfeiting, giving, signing, uttering, making use, or personating as aforesaid; or

(h) wilfully makes a false entry in any register, notice, certificate or document required by this Act to be kept or served or sent; or

(i) wilfully makes or signs a false declaration under this Act; or
(j) knowingly makes use of any such false entry or declaration,

he shall be liable to a fine not exceeding twenty pounds, or to imprisonment for a term not exceeding three months, with or without hard labour.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 85.

Fine on person actually committing offence for which occupier is liable (*a*).

140. Where an offence for which the occupier of a factory or workshop is liable under this Act to a fine has in fact been committed by some agent, servant, workman or other person, that agent, servant, workman or other person shall be liable to the like fine as if he were the occupier.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 86.

Power of occupier to exempt himself from fine on conviction of the actual offender (*a*).

141.—(1) Where the occupier of a factory or workshop is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier of the factory or workshop proves to the satisfaction of the court—

(a) that he has used due diligence to enforce the execution of this Act; and
(b) that the said other person had committed the offence in question without his knowledge, consent or connivance,

that other person shall be summarily convicted of the offence, and the occupier shall be exempt from any fine. The person so convicted shall, in the discretion of the court, be also liable to pay any costs incidental to the proceedings.

(2) When it is made to appear to the satisfaction of an inspector at the time of discovering an offence—

(a) that the occupier of the factory or workshop has used all due diligence to enforce the execution of this Act; and
(b) by what person the offence has been committed; and
(c) that it has been committed without the knowledge, consent or connivance of the occupier and in contravention of his orders,

the inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier of the factory or workshop.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 87, as amended by the Factory and Workshop Act, 1895, s. 50. *Cf.* the Locomotives Act, 1898, s. 13 (2), *ante*, p. 1067, and the Food and Drugs (Adulteration) Act, 1928, s. 27 (6), *post*, p. 2978.

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Limit to cumulative fines (*a*).

143. A person shall not be liable, in respect of a repetition of the same kind of offence from day to day, to any larger amount of fines than the highest fine fixed by this Act for the offence, except—

(a) where the repetition of the offence occurs after an information has been laid for the previous offence; or
(b) where the offence is one of employing two or more persons, contrary to the provisions of this Act.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 88.

Prosecution of offences and recovery and application of fines (*a*).

144.—(1) All offences under this Act shall be prosecuted and all fines under this Act shall be recovered, on summary conviction, before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

Section 144.

(2) A summary order may be made for the purposes of this Act by a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

(3) All fines imposed in pursuance of this Act shall, save as otherwise expressly provided for by this Act (*b*), be paid into the Exchequer.

(4) Where a proceeding is taken before a court of summary jurisdiction with respect to an offence against this Act alleged to be committed in or with reference to a factory or workshop the occupier of the factory or workshop, and the father, son or brother of the occupier of the factory or workshop shall not be qualified to act as a member of the court (*c*).

(5) A person engaged in, or being an officer of any association of persons engaged in, the same trade or occupation as a person charged with any offence under this Act shall not act as a justice of the peace in hearing and determining the charge (*c*).

(*a*) This section reproduces 41 & 42 Vict. c. 16, s. 89, with the amendment embodied in sub-s. (5).

(*b*) See s. 136, *ante*, p. 2642.

(*c*) With reference to the subject of this sub-section, see also s. 258 of the P. H. A., 1875, *ante*, p. 574, and the notes thereto.

Appeal to quarter sessions (*a*).

145. If any person feels aggrieved by a conviction or order made by a court of summary jurisdiction on determining an information or complaint under this Act, he may appeal therefrom to quarter sessions.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 90, as amended by the Factory and Workshop Act, 1883.

Limitation of time and general provisions as to summary proceeding (*a*).

146. The following provisions shall have effect with respect to summary proceedings for offences and fines under this Act:

(1) The information shall be laid within three months after the date at which the offence comes to the knowledge of the inspector for the district within which the offence is charged to have been committed, or, in case of an inquest being held in relation to the offence, then within two months after the conclusion of the inquest, so, however, that it be not laid after the expiration of six months from the commission of the offence (*b*):

(2) It shall be sufficient to allege that a factory or workshop is a factory or workshop within the meaning of this Act, without more:

(3) It shall be sufficient to state the name of the ostensible occupier of the factory or workshop or the title of the firm by which the occupier employing persons in the factory or workshop is usually known:

(4) A conviction or order made in any matter arising under this Act, either originally, or on appeal, shall not be quashed for want of form, and a conviction or order made by a court of summary jurisdiction, against which a person is authorised by this Act to appeal, shall not be removed by certiorari or otherwise, either at the instance of the Crown or of any private person, into a superior court, except for the purpose of the hearing and determination of a special case (*c*).

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 91, as amended by the Factory and Workshop Act, 1883, and the Factory and Workshop Act, 1891, s. 29.

(*b*) On January 21st, the fact that certain machinery was unfenced, in contravention of s. 10, came to the knowledge of the inspector of the district. On July 31st, in consequence of the machinery still being unfenced, a person suffered bodily injury. On October 24th, an information was laid charging that on July 31st the defendant's factory was not kept in conformity with the Act whereby a person suffered bodily injury. The magistrate dismissed the information on the ground that it was out of time, inasmuch as it had not been laid within three months of January 21st. It was held that ss. 135 and

Note to Section 146.

136 create separate and distinct offences; that the offence with which the defendants were charged was the offence under s. 136; and that, that offence having been committed on July 31st, the information had been laid in time (*R.* v. *Taylor*, [1908] 2 K. B. 237; 72 J. P. 238). In May, 1905, and again on March 12th, 1908, an inspector visited the respondents' factory, and found that the flywheel of an engine was not fenced as required by s. 10 (1). He again visited the factory on July 1st, 1908, and found that the flywheel was still unfenced. On July 22nd, 1908, he laid an information against the respondents under s. 135, *ante*, for that the factory was on July 1st, 1908, not kept in conformity with the Act in that the flywheel was not securely fenced as required by s. 10. It was held that the information had been laid within three months after the date at which the offence charged in the information came to the knowledge of the inspector within s. 146 (*Verney* v. *Mark Fletcher & Sons, Ltd.*, [1909] 1 K. B. 445; 73 J. P. 131), In the case of an inquest being held, the information is in time if it is laid within three months after the offence has come to the knowledge of the inspector, or within two months after the conclusion of the inquest, whichever period is the longer, provided it is laid within six months after the commission of the offence (*Boydel* v. *Levant Mine Adventurers*, [1916] 1 K. B. 692; 80 J. P. 151).

(c) With this sub-section compare s. 262 of the P. H. A., 1875, *ante*, p. 581, and notes thereon.

Evidence in summary proceedings.

147.—(1) If a person is found in a factory or workshop, except at meal times, or while all the machinery of the factory or workshop is stopped, or for the sole purpose of bringing food to the persons employed in the factory or workshop between the hours of four and five o'clock in the afternoon, he shall, until the contrary is proved, be deemed for the purposes of this Act to have been then employed in the factory or workshop:

Provided that the yards, playgrounds, and places open to the public view, schoolrooms, waiting rooms, and other rooms belonging to the factory or workshop in which no machinery is used or manufacturing process carried on, shall not be taken to be any part of the factory or workshop within the meaning of this enactment; and this enactment shall not apply to a domestic factory or workshop.

(2) Where a young person or child is, in the opinion of the court, apparently of the age alleged by the informant, it shall lie on the defendant to prove that the young person or child is not of that age.

(3) A declaration in writing by a certifying surgeon for the district that he has personally examined a person employed in a factory or workshop in that district, and believes him to be under the age set forth in the declaration, shall be admissible in evidence of the age of that person.

(4) A copy of a conviction for an offence against this Act, purporting to be certified under the hand of the clerk of the peace having the custody of the conviction to be a true copy shall be receivable as evidence, and every such clerk of the peace shall, on the written request of an inspector and payment of a fee of one shilling, deliver to him a copy of the conviction so certified.

Service of notices and documents, etc. (*a*).

148. Any notice, order, requisition, summons and document required or authorised to be served or sent for the purposes of this Act—

(a) may be served and sent by post or by delivering the same to or at the residence of the person on or to whom it is to be served or sent or (where he is the owner of a factory or workshop) by delivering the same or a true copy thereof to his agent or (where he is the occupier of a factory or workshop) by delivering the same or a true copy thereof to his agent or to some person in the factory or workshop; and

(b) where it is required to be served on or sent to the occupier of a factory or workshop, shall be deemed to be properly addressed if addressed to the occupier of the factory or workshop at the factory or workshop with the addition of the proper postal address, but without naming the person who is the occupier.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 79, and the Factory and Workshop Act, 1895, s. 49. *Cf.* s. 267 of the P. H. A., 1875, *ante*, p. 593, and notes thereon.

PART X.

SUPPLEMENTARY.

(i) *Application and Definitions.*

Factories and workshops to which Act applies (*a*).

149.—(1) Subject to the provisions of this section, the following expressions have in this Act the meanings hereby assigned to them; that is to say:

The expression "textile factory" (*b*) means any premises wherein or within the close or curtilage of which steam, water or other mechanical power is used to move or work any machinery employed in preparing, manufacturing or finishing or in any process incident to the manufacture of cotton, wool, hair, silk, flax, hemp, jute, tow, china-grass, cocoa-nut fibre or other like material, either separately or mixed together, or mixed with any other material, or any fabric made thereof:

Provided that print works, bleaching and dyeing works, lace warehouses, paper mills, flax scutch mills, rope works and hat works shall not be deemed to be textile factories:

The expression "non-textile factory" means—

(a) any works, warehouses, furnaces, mills, foundries or places named in Part One of the Sixth Schedule to this Act; and

(b) any premises or places named in Part Two of the said schedule wherein or within the close or curtilage or precincts of which steam, water or other mechanical power is used in aid of the manufacturing process (*c*) carried on there; and

(c) any premises wherein or within the close or curtilage or precincts of which any manual labour is exercised by way of trade or for purposes of gain in or incidental to any of the following purposes, namely—

(i) the making of any article or of part of any article; or

(ii) the altering, repairing, ornamenting or finishing (*d*) of any article; or

(iii) the adapting for sale (*e*) of any article,

and wherein or within the close or curtilage or precincts of which steam, water or other mechanical power is used in aid of the manufacturing process carried on there:

The expression "factory" means textile factory and non-textile factory or either of those descriptions of factories:

The expression "tenement factory" means a factory where mechanical power is supplied to different parts of the same building occupied by different persons for the purpose of any manufacturing process or handicraft, in such manner that those parts constitute in law separate factories; and for the purpose of the provisions of this Act with respect to tenement factories, all buildings situate within the same close or curtilage shall be treated as one building (*f*).

The expression "workshop" means—

(a) any premises or places named in Part Two of the Sixth Schedule to this Act, which are not a factory; and

(b) any premises, room or place, not being a factory, in which premises, room or place or within the close or curtilage or precincts of which premises any manual labour is exercised by way of trade or for purposes of gain in or incidental to any of the following purposes, namely—

(i) the making of any article or of part of any article; or
(ii) the altering, repairing, ornamenting or finishing of any article; or
(iii) the adapting for sale of any article,

and to or over which premises, room or place the employer of the persons working therein has the right of access or control:

The expression "workshop" includes a tenement workshop.

The expression "tenement workshop" means any workplace in which, with the permission of or under agreement with the owner or occupier, two or more persons carry on any work which would constitute the workplace a workshop if the persons working therein were in the employment of the owner or occupier.

(2) A part of a factory or workshop may, with the approval in writing of the chief inspector, be taken for the purposes of this Act to be a separate factory or workshop (*g*).

(3) A room solely used for the purpose of sleeping therein shall not be deemed to form part of the factory or workshop for the purposes of this Act.

(4) Where a place situate within the close, curtilage or precincts forming a factory or workshop is solely used for some purpose other than the manufacturing process or handicraft carried on in the factory or workshop, that place shall not be deemed to form part of the factory or workshop for the purposes of this Act, but shall, if otherwise it would be a factory or workshop, be deemed to be a separate factory or workshop and be regulated accordingly.

(5) A place or premises shall not be excluded from the definition of a factory or workshop by reason only that the place or premises is or are in the open air (*h*).

(6) The exercise by any young person or child in any recognised efficient school, during a portion of the school hours, of any manual labour for the purpose of instructing the young person or child in any art or handicraft, shall not be deemed to be an exercise of manual labour for the purpose of gain within the meaning of this Act.

(*a*) This section reproduces the Factory and Workshop Act, 1878, s. 93, as amended by the Factory and Workshop Act, 1891, s. 31.

(*b*) On this definition reference may be made to the following cases decided under repealed Acts, viz., *Taylor* v. *Hickes* (1862), 12 C. B. (n.s.) 152; 31 L. J. M. C. 242; *Howarth* v. *Coles* (1862), 12 C. B. (n.s.) 139; 31 L. J. M. C. 262; *Haydon* v. *Taylor* (1864), 4 B. & S. 519; 33 L. J. M. C. 30; *Whymper* v. *Harney* (1865), 18 C. B. (n.s.) 243; 34 L. J. M. C. 113.

(*c*) Rags were purchased and then sorted by hand. In some cases they were first dusted by a shaker driven by electric power. They were then sold wholesale. It was held that this did not constitute a manufacturing process (*Paterson* v. *Hunt* (1909), 73 J. P. 496; 101 L. T. 571). These words do not necessarily refer to something being produced, but to the business carried on; a laundry which is carried on for the purpose of gain and in which mechanical power is used for driving the machines, is a non-textile factory (*Owner* v. *Cottenham Sanitary Steam Laundry Co., Ltd.* (1910), 74 J. P. 219; 102 L. T. 571). Premises in which carpets are beaten by the aid of mechanical power are a "factory" inasmuch as carpet beating is a "manufacturing process" (*Johnston* v. *Lalonde Brothers and Parham*, [1912] 3 K. B. 218; 76 J. P. 379).

(*d*) As to finishing of cotton fabrics, see *Howarth* v. *Coles*, *supra*, finishing of bricks, *Squire* v. *Stanley* (1901), 65 J. P. 467; 84 L. T. 535.

(*e*) As to adapting for sale of bottled beer, see *Law* v. *Graham*, [1901] 2 K. B. 327; 65 J. P. 501; *Hoare* v. *Truman, Hanbury and Buxton, Ltd.* (1902), 71 L. J. K. B. 380; 66 J. P. 342; and of bonbons, *Fullers* v. *Squire*, [1901] 2 K. B. 209; 65 J. P. 660. See further as to the expression "non-textile factory," *Keith Ltd.* v. *Kirkwood* (1914), S. C. (J.) 150, and as to "factory," *Vines* v. *Inglis*, [1915] S. C. (J.) 18.

(*f*) A building in which the mechanical power employed in the different parts of the

Note to Section 149.

building occupied by different persons is derived from separate sources situated upon those parts respectively is not "a tenement factory," inasmuch as mechanical power is not "supplied to" the different parts (*Brass* v. *London C. C.*, [1904] 2 K. B. 336; 68 J. P. 365). See also *Toller* v. *Spiers and Pond, Ltd.*, *ante*, p. 2625.

(*g*) See *London C. C.* v. *Leyson* (1914), 78 J. P. 91; 110 L. T. 200.

(*h*) See the following cases decided under older statutes: *Palmer's Shipbuilding and Iron Co.* v. *Chaytor* (1869), L. R. 4 Q. B. 209; *Kent* v. *Astley* (1869), L. R. 5 Q. B. 19; *Redgrave* v. *Lee* (1874), L. R. 9 Q. B. 363.

Application to Crown factories and workshops (*a*).

150.—(1) This Act applies to factories and workshops belonging to the Crown; but in case of any public emergency the Secretary of State may, by order, to the extent and during the period named by him, exempt from this Act any factory or workshop belonging to the Crown or any factory or workshop in respect of work which is being done on behalf of the Crown under a contract specified in the order.

(2) A factory or workshop belonging to or in the occupation of the Crown shall not be excluded from the operation of this Act by reason only that it is not carried on by way of trade or for the purpose of gain.

(3) The powers conferred by this Act on a district council or other local authority shall, in the case of a factory or workshop belonging to or in the occupation of the Crown, be exercised by an inspector under this Act.

(*a*) This section is taken from the Factory and Workshop Act, 1878, s. 93, with amendments embodied in sub-ss. (2) and (3).

Power to treat separate branches as separate factories or workshops (*a*).

151. The Secretary of State may, by special order (*b*), direct, with respect to any class of factories or workshops, that different branches or departments of work carried on in the same factory or workshop shall, for all or any of the purposes of this Act, be treated as if they were different factories or workshops.

(*a*) This section reproduces the Factory and Workshop Act, 1895, s. 39.

(*b*) Defined by s. 156, *post*, p. 2649. See also s. 126, *ante*, p. 2639.

* * * * * *

Application of Act to London

153.—(1) In the application to the administrative county of London of the section of this Act relating to the means of escape from fire, the London County Council shall take the place of the district council, and their expenses in the execution of that section shall be defrayed as part of their expenses in the management of the London Building Act, 1894.

(2) In the application to the administrative county of London of the section of this Act, giving power to make byelaws providing for means of escape from fire, the reference to a district council shall be construed as a reference to the London County Council.

(3) The power of the London County Council under section one hundred and sixty-four of the London Building Act, 1894, to make byelaws with respect to the means of escape from fire in buildings exceeding sixty feet in height shall extend to all factories and workshops whether exceeding sixty feet in height or not.

(4) Subject as aforesaid, references in this Act to a district council and the district thereof shall, as regards the city of London, be construed as references to the Court of Common Council and the city, and, as regards any other part of the administrative county of London, as references to the council of a metropolitan borough and the metropolitan borough.

Application of Act to county boroughs (*a*).

154. References in this Act to a district council and the district thereof shall be construed as including references to the council of a county borough and the county borough.

(*a*) This section does not alter the law. County boroughs and county borough councils were sanitary districts and authorities respectively within the meaning of the repealed statutes.

Saving for existing powers of district councils (*a*).

155. The powers conferred by this Act on district councils shall be in addition to, and not in substitution for, any other powers which they may possess.

(*a*) *Cf.* s. 341 of the P. H. A., 1875, *ante*, p. 669, and s. 10 of the P. H. A., 1890, *ante*, p. 871.

General definitions (*a*).

156.—(1) In this Act unless the context otherwise requires,—

38 & 39 Vict. c. 13.

The expression "bank holiday" means a holiday under the Holidays Extension Act, 1875:

"Child." The expression "child" means a person who is under the age of fourteen years, and who has not, being of the age of thirteen years, obtained the certificate of proficiency or attendance at school mentioned in Part III. of this Act:

"Machinery." The expression "machinery" includes any driving strap or band:

"Mill-gearing." The expression "mill-gearing" comprehends every shaft, whether upright, oblique or horizontal, and every wheel, drum or pulley, or other appliance by which the motion of the first moving power is communicated to any machine appertaining to a manufacturing process.

"Night." The expression "night" means the period between nine o'clock in the evening and six o'clock in the succeeding morning:

"Owner." The expression "owner" has the meaning given to it by section four of the Public Health Act, 1875 (*b*):

"Parent." The expression "parent" means a parent or guardian of, or person having the legal custody of, or the control over, or having direct benefit from the wages of, a young person or child:

"Prescribed." The expression "prescribed" means prescribed for the time being by the Secretary of State:

"Process." The expression "process" includes the use of any locomotive:

"Special order." The expression "special order" means an order which is subject to the provisions of section one hundred and twenty-six of this Act (*c*) with regard to special orders of the Secretary of State:

"Week." The expression "week" means the period between midnight on Saturday night and midnight on the succeeding Saturday night:

"Woman." The expression "woman" means a woman of the age of eighteen years and upwards:

"Young person." The expression "young person" means a person who has ceased to be a child and is under the age of eighteen years:

(2) For the purposes of this Act, employment shall be deemed to be continuous unless interrupted by an interval of at least half an hour.

(3) The factories and workshops named in the Sixth Schedule to this Act are in this Act referred to by the names therein assigned to them.

(4) References in this Act to regulations made under this Act shall be construed as including references to special rules established or requirements made under any previous Act.

(*a*) This section is taken from the Factory and Workshop Act, 1878, s. 96, with amendments.
(*b*) *Ante*, p. 8.
(*c*) *Ante*, p. 2639.

"Men's workshops" (*a*).

157. The following provisions of this Act shall not apply to men's workshops, that is to say, workshops conducted on the system of not employing any woman, young person or child therein:

(1) The sections in Part I. relating to temperature (*b*), thermometers (*c*), means of ventilation (*d*), drainage of floors (*e*), sanitary conveniences (*f*), opening of doors (*g*), power to make orders as to dangerous machinery (*h*) and inquests (*i*);

(2) Part II. and Part III.;

(3) The sections in Part IV. relating to fans and to lavatories and meals;

(4) Part VII. (*k*);

(5) The section of Part VIII. relating to the affixing of abstracts and notices (*l*) and the keeping of a general register (*m*), and the first sub-section of the section relating to periodical returns (*n*).

(*a*) This section reproduces the effect of the former statutes with regard to workshops of this kind.

(*b*) Section 6 (1), *ante*, p. 2623.
(*c*) Section 6 (2), *ante*, p. 2623.
(*d*) Section 7, *ante*, p. 2623.
(*e*) Section 8, *ante*, p. 2623.
(*g*) Section 9, *ante*, p. 2624.
(*h*) Section 16, *ante*, p. 2626.
(*i*) Section 17.
(*k*) Section 21.

(*f*) In *Seal* v. *Alexander*, [1912] 1 K. B. 469; 76 J. P. 156, it was held that in view of the exception contained in this sub-section, no offence was committed by the occupier of a men's workshop who failed to furnish written particulars under s. 116 of the rate of wages paid to an outworker paid by the piece and engaged in making up wearing apparel given out to him from the workshop, notwithstanding the fact that the provisions of s. 107, *ante*, p. 2633, had been applied by order to this class of work, and that s. 107 is not in Part VII. of the Act.

(*l*) Section 128.
(*m*) Section 129, *ante*, p. 2640.
(*n*) Section 130.

Saving for young persons employed in repairs (*a*).

158. Nothing in this Act shall extend to any young person being a mechanic, artisan or labourer working only in repairing either the machinery in, or any part of, a factory or workshop.

(*a*) This section is taken from the Factory and Workshop Act, 1878, s. 100.

* * * * * *

(iii) *Repeal, etc.*

Repeal of Acts.

161 (*a*). *The Acts specified in the Seventh Schedule to this Act are hereby repealed as from the dates and to the extent in that schedule mentioned;*

Provided that—

(1) *All notices affixed in a factory or workshop in pursuance of any enactment hereby repealed shall, so far as they are in accordance with the provisions of this Act, be deemed to have been affixed in pursuance of this Act; and*

(2) *All orders and all special rules and requirements made or having effect under any enactment hereby repealed shall continue to have effect as if they had been made under this Act; and nothing in this Act shall be construed as altering the mode of making such special rules or requirements whilst the power to make them continues in force; and*

(3) *All inspectors, sub-inspectors, certifying surgeons, officers, clerks and servants appointed in pursuance of any enactment hereby repealed shall continue in office and shall be subject to removal and have the same powers and duties as if they had been appointed in pursuance of this Act; and*

(4) *All certificates of fitness for employment granted in pursuance of any certificate hereby repealed shall have effect as if granted in pursuance of this Act, and all registers kept in pursuance of any enactment hereby repealed shall, until otherwise directed by the Secretary of State, be deemed to be the registers required by this Act.*

(*a*) This section was repealed by S. L. R. A., 1927.

Commencement of Act.

162 (*a*). *This Act shall come into operation on the first day of January one thousand nine hundred and two.*

(*a*) This section was repealed by S. L. R. A., 1927.

Short title.

163. This Act may be cited as "The Factory and Workshop Act, 1901."

SCHEDULES.

Sched. I.

FIRST SCHEDULE.

Provisions as to Arbitrations.

Section 14.

(1) The parties to the arbitrations are in this schedule deemed to be the owner of the factory or workshop on the one hand and the district council on the other hand.

(2) Each of the parties to the arbitration may, within fourteen days after the date of the reference, appoint an arbitrator.

(3) No person shall act as arbitrator or umpire who is employed in, or in the management of, or is interested in, the factory or workshop to which the arbitration relates.

(4) The appointment of an arbitrator must be in writing, and notice of the appointment shall be forthwith sent to the other party to the arbitration, and the appointment shall not be revoked without the consent of that party.

(5) The death or removal of, or other change in, any of the parties to the arbitration shall not affect the proceedings under this schedule.

(6) If within the said fourteen days either of the parties fails to appoint an arbitrator, the arbitrator appointed by the other party may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final.

(7) If before an award has been made any arbitrator appointed by either party dies or becomes incapable to act or for seven days refuses or neglects to act, the party by whom that arbitrator was appointed may appoint some other person to act in his place; and, if he fails to do so within seven days after notice in writing from the other party for that purpose, the remaining arbitrator may proceed to hear and determine the matter in difference, and in that case the award of the single arbitrator shall be final.

(8) In either of the foregoing cases where an arbitrator is empowered to act singly, on one of the parties failing to appoint, the party so failing may, before the single arbitrator has actually proceeded in the arbitration, appoint an arbitrator, who shall then act as if no failure had occurred.

(9) If the arbitrators fail to make their award within twenty-one days after the day on which the last of them was appointed, or within such extended time (if any) as has been appointed for that purpose by both arbitrators under their hands, the matter in difference shall be determined by the umpire appointed as hereinafter mentioned.

(10) The arbitrators, before they enter on the matter referred to them, shall appoint by writing under their hands an umpire to decide on points on which they may differ.

(11) If the umpire dies or becomes incapable of acting before he has made his award or refuses to make his award within a reasonable time after the matter has been brought within his cognizance, the persons or person who appointed such umpire shall forthwith appoint another umpire in his place.

(12) If the arbitrators refuse or fail, or for seven days after the request of either party neglect, to appoint an umpire, then on the application of either party an umpire may be appointed by the chairman of the quarter sessions within the jurisdiction of which the factory or workshop is situate.

(13) The decision of every umpire on the matters referred to him shall be final.

(14) If a single arbitrator fails to make his award within twenty-one days after the day on which he was appointed, the party who appointed him may appoint another arbitrator to act in his place.

(15) Arrangements shall, whenever practicable, be made for the matters in difference being heard at the same time before the arbitrators and the umpire.

(16) The arbitrators and the umpire or any of them may examine the parties and their witnesses on oath and may also consult any counsel, engineer or scientific person whom they think it expedient to consult.

(17) The payment, if any, to be made to any arbitrator or umpire for his services shall be fixed by the Secretary of State and, together with the costs of the arbitration and award, shall be paid by the parties or one of them, according as the award may direct. Such costs may be taxed by a master of the Supreme Court or, in

Sched. I. Scotland, by the auditor of the Court of Session, and the taxing officer shall, on the written application of either of the parties, ascertain and certify the proper amount thereof. The amount, if any, payable by the Secretary of State shall be paid as part of the expenses of inspectors under this Act. The amount, if any, payable by the occupier of the factory or workshop may, in the event of nonpayment, be recoverable in the same manner as fines under this Act (*a*).

(*a*) It is difficult to see what amount can ever be payable by the Secretary of State or by the occupier, as the only parties to the arbitration are the owner and the district council. The references to the Secretary of State and the occupier appear to have been retained from the Factory and Workshop Act, 1891, *per incuriam*.

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SIXTH SCHEDULE.

LIST OF FACTORIES AND WORKSHOPS (*a*).

Sections 54, 149, 156.

PART I.

Non-Textile Factories.

"Print works." (1) "Print works," that is to say, any premises in which any persons are employed to print figures, patterns or designs upon any cotton, linen, woollen, worsted or silken yarn or upon any woven or felted fabric not being paper (*b*);

"Bleaching and dyeing works." (2) "Bleaching and dyeing works," that is to say, any premises in which the processes of bleaching, beetling, dyeing, calendering, finishing, hooking, lapping and making up and packing any yarn or cloth of any material or the dressing or finishing of lace or any one or more of such processes or any process incidental thereto are or is carried on (*c*);

"Earthenware works." (3) "Earthenware works," that is to say, any place in which persons work for hire in making or assisting in making, finishing or assisting in finishing earthenware or china of any description, except bricks and tiles not being ornamental tiles;

"Lucifer-match works." (4) "Lucifer-match works," that is to say, any place in which persons work for hire in making lucifer matches or in mixing the chemical materials for making them or in any process incidental to making lucifer matches, except the cutting of the wood;

"Percussion-cap works." (5) "Percussion-cap works," that is to say, any place in which persons work for hire in making percussion caps or in mixing or storing the chemical materials for making them or in any process incidental to making percussion caps;

"Cartridge works." (6) "Cartridge works," that is to say, any place in which persons work for hire in making cartridges or in any process incidental to making cartridges, except the manufacture of the paper or other material that is used in making the cases of the cartridges;

"Paper-staining works." (7) "Paper-staining works," that is to say, any place in which persons work for hire in printing a pattern in colours upon sheets of paper, either by blocks applied by hand or by rollers worked by steam, water or other mechanical power;

"Fustian-cutting works." (8) "Fustian-cutting works," that is to say, any place in which persons work for hire in fustian cutting;

"Blast furnaces." (9) "Blast furnaces," that is to say, any blast furnace or other furnace or premises in or on which the process of smelting or otherwise obtaining any metal from the ores is carried on;

"Copper-mills." (10) "Copper mills";

"Iron-mills." (11) "Iron mills," that is to say, any mill, forge or other premises in or on which any process is carried on for converting iron into malleable iron, steel or tin plate or for otherwise making or converting steel;

"Foundries." (12) "Foundries," that is to say, iron foundries, copper foundries, brass foundries and other premises or places in which the process of founding or casting any metal is carried on; except any premises or places in which such process is carried on by not more than five persons and as subsidiary to the repair or completion of some other work;

"Metal and india-rubber works." (13) "Metal and india-rubber works," that is to say, any premises in which steam, water or other mechanical power is used for moving machinery employed in the manufacture of machinery or in the manufacture of any article of metal not being machinery or in the manufacture of india-rubber or gutta-percha or of articles made wholly or partially of india-rubber or gutta-percha;

"Paper-mills."

(14) "Paper mills," that is to say, any premises in which the manufacture of paper is carried on (*d*);

"Glass-works."

(15) "Glass works," that is to say, any premises in which the manufacture of glass is carried on;

"Tobacco factories."

(16) "Tobacco factories," that is to say, any premises in which the manufacture of tobacco is carried on;

"Letter-press printing works."

(17) "Letter-press printing works," that is to say, any premises in which the process of letter-press printing is carried on;

"Bookbinding works."

(18) "Bookbinding works," that is to say, any premises in which the process of bookbinding is carried on;

"Flax scutch mills."

(19) "Flax scutch mills";

"Electrical stations."

(20) "Electrical stations," that is to say, any premises or that part of any premises in which electrical energy is generated or transformed for the purpose of supply by way of trade or for the lighting of any street, public place or public building or of any hotel or of any railway, mine or other industrial undertaking (*e*).

(*a*) This list reproduces with certain amendments the list contained in 41 & 42 Vict. c. 16, Schedule IV., as amended by 54 & 55 Vict. c. 75.

(*b*) See *Hardcastle* v. *Jones* (1863), 3 B. & S. 153; 32 L. J. M. C. 49; *Hoyle* v. *Oram* (1862), 12 C. B. (N.S.) 124; 31 L. J. M. C. 213.

(*c*) See *Rogers* v. *Manchester Central Packing Co.*, [1898] 1 Q. B. 344; 62 J. P. 166.

(*d*) See *Coles* v. *Dickinson* (1864), 16 C. B. (N.S.) 604; 33 L. J. M. C. 235.

(*e*) This is an addition to the old list of non-textile factories. A workhouse is a public building within the meaning of this clause (*Mile End Old Town Guardians* v. *Hoare*, [1903] 2 K. B. 483; 67 J. P. 395).

PART II.

Non-Textile Factories and Workshops (*a*).

"Hat works."

(21) "Hat works," that is to say, any premises in which the manufacture of hats or any process incidental to their manufacture is carried on;

"Rope works."

(22) "Rope works," that is to say, any premises being a ropery, rope-walk or rope work in which is carried on the laying or twisting or other process of preparing or finishing the lines, twines, cords or ropes and in which machinery moved by steam, water or other mechanical power is not used for drawing or spinning the fibres of flax, hemp, jute or tow and which has no internal communication with any buildings or premises joining or forming part of a textile factory, except such communication as is necessary for the transmission of power;

"Bakehouses."

(23) "Bakehouses," that is to say, any places in which are baked bread, biscuits or confectionery from the baking or selling of which a profit is derived;

"Lace warehouses."

(24) "Lace warehouses," that is to say, any premises, room or place not included in bleaching and dyeing works as herein-before defined, in which persons are employed upon any manufacturing process or handicraft in relation to lace, subsequent to the making of lace upon a lace machine moved by steam, water or other mechanical power;

"Shipbuilding yards."

(25) "Shipbuilding yards," that is to say, any premises in which any ships, boats or vessels used in navigation are made, finished or repaired (*b*);

"Quarries."

(26) "Quarries," that is to say, any place, not being a mine, in which persons work in getting slate, stone, coprolites or other minerals (*c*);

"Pit banks."

50 & 51 Vict. c. 58.

35 & 36 Vict. c. 77.

(27) "Pit-banks," that is to say, any place above ground adjacent to a shaft of a mine, in which place the employment of women is not regulated by the Coal Mines Regulation Act, 1887, or the Metalliferous Mines Regulation Act, 1872, whether such place does or does not form part of the mine within the meaning of those Acts.

(28) Dry cleaning, carpet beating and bottle washing (*d*) works.

(*a*) Amended by the inclusion of laundries under s. 1 of the Factory and Workshop Act, 1907, *post*, p. 2688.

(*b*) See *Palmer's Shipbuilding and Iron Co.* v. *Chaytor* (1869), L. R. 4 Q. B. 209.

(*c*) See *Kent* v. *Astley* (1869), L. R. 5 Q. B. 19; *Redgrave* v. *Lee* (1874), L. R. 9 Q. B. 363.

(*d*) See *Law* v. *Graham*, *Hoare* v. *Truman, Hanbury and Buxton, Ltd.*, *ante*, p. 2647, and *Kavanagh* v. *Caledonian Rail. Co.* (1904), 5 F. 1128; *Johnston* v. *Lalonde Brothers and Parham* in the notes to s. 149, *ante*, p. 2647. Where bottle washing was merely incidental to a firm's proper business it was held that premises of the firm where such work was done were not "bottle washing works" within the meaning of this schedule (*Keith, Ltd.* v. *Kirkwood*, [1914] S. C. (J.) 150).

Sched. VII.

Section 161.

SEVENTH SCHEDULE.

PART I.

Enactments repealed as from the Commencement of this Act (*a*).

Session and Chapter.	*Title of Act.*	*Extent of Repeal.*
41 & 42 *Vict.* c. 16	*The Factory and Workshop Act,* 1878.	*The whole Act.*
46 & 47 *Vict.* c. 53	*The Factory and Workshop Act,* 1883.	*The whole Act.*
52 & 53 *Vict.* c. 62	*The Cotton Cloth Factories Act,* 1889.	*The whole Act.*
54 & 55 *Vict.* c. 75	*The Factory and Workshop Act,* 1891.	*The whole Act except sections eight, nine, ten and twelve, and the First Schedule.*
58 & 59 *Vict.* c. 37	*The Factory and Workshop Act,* 1895.	*The whole Act except section twelve, sub-section three of section twenty-four, and section twenty-eight.*
60 & 61 *Vict.* c. 58	*The Cotton Cloth Factories Act,* 1897.	*The whole Act.*
63 & 64 *Vict.* c. 27	*The Railway Employment (Prevention of Accidents) Act,* 1900.	*In sub-section three of section thirteen the words "factory workshop or" wherever they occur, and the words "the occupier of the factory or workshop or."*

(*a*) This part of the schedule was repealed by S. L. R. A., 1927.

PART II.

Enactments repealed from a Date to be fixed by Order of the Secretary of State.

Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vict. c. 75	The Factory and Workshop Act, 1891.	Sections eight, nine, ten and twelve, and the First Schedule.
58 & 59 Vict. c. 37	The Factory and Workshop Act, 1895.	Section twelve. Sub-section three of section twenty-four. Section twenty-eight.

CREMATION ACT, 1902 (*a*).

(2 EDW. 7, c. 8.)

An Act for the regulation of the burning of Human Remains, and to enable Burial Authorities to establish Crematoria. [22nd July, 1902.]

Short title.

1. This Act may be cited as the Cremation Act, 1902.

(*a*) This Act is inserted as applicable under the P. H. (Interments) A., 1879, *ante*, p. 751. As to the omission of the clause of enactment, see S. L. R. A., 1894, s. 4.

Definitions

2. In this Act—

The expression "burial authority" (*a*) shall mean any burial board, any council, committee, or other local authority having the powers and duties of a burial board, and any local authority maintaining a cemetery under the Public Health (Interments) Act, 1879, or under any local Act; **Section 2.** 42 & 43 Vict. c. 31.

The expression "crematorium" shall mean any building fitted with appliances for the purposes of burning human remains, and shall include everything incidental or ancillary thereto.

(*a*) This definition is taken from s. 11 of the Burial Act, 1900.

3. [*Application to Scotland.*]

4. The powers of a burial authority to provide (*a*) and maintain burial grounds or cemeteries, or anything essential, ancillary, or incidental thereto, shall be deemed to extend to and include the provision and maintenance of crematoria (*b*): Burial authority may provide for cremation.

Provided that no human remains shall be burned in any such crematorium until the plans and site thereof have been approved by the Local Government Board (*c*) and until the crematorium has been certified by the burial authority to the Secretary of State to be complete, built in accordance with such plans, and properly equipped for the purpose of the disposal of human remains by burning (*d*).

(*a*) This will include power to borrow for the purpose of providing a crematorium.

(*b*) The effect is to make it necessary to obtain for the provision of a crematorium, or for any expenditure for that purpose, or for the acquisition or appropriation of any land for that purpose, the same sanction that would be required by the local authority in the case of the provision of a burial ground or cemetery.

(*c*) The L. G. B. has now been superseded by the Minister of Health (Ministry of Health Act, 1919).

(*d*) Apart from this provision the burning of human remains may under certain circumstances amount to a public nuisance. See *R.* v. *Price* (1884), 12 Q. B. D. 247. See also *Williams* v. *Williams* (1881), 20 Ch. D. 659; 46 J. P. 726. And it is a misdemeanour to burn a dead body with intent to prevent an inquest (*R.* v. *Stephenson* (1884), 13 Q. B. D. 331; 49 J. P. 486).

5. No crematorium shall be constructed nearer to any dwelling house than two hundred yards, except with the consent, in writing of the owner, lessee, and occupier of such house, nor within fifty yards of any public highway, nor in the consecrated part of the burial ground of any burial authority (*a*). Site of crematorium.

(*a*) See s. 10 of the Cemeteries Clauses Act, 1847, *ante*, p. 2217, and notes thereto.

6. A burial authority may accept a donation of land for the purposes of a crematorium, and a donation of money or other property for enabling them to acquire, construct, or maintain a crematorium. Donations of land.

7. The Secretary of State shall make regulations (*a*) as to the maintenance and inspection of crematoria and prescribing in what cases and under what conditions the burning of any human remains may take place, and directing the disposition or interment of the ashes (*b*), and prescribing the forms of the notices, certificates, and declarations to be given or made before any such burning is permitted to take place, such declarations to be made under and by virtue of the Statutory Declarations Act, 1835, and also regulations as to the registration of such burnings as have taken place. A copy of such regulations shall be laid before both Houses of Parliament, if Parliament be then sitting, or, if not, then within three weeks after the beginning of the next ensuing Session of Parliament; and, after such regulations have lain for forty days before Parliament, then, unless within such forty days an address has been presented by one or other of the Houses praying His Majesty to withhold his assent from such regulations or any part thereof, such regulations shall have the same effect as if they were enacted in this Act (*c*). All Regulations as to burning. 5 & 6 Will. 4, c. 62.

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statutory provisions (*d*) relating to the destruction and falsification of registers of burials, and the admissibility of extracts therefrom as evidence in courts and otherwise, shall apply to the register of burnings directed by such regulations to be kept, and the Stamp Act, 1891 (*e*), shall apply to a register under this Act as if it were a register of burials.

54 & 55 Vict. c. 39.

(*a*) Regulations were made on 31st March, 1903, but they were revoked by later regulations dated 26th April, 1920, and these have been amended by regulations of 23rd June, 1925, and 6th May, 1927. See App. II., *post*, pp. 3129 *et seq.* Breach of these regulations is punishable under s. 8, *infra.* The power to make regulations under this section was extended by s. 10 of the Births and Deaths Registration Act, 1926 (16 & 17 Geo. 5, c. 48), to include a power to make regulations for the purpose of applying that Act to cases where human remains are disposed of by cremation. The latest regulations were accordingly made under the combined Acts.

(*b*) Such interment of ashes is not a burial within the prohibitions against burial in a church under the Church Building Act, 1818, the P. H. Acts, or the Burial Act, 1853, s. 3, and therefore a faculty may issue for allowing such interment in a church (*Re Kerr*, [1894] P. 284). There is nothing in the current regulations to prevent such interment.

(*c*) Consequently no question can arise as to whether any such regulations are *ultra vires.* See *Institute of Patent Agents* v. *Lockwood*, [1894] A. C. 347. See, however, the comments on this case in *R.* v. *Pharmaceutical Society*, [1899] 2 I. R. 132, and *Waterford* v. *Murphy*, [1920] 2 I. R. 165. Reference may also be made to *R.* v. *Electricity Commissioners*, [1924] 1 K. B. *per* YOUNGER, L.J., at p. 212; *R.* v. *Minister of Health, Ex parte Yaffe* (1930), 94 J. P. N. 40; 46 T. L. R. 178, *ante*, p. 1417; and cf. the Small Holdings and Allotments Act, 1908, s. 39 (3), and notes thereto at p. 1172, *ante.*

(*d*) See s. 15 of the Burial Act, 1857, ss. 36 and 37 of the Forgery Act, 1861, as amended by the Forgery Act, 1913.

(*e*) See ss. 1, 64, and Schedule I. of that Act, which impose a stamp duty of one penny on every certified copy from any register of burials subject to certain exemptions.

Penalties for breach of regulations, &c.

8.—(1) Every person who shall contravene any such regulation as aforesaid, or shall knowingly carry out or procure or take part in the burning of any human remains except in accordance with such regulations and the provisions of this Act, shall (in addition to any liability or penalty which he may otherwise incur) (*a*) be liable on summary conviction to a penalty not exceeding fifty pounds. Provided that any person aggrieved by any conviction may appeal therefrom to quarter sessions (*b*).

(2) Every person who shall wilfully make any false *declaration or* (*c*) representation, or sign, or utter any false certificate, with a view to procuring the burning of any human remains, shall (in addition to any penalty or liability which he may otherwise incur) (*d*) be liable to imprisonment with or without hard labour not exceeding two years.

(3) Every person who with intent to conceal the commission or impede the prosecution of any offence (*e*), procures or attempts to procure the cremation of any body, or with such intent makes any declaration or gives any certificate under this Act, shall be liable to (*f*) conviction on indictment to penal servitude for a term not exceeding five years.

(*a*) This refers to the liability to conviction on indictment for a misdemeanour. See *R.* v. *Price* and *R.* v. *Stephenson* cited in the note to s. 4, *ante*, p. 2655.

(*b*) In accordance with the provisions of s. 31 of the S. J. A., 1879, set out in the notes to s. 269 of the P. H. A., 1875, *ante*, p. 602.

(*c*) Repealed by Perjury Act, 1911.

(*d*) See note (*d*) to s. 7, *supra*, as to falsification of registers.

(*e*) How does such a person where the "offence" is a felony differ from an accessory after the fact? In such a case is he punishable still as an accessory after the fact or only under this statute? Is a wife punishable under this statute where she would not be punishable as an accessory after the fact? Compare the history of the law with regard to the punishment of the receiver of stolen goods.

(*f*) *Sic.* According to the common form "to" should be "on."

Fees.

9. The burial authority may demand payment of any such charges or fees for the burning of human remains in any crematorium provided by them as may be authorised by any table approved by the Local Government

Board (*a*), and such charges or fees, and any other expenses properly incurred in or in connection with the cremation of a deceased person, shall be deemed to be part of the funeral expenses of the deceased (*b*).

(*a*) Now the Minister of Health (see note (*c*) on p. 2655, *ante*).

(*b*) This section appears to be of general application and to enable the burial authority to enforce payment against any person against whom they might enforce payment of charges or fees under s. 34 of the Burial Act, 1852.

As to the liability of executors for funeral expenses, see *Ambrose* v. *Kerrison* (1851), 10 C. B. 776; 20 L. J. C. P. 135; *Brice* v. *Wilson* (1834), 3 N. & M. 512; 3 L. J. K. B. 93; *Rogers* v. *Price* (1829), 3 Y. & J. 28; *Tugwell* v. *Heyman* (1812), 3 Camp. 298. As to the liability of the deceased's estate, see *Green* v. *Salmon* (1838), 8 A. & E. 348; 7 L. J. Q. B. 236; *Newcome* v. *Beloe* (1865), L. R. 1 P. & D. 314. As to the liability of a husband for his wife's funeral expenses, see *Bertie* v. *Lord Chesterfield* (1723), 9 Mod. 31; *Jenkins* v. *Tucker* (1788), 1 H. Bl. 91; *Ambrose* v. *Kerrison, supra; Bradshaw* v. *Beard* (1862), 12 C. B. (N. S.) 344; 31 L. J. C. P. 273; *Re M'Myn, Lightbown* v. *M'Myn* (1886), 33 Ch. D. 575. As to the liability of a wife for her husband's funeral expenses, see *Chapple* v. *Cooper* (1838), 13 M. & W. 252; 13 L. J. Ex. 286; *Gregory* v. *Lockyer* (1821), 6 Madd. 90; 22 R. R. 246; *Williter* v. *Dobie* (1855), 2 Kay & J. 647; 4 W. R. 669. As to the liability of a parent for the funeral expenses of his child, see *R.* v. *Vann* (1851), 2 Den. C. C. 325; 21 L. J. M. C. 39; and the non-liability of a child for a parent, *Chapple* v. *Cooper, supra.* As to the liability of a householder for an inmate, *R.* v. *Stewart* (1841), 12 A. & E. 773; 10 L. J. M. C. 40. See also as to paupers ss. 103–107 of the Poor Law Act, 1927; as to persons who have died of infectious disease, s. 142 of the P. H. A., 1875, *ante*, p. 263, s. 10 of the Infectious Disease Prevention Act, 1890, *ante*, p. 861, and in London, s. 89 of the P. H. (London) Act, 1891. As to dead bodies cast up by the sea or in tidal or navigable waters, 48 Geo. 3, c. 75, and 49 Vict. c. 20; and as to seamen, s. 34 of the Merchant Shipping Act, 1906, and *Anderson* v. *Rayner*, [1903] 1 K. B. 589, decided under the now repealed s. 207 of the Merchant Shipping Act, 1894.

Saving for coroners.
50 & 51 Vict. c. 71.

10. Nothing in this Act shall interfere with the jurisdiction of any coroner under the Coroners Act, 1887, or any Act amending the same, and nothing in this Act shall authorise the burial authority or any person to create or permit a nuisance (*a*).

(*a*) See *R.* v. *Price* and *R.* v. *Stephenson*, cited in the note to s. 4, *ante*, p. 2655.

Incumbent not to be obliged to perform burial service.

11. The incumbent of any ecclesiastical parish shall not, with respect to his parishioners or persons dying in his parish, be under any obligation to perform a funeral service before, at, or after the cremation of their remains within the ground of a burial authority, but, upon his refusal so to do, any clerk in Holy Orders of the Established Church not being prohibited under ecclesiastical censure, may, with the permission of the bishop and at the request of the executor of the deceased person, or of the burial authority, or other person having charge of the cremation or interment of the cremated remains, perform such service within such ground (*a*).

(*a*) Apart from this enactment and from s. 6 of the Burial Laws Amendment Act, 1880, a clergyman of the Church of England is bound to read the burial service in the manner and form prescribed by the Book of Common Prayer over the corpse of any person who has been baptised with water in the name of the Holy Trinity if required so to do, though the deceased was never baptised otherwise than by a layman, unless the special ecclesiastical prohibitions with regard to persons excommunicated and that have laid violent hands on themselves apply (*Escott* v. *Mastin* (1842), 4 Moo. P. C. 104). But the ordinary cannot compel an incumbent by excclesiastical censure to perform the burial service on unconsecrated ground (*Rugg* v. *Kingsmill* (1868), L. R. 2 P. C. 59). Moreover, it is illegal for any one, unless he is lawfully authorised, to read or assist in reading the burial service in consecrated ground over a dead body (*Johnson* v. *Friend* (1860), 6 Jur. (N.S.) 280). And it is a breach of ecclesiastical law on the part of a burial board to permit any person to perform the burial service in the consecrated portion of their burial ground unless such person be authorised by the incumbent to do so, and *a fortiori*, unless he be a person duly qualified (*Wood* v. *Headingley Burial Board*, [1892] 1 Q. B. 713; 56 J. P. 326).

See also s. 7 of the Burial Act, 1900, *ante*, p. 2614.

Fees may be fixed.

12. In any table of fees respecting burials to be made or approved by the Secretary of State (*a*), a fee may be fixed in respect of a burial service before, Section 12. at, or after cremation, and if no fee is fixed, the fee, if any, fixed in respect of a burial service shall apply.

(*a*) As to fees in respect of services rendered by a minister of religion or sexton, see s. 3 of the Burial Act, 1900, *ante*, p. 2612.

Application of 10 & 11 Vict. c. 65, ss. 52 and 57.

13. Sections fifty-two and fifty-seven of the Cemeteries Clauses Act, 1847 (*a*), and any similar provisions in any local and personal Act authorising the making of a cemetery, shall apply to the disposition or interment of the ashes of a cremated body as if it were the burial of a body.

(*a*) These sections have no application to a cemetery provided by a local authority under the P. H. (Interments) A., 1879. See note (*a*), *ante*, p. 2224.

Repeal of local Acts.

14. As from the date at which regulations under this Act come into force, any provisions of any local and personal Act for the like purpose as this Act, and any byelaws or regulations made thereunder, shall, so far as they relate to that purpose, cease to be in operation.

15. [*Commencement of Act, April* 1*st*, 1903.]

Extent of Act.

16. This Act shall not apply to Ireland.

BOROUGH FUNDS ACT, 1903 (*a*).

(3 EDW. 7, c. 14.)

An Act to amend the Borough Funds Act, 1872. [11th August, 1903.]

Withdrawal of Bill, or part, in case of adverse poll.

1. No expense in relation to the promotion of a Bill in Parliament shall be charged by the council of a borough or urban district under the Borough Funds Act, 1872, unless the requirements contained in the First Schedule to this Act have been observed (*b*).

(*a*) See the Borough Funds Act, 1872, *ante*, p. 2331, the Local Government (County Boroughs and Adjustments) Act, 1926, *ante*, p. 1794, and the L. G. A., 1929, s. 55, *ante*, p. 1919. As to the omission of the clause of enactment, see s. 4 of the S. L. R. A., 1894. This Act makes various changes in the procedure attendant upon the promotion of or opposition to a Bill in Parliament on the part of the council of a borough or other urban district. By the Act of 1926 this Act is extended to Bills having as their object the extension of the area of a county borough notwithstanding s. 10 of the 1872 Act, *ante*, p. 2334.

(*b*) This section it will be noted is limited to the councils of boroughs and urban districts. It does not extend to county councils, who may therefore promote Bills without the consent of the electors, and subject only to the approval of the Minister of Health under s. 4 of the Act of 1872, as affected by s. 8 of this Act. See note (*a*), *ante*, p. 2332. Nor does it or the other provisions of this Act relating to meetings and polls of electors apply to rural district councils (s. 55 L. G. A., 1929, *ante*, p. 1919).

This section is limited further to expenses in relation to promoting a Bill. It is not necessary to obtain any consent of owners and ratepayers for opposing, see sect. 7 (1), *post*, p. 2660, but the approval of the Minister of Health must be obtained. The onus of showing statutory authority for payments made by a public body lies on the body making such payments (*R.* v. *Newell*, [1911] 2 I. R. 573). This section does not apply where the sole purposes of the bill are to constitute a borough or county borough or to extend the area of a county borough and purposes incidental thereto (Local Government (County Boroughs and Adjustments) Act, 1926, s. 3 (1), *ante*, p. 1794.

Expense of promoting Bills.

2.—(1) If the result of a poll under this Act, or the decision of a meeting of electors when final, is against the promotion of the Bill, or of a part or parts, or clause or clauses, of the Bill, the council shall forthwith take all necessary steps to withdraw the Bill or the part or parts, or clause or clauses (as the case may be), against which the poll has resulted or the decision of the meeting has been given (*a*).

(2) In the case of equality of votes on any question of promotion, that question shall be deemed to be decided against the promotion (*b*).

(*a*) As to putting the resolutions to a meeting so as to deal with parts or clauses separately, see clause 6 of the First Schedule, *post*, p. 2662.

The promoting council may withdraw the Bill or any part or parts or clause or clauses at any time before a poll where a poll is demanded at the meeting. Provision in such case for notice to the returning officer, and for notice that no poll will be taken, is contained in Articles 5 and 6 of the Borough Funds Acts (Polls) Order, 1903, set out in Appendix II., *post*, p. 3078.

(*b*) The president of the meeting has no casting or second vote, nor has the returning officer in case of a poll. But the sub-section has no application to the decision of questions of promotion in debate at the council, which is governed by the standing orders of the council itself.

Expenses of opposing Bills.

3. Where a Bill, or a part or parts, or clause or clauses of a Bill, is or are withdrawn, no further expense shall be incurred by the council, or mayor or chairman, in or about the promotion of the Bill, or part or parts, or clause or clauses, so withdrawn, but, subject as aforesaid, all costs, charges, and expenses incurred by the council, or mayor or chairman, in or as incidental to the preparation and promotion of the Bill up to and inclusive of its deposit in Parliament and withdrawal (if withdrawal), and in or as incidental to the holding of a meeting or the taking of a poll under this Act, shall, when taxed by a taxing officer of one of the Houses of Parliament (*a*), and allowed under the Borough Funds Act, 1872 (*b*), be charged on and payable out of such one or more of the public funds or rates under the control of the council (and, if more than one, then in such proportions) as the council, having regard to the nature and objects of the Bill, may determine to be just and proper.

35 & 36 Vict. c. 91.

(*a*) See the House of Commons Costs Taxation Act, 1847; the House of Lords Costs Taxation Act, 1849; and the Parliamentary Costs Act, 1865; House of Commons Costs Taxation Act, 1879.

(*b*) As to allowance, see s. 6 of the Borough Funds Act, 1872, *ante*, p. 2334.

Saving for special Acts.

4. Nothing in this Act shall extend or be construed to alter or affect any special provision in any local Act for the payment of the costs, charges, and expenses in relation to the promotion by any council of a Bill in Parliament, or to take away or diminish any rights or powers now possessed or enjoyed by any council, or which are or shall be vested in or exercisable by the inhabitants of the district of any council under any general or special Act, but the council may, if they think fit, adopt with respect to the promotion of any Bill the procedure provided by this Act in lieu of that provided by their local Act (*a*).

(*a*) See also saving for special Acts in s. 8 of the Borough Funds Act, 1872, *ante*, p. 2334.

Offences in relation to polls (*a*).

5.—(1) Any person who at, or for the purposes of, a poll under this Act—

(i) fraudulently signs or forges any signature to a requisition of electors under this Act; or

(ii) applies for a voting paper in the name of some other person, whether that name be the name of a person living or dead, or of a fictitious person (*b*); or

(iii) having voted once, applies for a second voting paper in his own name; or

(iv) forges or counterfeits, or fraudulently defaces or fraudulently destroys any voting paper; or

(v) without due authority supplies a voting paper to any person; or

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(vi) fraudulently puts into any box or other receptacle any paper other than a voting paper supplied to him for the purpose; or

(vii) fraudulently takes out of the polling station any voting paper; or

(viii) without due authority destroys, takes, opens, or otherwise interferes with any box or other receptacle for voting papers or any voting papers then in use; or

(ix) causes any disturbance or disorder in or near any polling station (*c*);

shall be liable on summary conviction to a fine not exceeding twenty pounds (*d*).

(2) An attempt (*e*) to commit any offence specified in this section shall be punishable in the manner in which the offence is punishable.

(*a*) Compare ss. 3 and 24 of the Ballot Act, 1872.

(*b*) If a man applies for a voting paper in a name which is not his own name, but is the name under which he is registered, and which was intended to designate him and no other person, he commits no offence (*R.* v. *Fox* (1887), 16 Cox, C. C. 166). So also if he honestly believes he is entitled to vote (*Gloucester* (1873), 2 O'M. & H. 62; *Athlone* (1880), 3 O'M. & H. 57; *Carrickfergus* (1880), Parl. Pap. 1880, No. 337, sess. 2, p. 14).

No power of summary arrest is given as in the case of personation at elections.

(*c*) The party may also be given into custody by the presiding officer (*Spilsbury* v. *Micklethwaite* (1808), 1 Taunt. 146).

(*d*) There is a right of appeal to quarter sessions (see s. 37 of the Criminal Justice Administration Act, 1914), and the court of summary jurisdiction may state a case for the opinion of the High Court.

(*e*) Aiding and abetting an offence against sub-s. (1) (ii) is not specifically made an offence as in the case of aiding, etc., personation at an election.

Non-compliance with procedure.

6. The failure to comply with the requirements of this Act as to notices or the time within which anything is to be done, or the procedure at a meeting of electors or the mode of taking the poll, shall not render invalid the charge under the Borough Funds Act, 1872, or this Act of any expenses in relation to the promotion of a Bill, if the provisions of this Act have been substantially complied with and the failure has not affected the result of the proceedings under this Act (*a*).

(*a*) Compare s. 13 of the Ballot Act, 1872, and see *Woodward* v. *Sarsons* (1875), L. R. 10 C. P. 733; 39 J. P. 776; *Drogheda*, 2 O'M. & H. 201; *East Clare*, 4 O'M. & H. 162; *Wilson* v. *Ingham* (1895), 64 L. J. Q. B. 775; 59 J. P. 614.

Expenses of opposing Bills.

7.—(1) *The provision contained in section* 4 *of the Borough Funds Act*, 1872 (*a*), *that no expense in opposing a Bill in Parliament shall be charged unless the opposition has had the consent of the owners and ratepayers of the district, shall cease to apply* (*b*).

54 Vict. c. 12.

(2) In section 1 of the Railway and Canal Traffic (Provisional Orders) Amendment Act, 1891 (*c*), references to the Borough Funds Act shall be construed and have effect as references to the Borough Funds Act, 1872, as amended by this Act.

(*a*) *Ante*, p. 2333.

(*b*) Repealed by S. L. R. A., 1927.

(*c*) *Ante*, p. 2528.

Transfer to Local Government Board of certain powers of Secretary of State.

8. The powers conferred upon the Secretary of State by the Borough Funds Act, 1872, or by virtue of any extension or application of that Act, shall be transferred to and exercised by the Local Government Board (*a*).

(*a*) Now Minister of Health. The powers referred to are those of approval of promotion and opposition (s. 4); of authorising examination and allowance of costs (s. 6); and of directing a local inquiry (s. 7), *ante*, pp. 2333, 2334.

Definitions.

9. For the purposes of this Act, the expression "council" (*a*) includes the council of every borough and of every urban district, the expression "borough" includes a metropolitan borough, and the expression "electors" means the parochial electors for the time being enrolled in the register of parochial electors in force for the parishes in a borough or urban district, and the expression "the mayor or chairman" means the mayor of the borough or the chairman of the urban district council.

(*a*) This expression includes a rural district council, see s. 55, L. G. A., 1929, *ante*, p. 1919.

10. *The enactments specified in the Second Schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule* (*a*). Repeals.

(*a*) Repealed by S. L. R. A., 1927.

11. This Act shall not extend to Scotland or Ireland. Extent of Act.

12.—(1) This Act may be cited as the Borough Funds Act, 1903, and the Borough Funds Act, 1872, and this Act may be cited together as the Borough Funds Acts, 1872 and 1903. Short title and commencement.

(2) [*Commencement of Act, October 1st*, 1903 (*a*).]

(*a*) Repealed by S. L. R. A., 1927.

SCHEDULES.

FIRST SCHEDULE (*a*).

REGULATIONS FOR MEETING AND POLLING OF ELECTORS.

1. Where the council of a borough or urban district have resolved, in accordance with the provisions of the Borough Funds Act, 1872, to promote a Bill in Parliament, and the Bill has been deposited, notice shall be given by placards and by advertisement in some local newspaper circulating in the borough or district in two successive weeks stating— 35 & 36 Vict. c. 91.

(a) the title of the Bill; and
(b) a brief statement of the objects of the Bill;
(c) that the Bill has been deposited, and the date on which it was first deposited in either House; and
(d) that copies of the Bill may be inspected and purchased at a place within the borough or district specified in the notice, between the hours of ten in the forenoon and five in the afternoon, on every week day for fourteen days after the date of the first advertisement, and that extracts may be taken free of charge; and
(e) That a public meeting of electors will be held on a day named, not being less than fourteen nor more than twenty-eight days after the first advertisement of the notice, for the purpose of considering the question of the promotion of the Bill, and indicating the resolutions which will be submitted to the meeting.

2. The first advertisement under these regulations must be made within seven days from the first deposit of the Bill in either House, and the placards giving notice under these regulations must be posted within the same time.

3. A public meeting of electors shall be held in accordance with the notice, and the mayor or chairman, or, in the event of his being unable or unwilling to preside, any person appointed by the council to perform that duty, shall be president of the meeting; but, if neither the mayor or chairman, nor the person so appointed, is present within ten minutes after the time appointed for the meeting, the meeting shall choose an elector present at the meeting to be president of the meeting.

4. The president of the meeting may, with the consent of the majority of the electors present, adjourn the meeting for not more than seven days.

(*a*) This schedule does not apply to Bills the sole purposes of which are to constitute a borough a county borough or to extend the area of a county borough (Local Government (County Boroughs and Adjustments) Act, 1926, s. 3 (1), *ante*, p. 1794).

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5. On opening any such meeting the president of the meeting, or a member or officer of the council, shall give such explanation of the Bill with reference to which the meeting is held as he thinks expedient.

6.—(a) The question of the promotion of the Bill shall be put by the president to the meeting either by a single resolution in favour of the promotion of the whole Bill, or by separate resolutions in favour of the promotion of any part or parts or clause or clauses of the Bill, but together covering the promotion of the whole Bill, and the meeting shall decide for or against any such resolution.

(b) The president shall explain to the meeting the resolution or resolutions he proposes to put to the meeting, and the question of the promotion of the Bill shall be put in the manner proposed;

Provided that, if, before any such resolution is put, the meeting decide to request the president to put separately any resolution or resolutions in favour of the promotion of any part or parts or clause or clauses of the Bill not proposed by him to be put separately, he shall put such further or other resolution or resolutions to the meeting as will, consistently with the provisions of this schedule, give effect to that request.

7. Unless a poll is required in manner provided by this schedule, with respect to any resolution for promotion put to the meeting, the decision of the meeting on that resolution, as declared by the president of the meeting, shall be final.

8. A poll may be required with respect to any such resolution by not less than one hundred electors, or one-twentieth in number of the electors, whichever may be the less, and, if the decision of the meeting on the resolution is against the resolution, by the council.

9. A requisition for a poll by electors must be in writing signed by the persons making it, and must be delivered to the mayor or chairman within seven days after the date of the meeting, or any adjournment thereof.

10. A requisition for a poll by the council must be authorised by a resolution of the council, and a copy of the resolution must be delivered to the mayor or chairman within seven days after the meeting or any adjournment thereof. Provided that, if the regulations governing the meetings of the council do not permit of an ordinary meeting of the council being held within the said seven days, the time for the delivery of a copy of the resolution shall be within three days after the date on which an ordinary meeting of the council can first be held subsequently to the date of the meeting of the electors or any adjournment thereof.

11. The mayor or chairman shall proceed to take the opinion by poll of the electors on the resolution to which any requisition relates, unless a poll is rendered unnecessary by the withdrawal of the requisition for a poll or by a resolution of the council withdrawing the Bill, or the part or parts or clause or clauses to which the resolution with reference to which the poll is required relates.

12. The polls on any number of resolutions may be taken at the same time and by means of the same voting paper.

13. The mayor or chairman shall count, or cause to be counted, the votes given at a poll under this schedule, and shall as soon as practicable declare the result.

14. The decision of the mayor or chairman on any question arising in respect of any voting paper shall be final.

15. Where the mayor or chairman is unable or unwilling to perform any duty or do any act or thing with respect to a poll under this schedule, the council shall appoint some other person to perform the duty or do such act or thing.

16. Subject to the provisions of this schedule the poll shall be taken in accordance with such regulations as may be prescribed by the Local Government Board (*a*), and the Local Government Board (*a*) may prescribe forms for requisitions, voting papers, notices, and other documents under this schedule, and those forms, or forms to the like effect, shall be used (*b*).

(*a*) Now Minister of Health. See Ministry of Health Act, 1919.

(*b*) See the Borough Funds Acts (Polls) Order, 1903, printed in Appendix II., *post*, p. 3078.

SECOND SCHEDULE (*a*).

Sched. II.

ENACTMENT REPEALED AS TO ENGLAND.

Session and Chapter.	*Short Title.*	*Extent of Repeal.*
35 & 36 *Vict. c.* 91 .	*The Borough Funds Act*, 1872.	*In section four, the words from "Provided further" to the end of the section.* *In section five, the words "or one of her Majesty's principal Secretaries of State, as the case may be," and the words "or Secretary of State."* *In section six, the words "by one of her Majesty's principal Secretaries of State, or" and the words "as the case may be."* *In section seven, the words "or one of her Majesty's principal Secretaries of State."* *In section eleven, the words "or the metropolitan area as defined by the Metropolis Management Act*, 1855."

(*a*) This schedule was repealed by S. L. R. A., 1927.

ALKALI, ETC., WORKS REGULATION ACT, 1906.

(6 EDW. 7, c. 14) (*a*).

An Act to consolidate and amend the Alkali, etc., Works Regulation Acts, 1881 *and* 1892. [4th August, 1906.]

PART I.

ALKALI WORKS AND ALKALI WASTE.

Condensation of muriatic acid gas in alkali works.

1.—(1) Every alkali work (*b*) shall be carried on in such manner as to secure the condensation, to the satisfaction of the chief inspector (*c*), of the muriatic acid gas evolved in such work, to the extent of ninety-five per centum, and to such an extent that in each cubic foot of air, smoke, or chimney gases, escaping from the works into the atmosphere, there is not contained more than one-fifth part of a grain of muriatic acid (*d*).

(2) The owner (*b*) of any alkali work (*b*) which is carried on in contravention of this section shall be liable to a fine not exceeding in the case of the first offence fifty pounds, and in the case of every subsequent offence one hundred pounds (*e*).

(*a*) This Act repeals and re-enacts with amendments the Alkali, etc., Works Regulation Act, 1881, the L. G. B.'s Provisional Order Confirmation (Salt Works) Act, 1884, passed under s. 10 of the Act of 1881, and the Alkali, &c., Works Regulation Acts, 1892. The Act was amended by the Public Health (Smoke Abatement) Act, 1926, s. 4, *ante*, p. 1799, which section is to be construed as one with the Act in the text.

(*b*) Defined by s. 27, *post*, p. 2673.

(*c*) See ss. 10—14, *post*, pp. 2668—2670, as to inspection, and s. 25, *post*, p. 2673, as to determination of questions by chief inspector.

(*d*) As to calculation of acid, see s. 16, *post*, p. 2670.

(*e*) As to recovery of fines, see ss. 17, 18, *post*, pp. 2670, 2671. The owner may be discharged on proof against the actual offender, s. 20, *post*, p. 2672.

Prevention of discharge of noxious and offensive gas in alkali works.

2.—(1) In addition to the condensation of muriatic acid gas as aforesaid the owner (*a*) of every alkali work (*a*) shall use the best practicable means (*a*) for preventing the escape of noxious or offensive gases (*a*) by the

Section 2. exit flue of any apparatus used in any process carried on in the work, and for preventing the discharge, whether directly or indirectly, of such gases into the atmosphere, and for rendering such gases where discharged harmless and inoffensive, subject to the qualification that, on the basis of the amount of acid gas per cubic foot, no objection shall be taken under this section by an inspector to any muriatic acid gas in the air, smoke, or gases discharged into the atmosphere by a chimney or other final outlet where the amount of such acid gas in each cubic foot of air, smoke, or gases so discharged does not exceed the amount limited by the last preceding section (*b*).

(2) If the owner of any alkali work fails, in the opinion of the court having cognizance of the matter, to use such means, he shall be liable to a fine not exceeding in the case of the first offence twenty pounds, and in the case of every subsequent offence fifty pounds, with a further sum not exceeding five pounds for every day during which any such subsequent offence has continued (*c*).

(*a*) Defined by s. 27, *post*, p. 2673.

(*b*) This clause introduces considerable amendments of s. 4 of the repealed Act of 1881. It is extended to all escapes from the exit flue of any apparatus used in any process carried on in the work, and to every discharge of noxious or offensive gases, whether directly or indirectly, into the atmosphere, subject to the qualification mentioned.

(*c*) See note (*e*) to s. 1, *ante*, p. 2663.

Separation of acids and other substances from alkali waste and drainage therefrom.

3.—(1) Every work of whatever description in which any liquid containing either acid or any other substance capable of liberating sulphuretted hydrogen (*a*) from alkali waste or drainage therefrom is produced or used shall be carried on in such manner that the liquid shall not come in contact with alkali waste, or with drainage therefrom, so as to cause a nuisance.

(2) The owner of any work which is carried on in contravention of this section shall be liable to a fine not exceeding in the case of the first offence fifty pounds, and in the case of every subsequent offence one hundred pounds, with a further sum not exceeding five pounds for every day during which any such subsequent offence has continued (*b*).

(3) On the request of the owner of any such work as is mentioned in this section the sanitary authority of the district in which such work is situate shall, at the expense of such owner, provide and maintain a drain or channel for carrying off such liquid as aforesaid produced in such work into the sea or into any river or watercourse into which the liquid can be carried without contravention of the Rivers Pollution Prevention Act, 1876, as amended by any subsequent enactment (*c*); and the sanitary authority shall for the purpose of providing any such drain or channel have the like powers as they have for providing sewers, whether within or without their district, under the Public Health Act (*d*).

39 & 40 Vict. c. 75.

(4) Compensation (*e*) shall be made to any person for any damage sustained by him by reason of the exercise by a sanitary authority of the powers conferred by this section, and such compensation shall be deemed part of the expenses to be paid by the owner making the request to the sanitary authority under this section.

(*a*) The inclusion of works in which any liquid containing any substance other than acid capable of liberating sulphuretted hydrogen from alkali waste is produced or used is a new feature. Section 5 of the repealed Act of 1881 was limited to works in which acid was produced or used.

(*b*) See note (*e*) to s. 1, *ante*, p. 2663.

(*c*) See the Acts here referred to, *ante*, p. 706. As to the discharge of solid matter in suspension into any navigable water, see *United Alkali Co.* v. *Simpson*, *ante*, p. 712.

(*d*) See ss. 16 and 32 of the P. H. A., 1875, *ante*, pp. 59, 99.

Reference may also be made to *St. Helen's Chemical Co.* v. *St. Helen's Corporation* (1876), 1 Ex. D. 196; 40 J. P. 471, where the owners were held liable for a nuisance caused by the evolution of noxious gases in a sewer consequent upon the discharge into the sewer of muriatic acid and sulphur.

(*e*) The amount will be ascertainable under the P. H. A., 1875, s. 308, *ante*, p. 644.

Deposit or discharge of alkali waste.

4.—(1) Alkali waste shall not be deposited or discharged without the best practicable means (*a*) being used for effectually preventing any nuisance arising therefrom (*b*).

(2) Any person who causes or knowingly permits any alkali waste to be deposited or discharged in contravention of this section shall be liable to a fine not exceeding in the case of the first offence twenty pounds, and in the case of every subsequent offence fifty pounds, with a further sum not exceeding five pounds for every day during which any such subsequent offence has continued (*c*).

(*a*) Defined by s. 27, *post*, p. 2674.

(*b*) As to the discharge of solid matter in suspension into any navigable water, see *United Alkali Co.* v. *Simpson*, *ante*, p. 712.

(*c*) As to recovery of fines, see ss. 17, 18, *post*, pp. 2670, 2671.

Prevention of nuisance from alkali waste already deposited or discharged.

5. Where alkali waste has been deposited or discharged, either before or after the commencement of this Act, and complaint is made to the chief inspector that a nuisance is occasioned thereby, the chief inspector (*a*), if satisfied of the existence of the nuisance, and that it is within the power of the owner or occupier of the land to abate it, shall serve a notice on such owner or occupier requiring him to abate the nuisance; and, if such owner or occupier fails to use the best practicable and reasonably available means (*b*) for the abatement thereof, he shall be liable to a fine not exceeding twenty pounds, and, if he does not proceed to use such means within such time as may be limited by the court inflicting such fine, he shall be liable to a further penalty not exceeding five pounds for every day after the expiration of the time so limited during which such failure continues.

(*a*) See s. 10, *post*, p. 2668.

(*b*) "The best practicable means" are defined by s. 27, *post*, p. 2674. The addition of the words "and reasonably available" introduces an element of uncertainty as to whether that definition is to be adhered to. But probably the intention of the Act is that it shall, subject to the court deciding also the question of reasonable availability for itself.

PART II.

SULPHURIC ACID, MURIATIC ACID, AND OTHER SPECIFIED WORKS.

Condensation of acid gases in sulphuric acid and muriatic acid works.

6.—(1) Every sulphuric acid work as defined in paragraph (1) of the First Schedule to this Act shall be carried on in such manner as to secure the condensation, to the satisfaction of the chief inspector (*a*), of the acid gases of sulphur or of sulphur and nitrogen which are evolved in the process of the manufacture of sulphuric acid in that work, to such an extent that the total acidity of those gases in each cubic foot of residual gases after completion of the process, and before admixture with air, smoke, or other gases, does not exceed what is equivalent to four grains of sulphuric anhydride.

(2) Every muriatic acid work as defined in paragraph (8) of the First Schedule to this Act shall be carried on in such manner as to secure the condenstion to the satisfaction of the chief inspector (*a*) of the muriatic acid gas evolved in such work, to such extent that in each cubic foot of air, smoke, or chimney gases escaping from the work into the atmosphere there is not contained more than one-fifth part of a grain of muriatic acid (*b*).

(3) The owner of any sulphuric acid work or of any muriatic acid work which is carried on in contravention of this section shall be liable to a fine not exceeding in the case of the first offence fifty pounds, and in the case of every subsequent offence one hundred pounds.

(*a*) See s. 10, *post*, p. 2668.

(*b*) As to calculation of acid, see s. 16, *post*, p. 2670.

Section 7.

Prevention of discharge of noxious or offensive gas in scheduled works.

7.—(1) The owner of any work specified in the First Schedule (*a*) to this Act (hereinafter referred to as a scheduled work) shall use the best practicable means for preventing the escape of noxious or offensive gases (*b*) by the exit flue of any apparatus used in the process carried on in the work, and for preventing the discharge, whether directly or indirectly, of such gases into the atmosphere (*c*), and for rendering such gases where discharged harmless and inoffensive, subject to the qualification that, on the basis of the amount of acid gas per cubic foot, no objection shall be taken under this section by an inspector—

(a) To any muriatic acid gas in the air, smoke, or gases discharged into the atmosphere by a chimney or other final outlet, where the amount of such acid gas in each cubic foot of air, smoke, or gases so discharged does not exceed the amount limited by the last preceding section:

(b) To any acid gases in the air, smoke, or gases discharged into the atmosphere by a chimney or other final outlet receiving the residual gases from any process for the concentration or distillation of sulphuric acid, where the total acidity of such acid gases (including those from the combustion of coal) in each cubic foot of air, smoke, or gases so discharged does not exceed what is equivalent to one grain and a half of sulphuric anhydride.

(2) If the owner of any such work fails, in the opinion of the court having cognizance of the matter, to use such means, he shall be liable to a fine not exceeding in the case of the first offence twenty pounds, and in the case of every subsequent offence fifty pounds, with a further sum not exceeding five pounds for every day during which any such subsequent offence has continued.

(*a*) See this Schedule at p. 2675, *post.* The Minister of Health has by an order of 1928 added to the list of works contained in that Schedule under the P. H. (Smoke Abatement) Act, 1926, s. 4 (1), *ante*, p. 1799.

(*b*) Defined by s. 27, *post*, p. 2673.

(*c*) This clause introduces amendments of s. 9 of the repealed Act of 1881 similar to those introduced by s. 2 as regards s. 4 of the same Act, and it also amends the qualification so as to effect a very considerable alteration of the standard of pollution.

Provisional Order to prevent discharge of noxious or offensive gas in cement and smelting works.

8.—(1) An inspector may inquire whether, in any works in which aluminous deposits are treated for the purpose of making cement (hereinafter called cement works) or in any works in which sulphide ores, including regulus, are calcined or smelted (hereinafter called smelting works) (*a*), means can be adopted at a reasonable expense for preventing the discharge from the furnaces or chimneys of such works into the atmosphere of any noxious or offensive gas (*b*) evolved in such works, or for rendering such gas where discharged harmless or inoffensive.

(2) Where it appears to the Local Government Board (*c*) that such means can be adopted at a reasonable expense, the Board (*c*) may by Order require the owners of such works to adopt the best practicable means for the purpose, and may by the Order limit the amount or proportion, in the case of cement works or smelting works, of any noxious or offensive gas which is to be permitted to escape from such works into the chimney or into the atmosphere, and may also by the Order extend to such works such provisions of this Act relating to scheduled works as they think fit.

(3) An Order made under this section shall be provisional only, and shall not be of any validity until confirmed by Parliament, but when so confirmed shall have full effect, with such modifications as may be made therein by Parliament; and the expression " this Act " when used in this Act shall be deemed to include an Order so confirmed, so far as is consistent with the tenor of that Order.

(4) The Board (*c*) shall take such steps as they may think fit for giving notice to persons interested of the provisions of any Order made by them under this section before any Bill for confirming the same is introduced into Parliament.

(5) An order made under this section may impose fines for a breach of its provisions of like amount as any fines imposed by this Act for offences against this Act.

(6) An Order made under this section may be repealed, altered, or amended by any subsequent Order made under this section, and confirmed by Parliament (*d*).

(*a*) These works are for the first time brought within the scope of this legislation. Smelting works are to a certain extent exempted from the provisions of the P. H. A., 1875. See s. 334 of that Act, *ante*, p. 666, and the notes thereto.

Salt works, on the other hand, which were partially exempted from the provisions of the repealed Act of 1881 by the Act of 1892, are not mentioned at all in this Act.

(*b*) Defined by s. 27, *post*, p. 2673.

(*c*) Now the Ministry of Health (Ministry of Health Act, 1919).

(*d*) No power of repeal, etc., was included in the corresponding s. 10 of the repealed Act of 1881.

PART III.

(i) Registration of Works.

Registration of works and stamp duty.

9.—(1) An alkali work, a scheduled work, a cement work, or a smelting work (*a*) shall not be carried on unless it is certified to be registered.

(2) The work shall be registered in a register containing the prescribed particulars, and the register shall be conducted and the certificates issued in the prescribed manner (*b*).

(3) A certificate of registration, if issued at a time when a previous certificate is in force, shall be in force for one year after the time when that certificate ceases to be in force, and if issued at a time when no previous certificate is in force shall be in force until the following first day of April.

(4) An application for a certificate of registration of a work may, in the case of the first registration of that work, be made at any time, and an application for any subsequent certificate in respect of that work shall be made in the month of January or February.

(5) A certificate of registration shall be issued on application being made in the prescribed manner (*b*) by the owner of the work, if the conditions of registration are complied with, and one of the conditions (*c*) in the case of the first registration of an alkali or scheduled work, or the registration of such a work if the work has been closed for a period of twelve months previously, shall be that the work is at the time of registration furnished with such appliances as appear to the chief inspector or, on appeal, to the Local Government Board (*d*) to be necessary in order to enable the work to be carried on in accordance with such of the requirements of this Act as apply to the work.

Provided that the Local Government Board (*d*) may dispense with the last-mentioned condition in the case of works erected before the commencement of this Act which were not before the commencement of this Act required to be registered.

(6) There shall be charged upon every such certificate a stamp duty of *five pounds* in the case of an alkali work, and of *three pounds* in the case of any other work, and the Commissioners of Inland Revenue shall issue stamped forms of certificate for the purpose (*e*).

(7) Written notice of any change which occurs in the ownership of a work or in the other particulars stated in the register shall within one month after such change be sent by the owner to the Local Government Board (*d*), and the register and the certificate shall be altered accordingly in the prescribed

Section 9.

manner (*d*) without charge and without the issue of a new certificate. If such notice is not sent as so required the work shall not be deemed to be certified to be registered.

(8) The owner of a work which has been carried on in contravention of this section shall be liable to a fine not exceeding fifty pounds (*f*).

(*a*) See note (*a*) to s. 8, *ante*, p. 2667.

(*b*) Prescribed means prescribed by the Ministry of Health. See s. 27, *post*, p. 2674.

(*c*) This condition and the proviso which follows are new.

(*d*) Now the Ministry of Health (Ministry of Health Act, 1919).

(*e*) The Acts relating to stamp duties are not expressly applied as by s. 13 of the repealed Act of 1881, but they are nevertheless applicable. By s. 47 of the Finance Act, 1922, "five pounds" and "three pounds" are increased respectively to "ten pounds" and "six pounds."

(*f*) This fine is recoverable under s. 17, *post*, p. 2670, but is not subject to the three months' limitation thereby imposed.

(ii) INSPECTION.

Appointment of inspectors.

10.—(1) The Local Government Board (*a*) shall, with the approval of the Treasury as to numbers and salaries or remuneration, appoint such inspectors (under whatever title they may fix) as the Board (*a*) think necessary for the execution of this Act, and may assign them their duties and award them their salaries or remuneration, and shall constitute a chief inspector, and may regulate the cases and manner in which the inspectors are to execute and perform the powers and duties of inspectors under this Act, and may remove such inspectors.

(2) Notice of the appointment of every such inspector shall be published in the London Gazette, and a copy of the Gazette shall be evidence of the appointment.

(3) The salaries or remuneration of the inspectors, and such expenses of the execution of this Act as the Treasury may sanction, shall be paid out of moneys provided by Parliament.

(4) A person holding the office of chief inspector or inspector shall not be employed in any other work except with the sanction of the Local Government Board (*a*).

(5) In the case of the illness or other unavoidable absence of the chief inspector, the Local Government Board (*a*) may appoint any other inspector to act as his deputy, and the inspector so appointed shall, whilst so acting, have all the powers by or under this Act conferred on the chief inspector.

(*a*) Now the Ministry of Health (Ministry of Health Act, 1919).

Disqualification of certain persons for inspectors.

11. A person who

(a) acts or practices as a land agent (*a*); or

(b) is engaged or interested directly or indirectly in any work to which this Act applies, or in any patent for any process or apparatus carried on or used in any such work, or in any process or apparatus connected with the condensation of acid gases, or with the treatment of alkali waste, or with preventing the discharge into the atmosphere or rendering harmless or inoffensive any noxious or offensive gas, or otherwise with any of the matters dealt with by this Act; or

(c) is employed in or about or in connexion with any work to which this Act applies, or in any other chemical work for gain,

shall be disqualified to act as an inspector under this Act.

(*a*) This is a term of no very definite meaning. A person who manages the landed estate of another is a land agent in common parlance, and such a person is doubtless referred to here, though there are persons in other positions who are called land agents.

Section 12.

Inspection of works.

12 (*a*).—(1) For the purpose of the execution of this Act, an inspector may at all reasonable times by day and night without giving previous notice, but so as not to interrupt the process of the manufacture,

(a) enter and inspect any work to which, in the opinion of the Local Government Board (*b*) any of the provisions of this Act applies; and

(b) examine any process causing the evolution of any noxious or offensive gas (*c*) and any apparatus for condensing any such gas, or otherwise preventing the discharge thereof into the atmosphere, or for rendering any such gas harmless or inoffensive when discharged; and

(c) ascertain the quantity of gas discharged into the atmosphere, condensed or otherwise dealt with; and

(d) enter and inspect any place where alkali is treated or deposited, or where any liquid containing either acid or any other substance (*d*) capable of liberating sulphuretted hydrogen from alkali waste or drainage (*d*) therefrom; and

(e) apply any such tests and make any such experiments, and generally make all such inquiries, as seem to him to be necessary or proper for the execution of his duties under this Act (*e*).

(2) The owner of any such work shall, on the demand of the chief inspector, furnish him within a reasonable time with a sketch plan, to be kept secret, of those parts of such work in which any process causing the evolution of any noxious or offensive gas or any process for the condensation of such gas or for preventing the discharge thereof into the atmosphere, or for rendering any such gas harmless or inoffensive when discharged is carried on.

(3) The owner of every such work and his agents shall render to every inspector all necessary facilities for entry, inspection, examination, and testing in pursuance of this Act.

(4) Every owner of a work in which such facilities are not afforded to an inspector as are required by this Act, or in which an inspector is obstructed in the execution of his duty under this Act, and every person wilfully obstructing an inspector in the execution of his duty under this Act, shall be liable on conviction under the Summary Jurisdiction Acts (*f*) to a fine not exceeding ten pounds.

(*a*) This section is by s. 4 (3), P. H. (Smoke Abatement) Act, 1926, *ante*, p. 1800, extended so as to enable the Minister to authorise the inspection of any work which in his opinion is of such a character as is likely to cause the evolution of any noxious or offensive gas notwithstanding that this Act does not apply to the works. The extension applies only to an inspector specially authorised by the Minister to inspect such works.

(*b*) Under the repealed statute the opinion of the L. G. B. (now the Ministry of Health) was not referred to. The Minister's opinion is now conclusive for this purpose.

(*c*) Defined by s. 27, *post*, p. 2673.

(*d*) This is an extension of the corresponding provisions of s. 16 of the repealed Act of 1881.

(*e*) This clause was new. Under the repealed statute there was power simply to inquire into all matters which tended to show compliance or non-compliance with the Act, or which seemed necessary or proper for the execution of his duties, but no specific power to apply tests or make experiments.

(*f*) The application of the summary process for recovery of this fine was new.

Annual report to Local Government Board (*a*).

13. The chief inspector shall, on or before the first day of March in every year, make a report in writing to the Local Government Board (*a*), of the proceedings of himself and of the other inspectors under this Act, and a copy of such report shall be laid before both Houses of Parliament (*b*).

(*a*) Now the Ministry of Health (Ministry of Health Act, 1919).

(*b*) It was thought unnecessary in this section to re-enact that the other inspectors should furnish the chief inspector with a detailed account of the number of inspectors of works in their district, and the recorded escapes of acid gases from such works during the preceding year, having regard to the general powers which the Ministry of Health as successor to the L. G. B. possess under s. 10, *ante*, p. 2668.

Section 14.

Additional inspector on application of sanitary authorities.

14.—(1) If any sanitary authority apply to the central authority (*a*) for an additional inspector under this Act, and undertake to pay a proportion of his salary or remuneration, not being less than one half, the Local Government Board (*b*) may (if they see fit), with the sanction of the Treasury, appoint an additional inspector under this Act, to reside within a convenient distance of the works he is required to inspect; and such inspector shall have the same powers and be subject to the same power of removal and to the same regulations and liabilities as other inspectors under this Act.

(2) The proportion of salary or remuneration aforesaid shall be paid at the prescribed times into the Exchequer, and shall be a debt due from the sanitary authority to the Crown (*c*).

(*a*) That is, the Ministry of Health. See s. 27, *post*, p. 2674.

(*b*) Now the Minister of Health (Ministry of Health Act, 1919).

(*c*) The effect is that the debt is recoverable by an immediate extent of the property of the local authority in case of default of payment on demand.

(iii) SPECIAL RULES.

Power of owners of works to make special rules.

15.—(1) The owner of an alkali work or of a scheduled work may, with the sanction of the central authority (*a*), make special rules for the guidance of his workmen who are employed in or in connexion with any process causing the evolution of any noxious or offensive gas, or in or in connexion with the condensation or other treatment of that gas, and may annex fines to any violation of such rules, so that the fine for any offence do not exceed two pounds.

(2) A printed copy of the special rules in force under this section in any work shall be given by the owner of that work to every person working or employed in or about that work who is affected thereby.

(3) Any fine incurred under this Act in respect of an offence against a special rule may be recovered in accordance with the Summary Jurisdiction Acts.

(*a*) That is, the Minister of Health. See s. 27, *post*, p. 2674.

(iv) PROCEDURE.

Provision as to calculation of acid.

16. In calculating the proportion of acid to a cubic foot of air, smoke, or gases, for the purposes of this Act, such air, smoke, or gases shall be calculated at the temperature of sixty degrees of Fahrenheit's thermometer, and at a barometric pressure of thirty inches.

Recovery of fines for offences against Act in county court.

17. The following regulations shall have effect with respect to the recovery of fines for offences under this Act other than fines recoverable summarily:—

(1) Every such fine (*a*) shall be recovered by action in the county court having jurisdiction in the district in which the offence is alleged to have been committed:

(2) The action shall not be brought without the sanction of the central authority, nor by any person other than the chief inspector or such other inspector as the Local Government Board (*b*) may in any particular case direct, nor, except as respects a fine for the contravention of the provisions of this Act as to the registration of works (*c*), after the expiration of three months from the commission of the offence (*d*), and for the purposes of such action the fine shall be deemed to be a debt due to such inspector (*e*):

(3) The plaintiff in any action for a fine under this Act shall be presumed to be an inspector authorised under this Act to bring the action, until the contrary is proved by the defendant (*f*):

(4) The court may, on the application of either party, appoint a person to take down in writing the evidence of the witnesses, and may award to that person such remuneration as the court thinks just; and the amount so awarded shall be deemed to be costs in the action:

(5) If either party in any action under this Act feels aggrieved by the decision or direction of the court in point of law, or on the merits (*g*), or in respect of the admission or rejection of any evidence, he may appeal to the High Court:

(6) Subject to the provisions of this section, all the enactments, rules, and orders relating to proceedings in actions in county courts, and to enforcing judgments in county courts, and to appeals shall apply as if the action related to a matter within the ordinary jurisdiction of the court.

(*a*) The word "fine" seems hardly applicable to a sum which is to be recovered by civil proceedings. It is equivalent here to "penalty." This Act provides for maximum and not for fixed penalties, and does not point out who is to decide the proper amount. The fine is to be claimed as a debt, and it seems that the inspector should sue for the maximum amount, the judge of the court giving judgment for the amount he shall deem sufficient.

(*b*) Now Ministry of Health.

(*c*) This exception was new. The fine in such case is a sum not exceeding £50, see s. 9 (8), *ante*.

(*d*) The offence may be continuing, or there may be a separate offence for every day it is continued. See for continuing offences, ss. 2 (2), 3 (2), 4 (2), 7 (2), *ante*, and ss. 1 (2), 6 (3), *ante*, and 18, *post*.

(*e*) As to the application of the fine, see s. 19, *post*, p. 2672. There is no express provision for the costs of the inspector, but as he will be acting officially, it is presumed that the costs so far as not recovered from the defendant will be paid by the Treasury.

(*f*) It will therefore not be necessary for the inspector to produce the Gazette which according to s. 10 (2), *ante*, p. 2668, will be evidence of his appointment.

(*g*) This appears to signify the effect of the facts proved in evidence, but the term though in common use is indefinite, and may perhaps be considered to include the amount of the penalty.

Further provisions as to recovery of fines in county court.

18.—(1) In any proceeding under this Act in relation to a fine for an offence other than an offence against a special rule (*a*)—

(*a*) It shall be sufficient to allege that any work is a work to which this Act applies, without more; and

(*b*) It shall be sufficient to state the name of the registered or ostensible owner of the work, or the title of the firm by which the employer of persons in such work is usually known.

(2) A person shall not be subject to a fine under this Act for more than one offence in respect of the same work or place in respect of any one day.

(3) Not less than twenty-one days before the hearing of any proceeding against an owner (*b*) to recover a fine under this Act for failing to secure the condensation of any gas to the satisfaction of the chief inspector, or for failing to use the best practicable means (*b*) as required by this Act, an inspector shall serve on the owner (*b*) proceeded against a notice in writing stating, as the case requires, either the facts on which such chief inspector founds his opinion, or the means which such owner has failed to use, and the means which, in the chief inspector's opinion, would suffice, and shall produce a copy of such notice before the court having cognisance of the matter.

(4) A person shall not be liable under this Act to an increased fine in respect of a second offence, or in respect of a third or any subsequent offence, unless a fine has been recovered within the preceding twelve months against such person for the first offence, or for the second or other offence, as the case may be.

(*a*) As to special rules, see s. 15, *ante*, p. 2670.

(*b*) Defined by s. 27, *post*, p. 2674.

Application of fines.

19. All fines recovered under this Act, other than those recovered summarily (*a*), shall be paid into the Exchequer.

(*a*) Fines recovered summarily include all fines in respect of offences against a special rule under s. 15, *ante*, p. 2670, or for obstruction under s. 12 (4), *ante*, p. 2669. The fines so recovered not being appropriated, must be paid to the county or borough treasurer under the S. J. A., 1848, s. 31, and the Criminal Justice Administration Act, 1851, s. 11.

Receipts for fines whether recovered in the County Court, or summarily, are exempt from stamp duty (see the Revenue Act, 1898, s. 8; amending the Stamp Act, 1891, Schedule I.).

Discharge of owner on conviction of actual offender.

20. The owner (*a*) of a work in which an offence under this Act other than an offence against a special rule has been proved to have been committed shall in every case be deemed to have committed the offence, and shall be liable to pay the fine, unless he proves to the satisfaction of the court before which any proceeding is instituted to recover such fine, that he has used due diligence to comply with and to enforce the execution of this Act, and that the offence in question was committed, without his knowledge, consent, or connivance, by some agent servant or workman, whom he shall charge by name as the actual offender; in which case such agent servant or workman shall be liable to pay the fine, and proceedings may be taken against him for the recovery thereof and of the costs of all proceedings which may be taken either against himself or against the owner under this Act:

Provided that it shall be lawful for the inspector to proceed against the person whom he believes to be the actual offender, without first proceeding against the owner, in any case where the inspector is satisfied that the owner has used all due diligence to comply with and to enforce the provisions of this Act, and that the offence has been committed by that person without the knowledge, consent, or connivance of the owner (*b*).

(*a*) Defined by s. 27, *post*, p. 2674.

(*b*) Compare the Locomotives Act, 1898, s. 13 (2), *ante*, p. 1067, the Factory and Workshop Act, 1901, ss. 140 and 141, *ante*, p. 2643, and the Food and Drugs (Adulteration) Act, 1928, s. 27 (6), *post*, p. 2978.

Service of notices.

21. Any notice, summons, or other document required or authorised for the purposes of this Act to be delivered to or served on or sent to the owner of any work, may be served by post or by delivering the same to the owner or at his residence or works; and the document shall be deemed to be properly addressed if addressed to the registered address of an owner, or, when required to be served on or sent to the owner of any works, if addressed to the owner of the works at the works, with the addition of the proper postal address, but without naming the person who is the owner (*a*).

(*a*) Compare s. 267 of the P. H. A., 1875, *ante*, p. 593.

Complaint by sanitary authority in cases of nuisances.

22.—(1) Where complaint is made to the central authority (*a*) by any sanitary authority (*a*), on information given by any of their officers, or any ten inhabitants of their district, that any work to which this Act applies is carried on (either within or without the district) in contravention of this Act, or that any alkali waste is deposited or discharged (either within or without the district) in contravention of this Act, and that a nuisance is occasioned thereby to any of the inhabitants of their district, the central authority shall make such inquiry into the matters complained of, and after the inquiry may direct such proceedings to be taken by an inspector as they think fit and just.

(2) The sanitary authority (*a*) complaining shall, if so required by the central authority, pay the expense of any such inquiry (*b*).

(*a*) Defined by s. 27, *post*, p. 2674.

(*b*) As to the fund out of which these expenses are payable, see s. 24, *post*, p. 2673.

Section 23.

Actions in case of contributory nuisance.

23.—(1) Where a nuisance arising from the discharge of any noxious or offensive gas (*a*) or gases is wholly or partially caused by the acts or defaults of the owners (*a*) of several works to which any of the provisions of this Act applies, any person injured by such nuisance may proceed against any one or more of such owners, and may recover damages from each owner made a defendant in proportion to the extent of the contribution of that defendant to the nuisance, notwithstanding that the act or default of that defendant would not separately have caused a nuisance (*b*).

(2) This section shall not authorise the recovery of damages from any defendant who can produce a certificate from the chief inspector that in the works of that defendant the requirements of this Act have been complied with and were complied with when the nuisance arose.

(*a*) Defined by s. 27, *infra*.
(*b*) See note (*m*), *ante*, p. 708.

(v) MISCELLANEOUS.

Expenses of sanitary authorities.

24. Any expenses incurred by a sanitary authority (*a*) under this Act shall be defrayed as general expenses incurred by the authority in the execution of the Public Health (*b*).

(*a*) Defined by s. 27, *post*, p. 2674.
(*b*) That is, if an urban district council, out of the general rate fund or rate (see the P. H. A., 1875, s. 207, *ante*, p. 495); and if a rural district council, then as general expenses under s. 229 of the same Act, *ante*, p. 514, as amended by the R. and V. Act, 1925, *ante*, p. 1633.

Determination of questions by chief inspector.

25. In determining any matter which under this Act is to be determined by the chief inspector, the chief inspector may found his opinion on facts disclosed by his own examination, or by an examination by any other inspector.

26.—[*Temporary provision as to the over-heat pan process* (*a*).]

(*a*) This section which was spent was repealed by S. L. R. A., 1927.

Interpretation of terms.

27.—(1) In this Act, unless the context otherwise requires—

The expression "alkali work" means every work for—
- (*a*) the manufacture of sulphate of soda or sulphate of potash, or
- (*b*) the treatment of copper ores by common salt or other chlorides whereby any sulphate is formed,

in which muriatic acid gas is evolved:

The expression "noxious or offensive gas" includes the following gases and fumes (*a*):—

Muriatic acid;
Sulphuric acid;
Sulphurous acid, except that arising solely from the combustion of coal;
Nitric acid and acid-forming oxides of nitrogen;
Sulphuretted hydrogen;
Chlorine, and its acid compounds;
Fluorine compounds;
Cyanogen compounds;
Bisulphide of carbon;
Chloride of sulphur;
Fumes from cement works;
Fumes containing copper, lead, antimony, arsenic, zinc, or their compounds;
Fumes from tar works:

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The expression "owner" includes any lessee, occupier, or any other person carrying on any work to which this Act applies:

The expression "best practicable means," where used with respect to the prevention of the escape of noxious and offensive gases, has reference not only to the provision and the efficient maintenance of appliances adequate for preventing such escape, but also to the manner in which such appliances are used and to the proper supervision, by the owner, of any operation in which such gases are evolved:

The expression "prescribed" means prescribed by the Local Government Board (*b*):

34 & 35 Vict. c. 70.

The expression "Local Government Board" means the Local Government Board established by the Local Government Board Act, 1871 (*b*):

The expression "central authority" means as regards England the Local Government Board (*c*):

The expression "sanitary authority" means any local authority entrusted with the execution of the Public Health Act:

38 & 39 Vict. c. 55. 54 & 55 Vict. c. 76.

The expression "the Public Health Act" means as regards England the Public Health Act, 1875, or in the case of London the Public Health (London) Act, 1891 (*c*); and includes any enactment amending those Acts.

(2) Nothing in this Act shall be construed as exempting any work from any of the provisions of this Act applicable to the work as being a work of a certain class or description by reason only that the work is subject to other provisions of this Act as being a work of some other class or description.

(*a*) The list contained in this section has been extended by order of the Minister of Health under the P. H. (Smoke Abatement) Act, 1926, s. 4 (1), *ante*, p. 1799.

(*b*) The Local Government Board has now been superseded by the Minister of Health (Ministry of Health Act, 1919, and Order in Council made thereunder). The definition in the text was accordingly repealed by S. L. R. A. 1927.

(*c*) Words here following are omitted as relating only to Scotland or Ireland.

28. [*Application to Scotland*] (*a*).

(*a*) See note (*c*) to s. 27, *supra*.

Saving as to general law.

29. Nothing in this Act shall legalise any act or default that would, but for this Act, be deemed to be a nuisance, or otherwise be contrary to law, or deprive any person of any remedy by action, indictment, or otherwise, to which he would have been entitled if this Act had not passed (*a*).

(*a*) Compare the Gasworks Clauses Act, 1847, s. 29, *ante*, p. 2173.

Repeals.

30. *The Acts specified in the second schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule* (*a*).

Provided that—

(*a*) Nothing in this Act shall affect any certificate, special rule, or notice issued, made, or served before the commencement of this Act in pursuance of any enactment so repealed, but every such certificate, special rule, and notice shall continue in force as if issued, made, or served in pursuance of this Act; and

(*b*) Nothing in this Act shall affect the tenure of office of any inspector appointed under any enactment so repealed, but every such inspector shall hold office as if appointed under this Act; and

(*c*) Nothing in this Act shall affect any liability of a sanitary authority incurred under any enactment so repealed to pay any proportion of the salary or remuneration of an additional inspector.

(*a*) Words in italics repealed by S. L. R. A., 1927.

Section 31.

Short title and commencement.

31. This Act may be cited as the Alkali, etc., Works Regulation Act, 1906, *and shall come into operation on the first day of January nineteen hundred and seven* (*a*).

(*a*) Words in italics repealed by S. L. R. A., 1927.

SCHEDULES.

FIRST SCHEDULE.

Sections, 6, 7.

List of Works (*a*).

1. Sulphuric acid works, that is to say, works in which the manufacture of sulphuric acid is carried on by the lead chamber process, namely, the process by which sulphurous acid is converted into sulphuric acid by the agency of oxides of nitrogen and by the use of a lead chamber.

2. Sulphuric acid (Class II.) works, that is to say, works in which the manufacture of sulphuric acid is carried on by any process other than the lead chamber process, and works for the concentration or distillation of sulphuric acid.

3. Chemical manure works, that is to say, works in which the manufacture of chemical manure is carried on, and works in which any mineral phosphate is subjected to treatment involving chemical change through the application or use of any acid.

4. Gas liquor works, that is to say, works (not being sulphate of ammonia works or muriate of ammonia works) in which sulphuretted hydrogen or any other noxious or offensive gas is evolved by the use of ammoniacal liquor in any manufacturing process, and works in which any such liquor is desulphurised by the application of heat in any process connected with the purification of gas.

5. Nitric acid works, that is to say, works in which the manufacture of nitric acid is carried on and works in which nitric acid is recovered from oxides of nitrogen.

6. Sulphate of ammonia works and muriate of ammonia works, that is to say, works in which the manufacture of sulphate of ammonia or of muriate of ammonia is carried on.

7. Chlorine works, that is to say, works in which chlorine is made or used in any manufacturing process.

8. Muriatic acid works, that is to say—
   - (*a*) Muriatic acid works, or works (not being alkali works as defined in this Act) where muriatic acid gas is evolved either during the preparation of liquid muriatic acid or for use in any manufacturing process;
   - (*b*) Tin plate works, that is to say, works in which any residue or flux from tin plate works is calcined for the utilisation of such residue or flux, and in which muriatic acid gas is evolved; and
   - (*c*) Salt works, that is to say, works (not being works in which salt is produced by refining rock salt, otherwise than by the dissolution of rock salt at the place of deposit) in which the extraction of salt from brine is carried on, and in which muriatic acid gas is evolved.

9. Sulphide works, that is to say, works in which sulphuretted hydrogen is evolved by the decomposition of metallic sulphides, or in which sulphuretted hydrogen is used in the production of such sulphides.

10. Alkali waste works, that is to say, works in which alkali waste or the drainage therefrom is subjected to any chemical process for the recovery of sulphur or for the utilisation of any constituent of such waste or drainage.

11. Venetian red works, that is to say, works for the manufacture of Venetian red, crocus, or polishing powder, by heating sulphate or some other salt of iron.

12. Lead deposit works, that is to say, works in which the sulphate of lead deposit from sulphuric acid chambers is dried or smelted.

13. Arsenic works, that is to say, works for the preparation of arsenious acid, or where nitric acid or a nitrate is used in the manufacture of arsenic acid or an arseniate.

14. Nitrate and chloride of iron works, that is to say, works in which nitric acid or a nitrate is used in the manufacture of nitrate or chloride of iron.

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15. Bisulphide of carbon works, that is to say, works for the manufacture of bisulphide of carbon.

16. Sulphocyanide works, that is to say, works in which the manufacture of any sulphocyanide is carried on by the reaction of bisulphide of carbon upon ammonia or any of its compounds.

17. Picric acid works, that is to say, works in which nitric acid or a nitrate is used in the manufacture of picric acid.

18. Paraffin oil works, that is to say, works in which crude shale oil is refined.

19. Bisulphite works, that is to say, works in which sulphurous acid is used in the manufacture of acid sulphites of the alkalis or alkaline earths.

20. Tar works, that is to say, works where gas tar or coal tar is distilled or is heated in any manufacturing process.

21. Zinc works, that is to say, works in which, by the application of heat, zinc is extracted from the ore, or from any residue containing that metal.

(a) This list has been added to by an order of 1928 made by the Minister of Health under the P. H. (Smoke Abatement) Act, 1926, s. 4 (1), *ante*, p. 1799.

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SECOND SCHEDULE (a).

REPEALS.

Session and Chapter.	*Short Title.*	*Extent of Repeal.*
44 & 45 *Vict. c.* 37 .	*The Alkali, etc., Works Regulation Act,* 1881.	*The whole Act.*
47 & 48 *Vict. c. cxlvii.*	*The Local Government Board's Provisional Order Confirmation (Salt Works) Act,* 1884.	*The whole Act.*
55 & 56 *Vict. c.* 30 .	*The Alkali, etc., Works Regulation Act,* 1892.	*The whole Act.*

(a) This Schedule was repealed by S. L. R. A., 1927.

OPEN SPACES ACT, 1906.

(6 EDW. 7, c. 25) (a).

An Act to consolidate Enactments relating to Open Spaces. [4th August, 1906.]

LOCAL AUTHORITIES.

Local authorities.

1. Each of the following bodies shall be a local authority for the purposes of this Act, namely—

The council of any county, of any municipal or metropolitan borough, or of any district:

The common council of the city of London:

Any parish council invested with the powers of this Act by an order of the council of the county within which the parish is situate.

(a) This Act repeals and consolidates with amendments the whole of the previous legislation on the subject except so much of s. 4 of the Open Spaces Act, 1887, as amends the Disused Burial Grounds Act, 1884, *ante*, pp. 2493, 2484.

POWER TO TRANSFER OPEN SPACES AND BURIAL GROUNDS TO LOCAL AUTHORITIES.

Power of trustees under local Act to transfer

2.—(1) Where an open space (b) is, in pursuance of a local or private Act of Parliament, placed under the care and management of trustees or other persons (in this section referred to as trustees), with a view to the preservation and regulation thereof as a garden or open space, the trustees may, in pursuance of a special resolution (*c*), and with the consent, signified by a special resolution (*c*), of the owners (*b*) and occupiers (*b*) of any houses which front upon the open space, or of which the owners and occupiers are liable to be specially rated for the maintenance of the open space—

open spaces to local authority or admit other persons to enjoyment thereof (*a*).

(*a*) convey, for or without any consideration, to any local authority, their estate or interest in the open space or, if they have no such estate or interest, transfer to any local authority the entire care and management of the open space, to the end that the space may be preserved for the enjoyment of the public; or

(*b*) grant, for or without any consideration, to any local authority any term of years or other limited interest in or any right or easement over the open space; or

(*c*) make any agreement with any local authority for the opening to the public of the open space and the care and management thereof by the local authority, either at all times or at any specified time or times; or

(*d*) notwithstanding anything in the Act or any instrument under which the trustees are constituted or act, admit persons not owning, occupying, or residing in any house fronting on the open space to the enjoyment of the open space, either at all times or at any specified time or times, and regulate the admission of such persons thereto on such terms and conditions as the trustees think proper.

(2) Where the freehold of the open space and the freehold of all or the greater part of the houses round the open space are vested in the same person the powers conferred by this section shall not be exercised without the consent of that person.

(3) Any such conveyance, transfer, grant, or agreement shall be made, if the trustees are a corporation, by an instrument under the common seal of the trustees, and if the trustees are not a corporation, by an instrument under the hands and seals of any five of the trustees, or of all the trustees if for the time being they are less than five in number.

(4) Any conveyance, transfer, grant, or agreement under this section shall be deemed a good execution of the trusts, powers, and duties imposed or conferred upon the trustees by the Act or instrument under which they are constituted or act, and where the trustees convey their entire interest in, or transfer the entire care and management of, the open space they shall, on the execution of the conveyance or transfer, be relieved and discharged from all trusts, powers, and duties under the Act or instrument or otherwise with reference to the open space.

(5) The trustees shall hold any purchase money or rent paid for or in respect of the open space in trust for the benefit of the persons or class of persons for whose benefit the open space was previously preserved and managed by the trustees, or, as the case may be, for the benefit of the objects to which any rates previously imposed in respect of the open space had been applied, and such persons or class of persons shall be discharged either absolutely, or, if the grant was for a term of years or other limited interest, during the continuance of that interest, from any special rate or other obligation previously imposed on them in respect of the open space.

(*a*) This section reproduces s. 2 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.

(*b*) Defined by s. 20, *post*, p. 2684.

(*c*) As to special resolutions and consents, see s. 8, *post*, p. 2680.

Transfer to local authority

3.—(1) Where any land is held by trustees (not being trustees elected or appointed under any local or private Act of Parliament) upon trust for the of spaces held by trustees for purpose of public recreation (*a*).

purposes of public recreation, the trustees may, in pursuance of a special resolution (*b*), transfer the land to any local authority by a free gift absolutely or for a limited term, and, if the local authority accept the gift, they shall hold the land on the trusts and subject to the conditions on and subject to which the trustees held the same, or on such other trusts and subject to such other conditions (so that the land be appropriated to the purposes of public recreation) as may be agreed on between the trustees and the local authority with the approval of the Charity Commissioners.

(2) Subject to the obligation of the land so transferred being used for the purposes of public recreation, the local authority may hold the land as and for the purposes of an open space under this Act.

(*a*) This section reproduces s. 3 of the Open Spaces Act, 1890.

(*b*) See s. 8, *post*, p. 2680.

Transfer by charity trustees of open space to local authority (*a*).

4.—(1) Where an open space is vested in trustees, other than such as are mentioned in the foregoing provisions of this Act, for any charitable purpose and as part of their trust estate, and it appears to the majority of the trustees that the open space is no longer required for the purposes of their trust, or may with advantage to the trust be dealt with under this section, the trustees may, in pursuance of a special resolution (*b*), and where the open space is subject to the Charitable Trusts Acts, 1853 to 1894 (*c*), with such authority or approval (*d*) as is required by those Acts for a sale of the open space, and in other cases in pursuance of an order of the court to be obtained as hereinafter provided, convey or demise the open space to any local authority on such terms as they may agree, and the local authority shall thenceforth be entitled to hold the same as an open space on the terms and under the conditions specified in the conveyance or demise, or on such terms or under such conditions as may be so authorised or approved, or as the court may from time to time order, as the case may be.

(2) The court for the purposes of this section shall be either the High Court or the county court of the district in which the whole or any part of the open space is situate.

(3) An order of the court for the purposes of this section may be made upon application by the trustees, in manner directed by rules of court, and the court, before making any order, may direct such inquiries to be made, such consents to be obtained, and notice to be given to such persons, as to the court seem expedient, and may make such order thereon as in the discretion of the court appears proper.

(*a*) This section reproduces s. 4 of the Open Spaces Act, 1890.

(*b*) See s. 8, *post*, p. 2680.

(*c*) These Acts are as follows: the Charitable Trusts Acts, 1853; 1855; 1860; 1862; 1869; 1887, and the Charity Trusts (Recovery) Act, 1891. Trustees of charities also have the powers of a tenant for life under a settlement subject to the jurisdiction of the court, the charity commissioners, or other competent authority (Settled Land Act, 1925, s. 29 (3).

(*d*) The authority or approval required seems to be that of the Charity Commissioners under s. 24 of the Charitable Trusts Act, 1853, or under an Act of Parliament or under the authority of a court or according to a scheme legally established (s. 29 of the Charitable Trusts Act, 1855, and *In re Masons Orphanage*, [1896] 1 Ch. 596, *per* LINDLEY, L.J., at p. 601).

Transfer to local authority by owners of open spaces subject to rights of user (*a*).

5.—(1) Where any open space (*b*) is subject to rights of user for exercise and recreation in the owners (*b*) or occupiers (*b*), or both, of any houses round or near the same, whether the rights are secured by covenant or not, the owner of the open space may, with the consent, signified by a special resolution (*c*), of such owners or occupiers, or both, as the case may require,—

(*a*) convey to any local authority his estate or interest in the open space in trust for the enjoyment of the public; or

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(b) grant to any local authority in trust as aforesaid any term of years or other limited interest in or any right or easement over the open space; or

(c) make an agreement with any local authority for the opening to the public of the open space and the care and management thereof by the local authority either at all times or at any specified times:

and thereupon the owner shall be discharged from any liability to any person entitled to any right of user in respect of any act done in accordance with the consent so given.

(2) Where any person has any term of years or other limited interest in any such open space this section shall apply to him with reference to that interest in like manner as it applies to the owner of the open space.

(3) Where any open space is used as a place of exercise and recreation for the inhabitants of certain houses, and the property and right of user is vested in one or more persons as owners or occupiers of the houses, those owners and occupiers (if any) may convey to a local authority in trust for the public a right to enter upon, use, and enjoy the open space subject to such terms and conditions as may be agreed upon.

(a) Sub-ss. (1) and (2) of this section are taken from s. 3 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.

Sub-s. (3) is taken from s. 2 of the Metropolitan Open Spaces Act, 1877, as extended by the Open Spaces Act, 1887.

(b) Defined by s. 20, *post*, p. 2684.

(c) See s. 8, *post*, p. 2680.

Transfer of disused burial grounds to local authority (b).

6. The owner (a) of any disused burial ground (a) may convey the burial ground to, or grant any term of years or other limited interest therein to, or make any agreement with, any local authority for the purpose of giving the public access to the burial ground, and preserving the same as an open space accessible to the public and under the control of the local authority, and for the purpose of improving and laying out the same.

(a) Defined by s. 20, *post*, p. 2684.

(b) This section is taken from s. 4 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.

A faculty was granted and a transfer made under the earlier Act in *Re Mount Street Burial Ground* (1888), 4 T. L. R. 661.

For a case in which terms were imposed upon the grant of a faculty, see *Bermondsey B. C.* v. *Mortimer*, [1926] P. 87.

Power of corporation &c., to convert land for open space (a).

7.—(1) Any corporation (other than a municipal corporation) or persons having power, either with or without the consent of any other corporation or persons, to sell any land may, but with the like consent (if any), convey, for or without any consideration, to any local authority that land, or any part thereof, for the purpose of the same being preserved as an open space for the enjoyment of the public under this Act, and may so convey the same with or without conditions, and the local authority may accept the land for that purpose, and, if conditions are imposed, subject to such conditions.

(2) Where a corporation having power under this section to convey land are themselves a local authority, this section shall enable the authority to appropriate their land as an open space for the enjoyment of the public, and shall, with the necessary modifications, apply to the appropriation in like manner as it applies to the conveyance.

(3) Every parish council shall be a local authority for the purposes of this section.

(a) This section is taken from s. 7 of the Open Spaces Act, 1887, as extended by s. 17 (3) of the Commons Act, 1899.

Note to Section 7. Sanitary authorities have power to sell land under s. 175 of the P. H. A., 1875, *ante*, p. 431. Instead of selling such land they may under this section appropriate it as an open space. As to education authorities appropriating land for non-educational purposes, see s. 114, Education Act, 1921.

Special resolutions and consents (*a*).

8.—(1) A resolution shall for the purposes of this Act be a special resolution (*a*) when it has been—

(*a*) passed by a majority of at least two-thirds of the persons present at a meeting summoned as hereinafter provided; and

(*b*) confirmed by another resolution passed by a majority of at least two-thirds of the persons present at a meeting summoned as hereinafter provided and held after an interval of not less than one month from the first meeting.

(2) A meeting of trustees for the purposes of this Act shall be summoned by a notice stating generally the object of the meeting, which notice shall be left at, or sent by post, at least one month before the date of the meeting, to the last known or usual place of abode of each trustee.

(3) A meeting of owners and occupiers of houses under this Act shall be summoned by a notice stating generally the object of the meeting, which notice shall be left at, or sent through the post to, each of such houses, at least one month before the date of the meeting, and shall be inserted as an advertisement at least three times in any two or more papers circulating in the neighbourhood.

(4) If at any meeting of trustees or of owners and occupiers under this Act a resolution with respect to an open space is rejected, no meeting of the trustees, or, as the case may be, the owners or occupiers, shall be called or held with the same object and with respect to the same open space until the expiration of three years from the date of the rejection.

(5) A meeting of owners or occupiers of houses for the purposes of this Act shall not be held between the first day of August in one year and the thirty-first day of January in the following year.

(*a*) Special resolutions are required under ss. 2, 3, 4 and 5, *ante*.
This section re-enacts similar provisions of s. 2 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.

POWERS OF LOCAL AUTHORITIES WITH RESPECT TO OPEN SPACES AND BURIAL GROUNDS.

Power of local authority to acquire open space or burial ground (*a*).

9. A local authority may, subject to the provisions of this Act,—

(*a*) acquire by agreement and for valuable or nominal consideration by way of payment in gross, or of rent, or otherwise, or without any consideration, the freehold of, or any term of years (*b*) or other limited estate or interest in or any right or easement in or over, any open space or burial ground (*c*), whether situate within the district of the local authority or not; and

(*b*) undertake the entire or partial care, management, and control of any such open space or burial ground, whether any interest in the soil is transferred to the local authority or not; and

(*c*) for the purposes aforesaid, make any agreement with any person authorised by this Act or otherwise to convey or to agree with reference to any open space or burial ground, or with any other persons interested therein.

(*a*) This section is taken from the first paragraph of s. 5 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.

(*b*) Where a vestry acquired the residue of a term of twenty-six years in an open space by assignment of the lease creating the term, it was held that they were "owners"

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within the meaning of s. 250 of the Metropolis Management Act, 1855 (*St. Mary Islington Vestry* v. *Cobbett*, [1895] 1 Q. B. 369).

On the other hand, in *London C. C.* v. *Wandsworth Borough Council*, [1903] 1 K. B. 797; 67 J. P. 215, the Court of Appeal held that the county council were not owners of a common vested in them by statute as a public recreation ground, and overruled the case of *Fulham Vestry* v. *Minter*, [1901] 1 K. B. 501; 65 J. P. 180, where it had been held that the vestry were owners of an open space acquired by them under the powers conferred by the Open Spaces Acts, 1877 and 1881.

(*c*) Defined by s. 20, *post*, p. 2685.

Maintenance of open spaces and burial grounds by local authority (*a*).

10. A local authority who have acquired any estate or interest in or control over any open space or burial ground (*b*) under this Act shall, subject to any conditions under which the estate, interest, or control was so acquired—

(*a*) hold and administer the open space or burial ground in trust to allow, and with a view to, the enjoyment thereof by the public as an open space within the meaning of this Act and under proper control and regulation and for no other purpose; and

(*b*) maintain and keep the open space or burial ground in a good and decent state,

and may inclose it or keep it inclosed with proper railings and gates, and may drain, level, lay out, turf, plant, ornament, light, provide with seats, and otherwise improve it, and do all such works and things and employ such officers and servants as may be requisite for the purposes aforesaid or any of them.

(*a*) This section is taken from the second paragraph of s. 5 of the Metropolitan Open Spaces Act, 1881, as amended by s. 7 of the Open Spaces Act, 1890, and extended by the Open Spaces Act, 1887.

But there is also an important amendment here introduced for the first time by the omission of the words "free from buildings," which occurred in the original enactment. These words had given rise to considerable litigation in the case of *Paddington Borough Council* v. *Att.-Gen.*, [1906] A. C. 1; 70 J. P. 41, where it was held that the local authority were entitled, notwithstanding those words, to prevent by the erection of a screen or other suitable means anything which might interfere with the free use by the public of the open space, and to prevent the acquisition of an easement of light or other adverse right over such space by an adjoining owner. The effect of the omission of these words, "free from buildings," is to leave the local authority clearly at liberty to erect on an open space buildings conducive to the public enjoyment of the open space as such, but presumably (see s. 20), such buildings should not occupy more than one-twentieth of the whole area. The restriction as to the erection of buildings on disused burial grounds imposed by s. 3 of the Disused Burial Grounds Act, 1884, *ante*, p. 2484, is still, however, in force (*Bermondsey B. C.* v. *Mortimer*, [1926] P. 87).

(*b*) Defined by s. 20, *post*, p. 2685.

Special provisions as to management of burial grounds and removal of tombstones.

11.—(1) A local authority shall not exercise any of the powers of management under this Act with reference to any consecrated burial ground (*a*) unless and until they are authorised to do so by the licence or faculty of the bishop (*b*).

(2) The playing of any games or sports shall not be allowed in any burial ground in or over which a local authority have acquired any estate, interest, or control under this Act, except that—

(*a*) in the case of a consecrated burial ground, the bishop by licence or faculty; and

(*b*) in the case of any burial ground which is not consecrated, the persons from whom the local authority have acquired the estate, interest, or control in or over the same

may expressly sanction any such use of the burial ground, and may specify any conditions as to the extent or nature of such use (*c*).

(3) In the case (*d*) of any disused burial ground (*e*), at least three months before removing or changing the position of any tombstone or monument, a local authority shall—

(*a*) prepare a statement sufficiently describing by the name and date appearing thereon the tombstones and monuments standing or being in the ground, and such other particulars as may be necessary, and shall cause this statement to be deposited with the clerk of the local authority, and to be open to inspection by all persons; and

(*b*) insert an advertisement of the intention to remove or change the position of such tombstones and monuments three times at least in some newspaper circulating in the neighbourhood, and by that advertisement give notice of the deposit of the statement hereinbefore described, and of the place at which and the hours within which the same may be inspected; and

(*c*) place a notice in terms similar to the advertisement on the door of the church (if any) to which the burial ground is attached, and deliver or send by post a notice to any person known or believed by the local authority to be a near relative of any person whose death is recorded on any such tombstone or monument.

(4) In the case of a consecrated ground, no tombstone or monument shall be removed or its position changed without a licence or faculty from the bishop, and no application for such licence or faculty shall be made until the expiration of one month at least after the appearance of the last of such advertisements as aforesaid:

Provided that on an application for a licence or faculty nothing shall prevent the bishop from directing or sanctioning the removal or change of position of any tombstone or monument, if he is of opinion that reasonable steps have been taken to bring the intention to effect such removal or change of position to the notice of some person having a family interest in the tombstone or monument.

(5) A licence or faculty for the purposes of this section may be granted by the bishop of the diocese within which the consecrated burial ground is situate on the application of the local authority who have acquired any estate, interest, or control in or over the burial ground, and may be granted subject to such conditions and restrictions as to the bishop may seem fit (*f*).

(*a*) Defined by s. 20, *post*, p. 2685.

(*b*) This sub-section is taken from the proviso to s. 5 of the Metropolitan Open Spaces Act, 1881.

Faculties were granted under that section in *Re Mount Street Burial Ground* (1888), 4 T. L. R. 661; *Re St. George's Burial Ground* (1888), 4 T. L. R. 703, and for filling up vaults out of repair in *Vicar of St. Botolph-without-Aldgate* v. *Parishioners*, [1892] P. 173.

(*c*) This sub-section is taken from sub-s. (2) of s. 2 of the Open Spaces Act, 1887. See *Re Camden Town Burial Ground* (1888), 5 T. L. R. 311, and *Bermondsey B. C.* v. *Mortimer*, *ante*, p. 2681.

(*d*) This sub-section is taken from s. 3 of the Open Spaces Act, 1887.

(*e*) See note (*a*) to s. 10, *ante*, p. 2681.

(*f*) This sub-section is taken from the proviso to s. 5 of the Metropolitan Open Spaces Act, 1881.

Powers over open spaces and burial grounds already vested in local authority.

12. A local authority may exercise all the powers given to them by this Act respecting open spaces and burial grounds transferred to them in pursuance of this Act in respect of any open spaces and burial grounds of a similar nature which may be vested in them in pursuance of any other statute, or of which they are otherwise the owners (*a*).

(*a*) This section is taken from s. 11 of the Open Spaces Act, 1887.

Provision for compensation.

13. No estate, interest, or right of a profitable or beneficial nature in, over, or affecting an open space or burial ground shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by anything done under this Act without compensation being made for the same; and such

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compensation shall be paid by the local authority by whom the estate, interest, or right is taken away or injuriously affected, and shall, in case of difference, be ascertained and provided in the same manner as if the same were compensation for lands purchased and taken otherwise than by agreement of injuriously affected under the Lands Clauses Acts (*a*).

(*a*) This section is taken from s. 9 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.
See the Lands Clauses Consolidation Act, 1845, *ante*, p. 2088, and notes.

Power of county councils as to public walks or pleasure grounds.

14. A county council may purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or pleasure grounds, and may support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever (*a*).

(*a*) This section is an extension of s. 12 of the Open Spaces Act, 1887.

Byelaws (*a*).

15.—(1) A local authority may, with reference to any open space or burial ground in or over which they have acquired any estate, interest, or control under this Act, make byelaws for the regulation thereof, and of the days and times of admission thereto, and for the preservation of order and prevention of nuisances therein, and may by such byelaws impose penalties recoverable summarily for the infringement thereof, and provide for the removal of any person infringing any byelaw by any officer of the local authority or police constable.

(2) All byelaws made under this Act by any local authority shall be made—

(*a*) in the case of a county council other than the London County Council, subject and according to the provisions of section sixteen of the Local Government Act, 1888; and [51 & 52 Vict. c. 41.]

(*b*) in the case of the London County Council, subject and according to the provisions of sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855, as modified with respect to parks and open spaces by the London Council (General Powers) Act, 1890, and the London County Council (General Powers) Act, 1898; and [18 & 19 Vict. c. 120. 53 & 54 Vict. c. ccxliii. 61 & 62 Vict. c. ccxxi.]

(*c*) in the case of the Common Council of the City of London, subject and according to the Corporation of London (Open Spaces) Act, 1878; and [41 & 42 Vict. c. cxxvii.]

(*d*) in the case of a council of a metropolitan borough, subject and according to the provisions of sections two hundred and two and two hundred and three of the Metropolis Management Act, 1855; and

(*e*) in the case of a municipal borough or district or parish council, subject and according to the provisions with respect to byelaws contained in sections one hundred and eighty-two to one hundred and eighty-six of the Public Health Act, 1875 (*b*), and those sections shall apply to a parish council in like manner as if they were a local authority within the meaning of that Act, except that byelaws made by a parish council need not be under common seal. [38 & 39 Vict. c. 55.]

(3) The trustees or other persons having the care and management of any open space, who in pursuance of this Act admit to the enjoyment of the open space any persons not owning, occupying, or residing in any house fronting thereon, shall have the same powers of making byelaws as are conferred on a committee of the inhabitants of a square by section four of the Town Gardens Protection Act, 1863 (*c*), and that section shall apply accordingly. [26 & 27 Vict. c. 13.]

(*a*) This section is taken from s. 1 of the Metropolitan Open Spaces Act, 1877, as extended by s. 6 of the Metropolitan Open Spaces Act, 1881, and by s. 5 of the Open Spaces Act, 1887.
As to existing byelaws, see s. 23 (a), *post*, p. 2685.

(*b*) *Ante*, pp. 453, 468.

(*c*) *Ante*, p. 2263.

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Power of local authorities to act jointly.

16. Any two or more local authorities may jointly carry out the provisions of this Act and may make any agreement on such terms as may be arranged between them for so doing and for defraying the expenses of the execution of this Act, and any local authority may defray the whole or any part of the expenses incurred by any other local authority in the execution of this Act (*a*).

(*a*) This section is taken from s. 7 of the Metropolitan Open Spaces Act, 1881, as extended by the Open Spaces Act, 1887.

Expenses of local authorities.

17. The expenses of a local authority incurred in the execution of this Act may be defrayed—

(*a*) in the case of a county council, out of the county fund (*a*);

(*b*) in the case of a metropolitan borough council, as expenses of that council;

(*c*) in the case of the council of a municipal borough or urban district, as part of the general expenses incurred in the execution of the Public Health Acts (*b*);

(*d*) in the case of a rural district council, as special expenses incurred in the execution of the Public Health Acts, and such expenses shall in accordance with the provisions of those Acts be charged to the contributory place, or apportioned among the contributory places, on account of which the expense was incurred (*c*);

56 & 57 Vict. c. 73.

(*e*) in the case of a parish council, subject and according to the Local Government Act, 1894.

(*a*) This section is taken from s. 8 of the Open Spaces Act, 1887.
(*b*) See s. 207 of the P. H. A., 1875, *ante*, p. 495, as amended by the R. and V. Act, 1925.
(*c*) See s. 229 of the P. H. A., 1875, *ante*, p. 514, as amended by the R. and V. Act, 1925.

Borrowing.

18. A local authority may borrow for the purposes of this Act in the case of a county council as for the purposes of the Local Government Act, 1888; in the case of a metropolitan borough council as for the purposes of the Metropolis Management Acts, 1855 to 1893; in the case of a municipal borough or urban or rural district council as for the purposes of the Public Health Acts (*a*); and in the case of a parish council as for the purposes of the Local Government Act, 1894.

(*a*) See ss. 233—244 of the P. H. A., 1875, *ante*, pp. 519—537.

SUPPLEMENTAL.

Savings.

19. This Act shall not apply to—

(*a*) the royal parks; nor

(*b*) any land belonging to His Majesty in right of His Crown or of His Duchy of Lancaster; nor

14 & 15 Vict. c. 95.

(*c*) any garden, ornamental ground, or ornamental land for the time being under the management of the Commissioners of Works or of the Commissioners for the time being acting under the Crown Estate Paving Act, 1851; nor

(*d*) any metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 to 1898; nor

(*e*) any land belonging to either of the honourable Societies of the Inner Temple and Middle Temple.

Definitions.

20. In this Act, unless the context otherwise requires,—

The expression "open space" (*a*) means any land, whether inclosed or not, on which there are no buildings or of which not more than one-twentieth part is covered with buildings, and the whole or the remainder of which is laid out as a garden or is used for purposes of recreation, or lies waste and unoccupied :

The expression "common council of the city of London" means the mayor, aldermen, and commons of the city of London in common council assembled :

The expression "owner" (b)—

(a) used in relation to an open space (not being a burial ground), means any person in whom the open space is vested for an estate in possession during his life or for any larger estate ;

(b) used in relation to a house, includes any person entitled to any term of years in the house ;

(c) used in relation to a burial ground, means the person in whom the freehold of the burial ground is vested whether as appurtenant or incident to any benefice or cure of souls or otherwise :

The expression "occupier" (c), used in relation to a house, means the person rated to the relief of the poor (d) in respect of the house :

The expression "burial ground" (e) includes any churchyard, cemetery, or other ground, whether consecrated or not, which has been at any time set apart for the purpose of interment :

The expression "disused burial ground" (f) means any burial ground which is no longer used for interments, whether or not the ground has been partially or wholly closed for burials under the provisions of a statute or Order in Council :

The expression "building" (f) includes any temporary or movable building (g).

(o) This definition differs slightly in wording from that contained in s. 1 of the Metropolitan Open Spaces Act, 1881, as amended by s. 2 of the Open Spaces Act, 1887, and s. 7 of the Open Spaces Act, 1890, but the effect appears to be the same.

(b) This definition is taken from Metropolitan Open Spaces Act, 1881, ss. 1, 2, and 3.

(c) This definition is taken from Metropolitan Open Spaces Act, 1881, ss. 2 and 3.

(d) *I.e.* to the general rate, see s. 69 (2), R. and V. Act, 1925, *ante*, p. 1752.

(e) This definition is taken from Metropolitan Open Spaces Act, 1881, s. 1.

The site of a church where intra-mural burial has taken place was held not to be ground which had been set apart for purposes of interment under the repealed definition (*Re Ecclesiastical Commissioners and New City of London Brewery Company's Contract*, [1895] 1 Ch. 702). But that definition was held to include ground set apart though never actually used for interments (*Re Ponsford and Newport District School Board*, [1894] 1 Ch. 454). See also s. 4 of the Open Spaces Act, 1887, *ante*, p. 2493, and *Re Bosworth and Gravesend Corporation*, cited in the note. Doubt was, however, expressed as to the correctness of those decisions in *Nicholl* v. *Llantwit Major Parish Council*, [1924] 2 Ch. 214. In that case it was held that land purchased for use as a burial ground but never fenced off, consecrated or used for interments, had never been "set apart for the purpose of interment." *Nicholl* v. *Llantwit Major Parish Council* was, however, distinguished, and the earlier cases applied in *London C. C.* v. *Greenwich Corporation*, [1929] 1 Ch. 305.

(f) This definition is identical with that contained in Open Spaces Act, 1887, s. 4, *ante*, p. 2493. See the cases cited in the notes thereto.

(g) Sections 21 and 22 apply to Ireland and Scotland only, and are therefore omitted.

* * * * * *

23. *The Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule :* (a) **Repeal.**

Provided that—

(a) Nothing in this repeal shall affect the validity or operation of any byelaw made under any enactment so repealed, but all such byelaws shall continue in force as if made under that Act, and may be revoked and altered accordingly ; and

(b) Nothing in this repeal shall affect any order of a county council under any enactment repealed investing a parish council with the powers of the Open Spaces Acts, 1877 to 1890, and every

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parish council in respect of which such an order has before the commencement of this Act been made, shall be deemed to be a parish council invested with the powers of this Act by an order of the council of the county within which the parish is situate.

(*a*) Words in italics repealed by S. L. R. A., 1927.

Commencement of Act.

24. *This Act shall come into operation on the first day of January nineteen hundred and seven* (*a*).

(*a*) Words in italics repealed by S. L. R. A., 1927.

Short title.

25. This Act may be cited as the Open Spaces Act, 1906.

SCHEDULE (*a*).

Section 23.

ENACTMENTS REPEALED.

Session and Chapter.	*Short Title.*	*Extent of Repeal.*
40 & 41 *Vict.* c. 35.	*The Metropolitan Open Spaces Act,* 1877.	*The whole Act.*
44 & 45 *Vict.* c. 34.	*The Metropolitan Open Spaces Act,* 1881.	*The whole Act.*
50 & 51 *Vict.* c. 32.	*The Open Spaces Act,* 1887 .	*The whole Act except so much of section four as amends the Disused Burial Grounds Act,* 1884.
53 & 54 *Vict.* c. 15.	*The Open Spaces Act,* 1890 .	*The whole Act.*
62 & 63 *Vict.* c. 30.	*The Commons Act,* 1899 .	*Section seventeen.*

(*a*) Words in italics repealed by S. L. R. A., 1927.

BURIAL ACT, 1906.

(6 EDW. 7, C. 44) (*a*).

An Act to amend the Law with respect to the consents required for the use of ground for Burials and the construction of Cemeteries.

[21st December, 1906.]

Consents under 18 & 19 Vict. c. 128, s. 9.

1. The consent of the owner, lessee, and occupier of a dwelling-house to the use for burials of any ground used or appropriated for a burial ground or cemetery, mentioned in section nine of the Burial Act, 1855, shall not be and shall be deemed never to have been required in any case where the dwelling-house is or was begun to be erected or is or was erected or completed after any part of that ground has or had been so used or appropriated:

63 & 64 Vict. c. 15.

Provided (*b*) that nothing in this section shall affect any rights acquired before the twenty-seventh day of November one thousand nine hundred and six under any judgment or order of a court of competent jurisdiction or under any agreement in writing, but if a dispute, one of the parties to which is a burial authority within the meaning of the Burial Act, 1900 (*c*), arises under such an agreement as to any such right, the dispute shall, if either party so requires, be determined by the Local Government Board (*d*) either as arbitrators or otherwise at the option of the Board, in like manner

Section 1.

as if it were a difference which the Board are authorised to determine under the Local Government Act, 1888, and section sixty-three and sub-sections (1) and (5) of section eighty-seven of that Act (*e*), as amended by any subsequent enactment (*f*), shall apply accordingly.

51 & 52 Vict. c. 41.

(*a*) This Act was passed in consequence of the decision in *Godden* v. *Hythe Burial Board*, [1906] 2 Ch. 270; 70 J. P. 285, to the effect that s. 9 of the Burials Act, 1855, prevented burials in a burial ground laid out since 1855 within 100 yards of a dwelling-house erected after the burial ground had been laid out without the consent of the owner, lessee, and occupier of such dwelling-house. A somewhat similar provision is contained in s. 10 of the Cemeteries Clauses Act, 1847, *ante*, p. 2217, with regard to cemeteries under that Act, and in s. 5 of the Cremation Act, 1902, *ante*, p. 2655, with regard to a crematorium.

(*b*) This proviso secured the rights of the plaintiff in *Godden* v. *Hythe Burial Board*, *supra*, under the judgment as well as similar rights acquired by agreement.

(*c*) See s. 11 of this Act, *ante*, p. 2615.

(*d*) Now M. of H. (see Ministry of Health Act, 1919).

(*e*) See these enactments, *ante*, pp. 815, 818, 819.

(*f*) See the Local Government (Determination of Differences) Act, 1896, *ante*, p. 1053.

Consents under 10 & 11 Vict. c. 65. 42 & 43 Vict. c. 31.

2. In section ten of the Cemeteries Clauses Act, 1847 (*a*), as incorporated with the Public Health (Interments) Act, 1879, " one hundred yards " shall be substituted for " two hundred yards " as the distance from a dwelling-house within which no part of a cemetery may be constructed without the consent of the owner, lessee, and occupier of the house.

(*a*) *Ante*, p. 2217, and compare s. 5 of the Cremation Act, 1902, *ante*, p. 2655.

Short title.

3. This Act may be cited as the Burial Act, 1906, and may be cited with the Burial Acts, 1852 to 1900, as the Burial Acts, 1852 to 1906.

FINANCE ACT, 1907.

(7 EDW. 7, c. 13) (*a*).

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the law relating to Customs and Inland Revenue and the National Debt, and to make other provisions for the financial arrangements of the year. [9th August, 1907.]

(*a*) Part of this Act is here inserted in consequence of the effect of s. 10 as regards the reduction of duty on loan capital issued by local authorities.

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PART II.

STAMPS.

Reduction of duty on loan capital issued for the purpose of the conversion or consolidation of existing capital. 62 & 63 Vict. c. 9.

10.—(1) Where it is shown to the satisfaction of the Commissioners that the loan capital issued (*a*) by any local authority, corporation, company, or body of persons, in respect of which a statement has, after the commencement of this Act, been delivered to the Commissioners under section eight of the Finance Act, 1899 (*b*), has been wholly or partly applied for the purpose of the conversion or consolidation of then existing loan capital, that authority, corporation, company, or body of persons, as the case may be, shall be entitled to repayment in respect of the duty charged on the statement so delivered at the rate of two shillings for every hundred pounds of the capital to which the statement relates which is so shown to have been applied for the purpose of the conversion or consolidation of then existing loan capital; but this section shall not apply to any duty payable in respect of a mortgage or market-

Section 10. able security which has been paid on any trust deed or other document securing the loan capital which has been issued.

(2) If it is represented to the Commissioners by any such local authority, corporation, company, or body of persons that loan capital about to be issued by them is to be applied, in whole or in part, for the purpose of the conversion or consolidation of existing loan capital, the Commissioners may postpone the time for the delivery of the statement and the payment of duty under section eight of the Finance Act, 1899 (*b*), until the capital has been issued or until such other time as the Commissioners think fit for the purpose of enabling the payment and repayment of the duty to take place as one transaction.

(*a*) Loan capital may be issued by urban district councils under s. 52 of the P. H. A., 1890, *ante*, p. 914.

(*b*) See this section set out, *ante*, p. 915.

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PART VII.

GENERAL.

* * * * * *

30.—(2). . . .

54 & 55 Vict. c. 39. Part II. of this Act shall be construed together with the Stamp Act, 1891.

(3) This Act may be cited as the Finance Act, 1907.

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FACTORY AND WORKSHOP ACT, 1907.

(7 EDW. 7, C. 39) (*a*).

An Act to amend the Factory and Workshop Act, 1901, *with respect to Laundries, and to extend that Act to certain Institutions and to provide for the inspection of certain premises.* [28th August, 1907.]

LAUNDRIES.

Application of 1 Edw. 7, c. 22, to laundries.

1. The Factory and Workshop Act, 1901 (which Act, as amended by any subsequent enactment, including this Act, is hereinafter referred to as the principal Act), shall, subject to the provisions of this Act, apply to laundries as if at the end of Part II. of the Sixth Schedule (*b*) to that Act, enumerating non-textile factories and workshops, the following paragraph were added :—

"(29) Laundries carried on by way of trade or for the purpose of gain, or carried on as ancillary to another business (*c*) or incidentally to the purposes of any public institution (*d*)."

(*a*) See the Factory and Workshop Act, 1901, *ante*, p. 2620.

(*b*) *Ante*, p. 2653.

(*c*) A laundry in which table-linen, sheets and blankets are washed and which is carried on by a hotel proprietor is ancillary to the hotel business, although no visitors' washing is done there (*Sadler* v. *Roberts* (1911), 75 J. P. 342 ; 105 L. T. 106).

(*d*) A home for orphan children was held to be a public institution in *Seal* v. *British Orphan Asylum* (1911), 75 J. P. 152 ; 104 L. T. 424 ; so was an institution maintained by the voluntary subscriptions of Freemasons, although no public appeal for funds was made (*Royal Masonic Institution Trustees* v. *Parkes*, [1912] 3 K. B. 212 ; 76 J. P. 218).

2. [*Hours of employment of women and young persons in laundries*] (*a*). Section 2.

(*a*) This section does not concern sanitary authorities.

Special regulations to be complied with in laundries.

3. In every laundry—

(a) If mechanical power is used, a fan or other efficient means shall be provided, maintained, and used for regulating the temperature (*a*) in every ironing room, and for carrying away the steam in every washhouse;

(b) All stoves for heating irons must be sufficiently separated from any ironing room or ironing table, and gas irons emitting any noxious fumes must not be used; and

(c) The floors must be kept in good condition and drained in such manner as will allow the water to flow off freely (*b*).

A laundry in which there is a contravention of any of these provisions shall be deemed to be a factory or workshop not kept in conformity with the principal Act (*c*).

(*a*) The provisions of this section are additional to those of ss. 6 and 7 of the principal Act, *ante*, p. 2623, as regards temperature and ventilation.

(*b*) The provisions of this section are additional to those of s. 8 of the principal Act, *ante*, p. 2623, as regards drainage of floors.

(*c*) See s. 135 of that Act, *ante*, p. 2641.

Application of provisions as to domestic workshops.

4. Subsection (2) of section one hundred and fourteen (*a*) of the principal Act (which provides that certain domestic workshops are not to be deemed workshops within the meaning of the Act) shall apply to laundries as if for the words "altering, repairing, ornamenting, or finishing of any article" there were substituted the words "the altering, repairing, ornamenting, washing, cleaning, or finishing of any article."

(*a*) *Ante*, p. 2637.

INSTITUTIONS.

Application of Factory and Workshop Acts to certain institutions.

5.—(1) Where in any premises forming part of an institution carried on for charitable or reformatory purposes, and not being premises subject to inspection by or under the authority of any Government Department, any manual labour is exercised in or incidentally to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of articles not intended for the use of the institution, the provisions of the principal Act shall, subject to the provisions of this Act, apply to those premises notwithstanding that the work carried on therein is not carried on by way of trade or for the purposes of gain, or that the persons working therein are not working under a contract of service or apprenticeship.

(2) If in any institution to which this section applies the persons having the control of the institution (hereinafter referred to as the managers) satisfy the Secretary of State that the only persons working therein are persons who are inmates of and supported by the institution, or persons engaged in the supervision of the work or the management of machinery, and that such work as aforesaid is carried on in good faith for the purposes of the support, education, training, or reformation of persons engaged in it, the Secretary of State may by order direct that so long as the order is in force the principal Act shall apply to the institution subject to the following modifications:—

(a) The managers may submit for the approval of the Secretary of State a scheme for the regulation of the hours of employment, intervals for meals, and holidays of the workers, and of the education of children, and, if the Secretary of State is satisfied that the provisions of the scheme are not less favourable than the corresponding provisions

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of the principal Act, the Secretary of State may approve the scheme, and upon the scheme being so approved the principal Act shall, until the approval is revoked, apply as if the provisions of the scheme were substituted for the corresponding provisions of the principal Act; any scheme when so approved shall be laid as soon as possible before both Houses of Parliament, and if either House, within the next forty days after such scheme has been laid before that House, resolve that the scheme ought to be annulled, the scheme shall, after the date of the resolution, be of no effect without prejudice to the validity of anything done in the meantime thereunder, or to the making of any new scheme;

(b) The medical officer of the institution (if any) may, on the application of the managers, be appointed by the chief inspector of factories to be the certifying surgeon for the institution;

(c) The provisions of section one hundred and twenty-eight of the principal Act as to the affixing of an abstract of the principal Act and of notices shall not apply, but amongst the particulars required to be shown in the general register there shall be included the prescribed particulars of the scheme, or where no scheme is in force the prescribed particulars as to hours of employment, intervals for meals, and holidays, and education of children, and other matters dealt with in the principal Act;

(d) In the case of premises forming part of an institution carried on for reformatory purposes, if the managers of the institution so give notice to the chief inspector of factories, an inspector shall not, without the consent of the managers or of the person having charge of the institution under the managers, examine an inmate of the institution save in the presence of one of the managers or of such person as aforesaid:

Provided that the Secretary of State, on being satisfied that there is reason to believe that a contravention of the principal Act is taking place in any such institution, may suspend the operation of this provision as respects that institution to such extent as he may consider necessary;

(e) The managers shall not later than the fifteenth day of January in each year send to the Secretary of State a correct return in the prescribed form, specifying the names of the managers and the name of the person (if any) having charge of the institution under the managers, and such particulars as to the number, age, sex, and employment of the inmates and other persons employed in the work carried on in the institution as the Secretary of State may require, and shall, if any requirement of this paragraph is not complied with, be liable to a fine not exceeding five pounds.

SUPPLEMENTAL.

Inspection of certain premises.

6. Where in any premises which are subject to inspection by or under the authority of any Government department any manual labour is exercised, otherwise than for the purposes of instruction, in or incidental to the making, altering, repairing, ornamenting, finishing, washing, cleaning, or adapting for sale, of any article, and the premises do not constitute a factory or workshop by reason that the work carried on therein is not carried on by way of trade or for the purposes of gain, or by reason that the persons employed in the work are not working under a contract of service or apprenticeship, the Secretary of State may arrange with the department

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that the premises shall, as respects the matters dealt with by the principal Act, be inspected by an inspector appointed under that Act, and where such an arrangement is made, inspectors appointed under the principal Act shall have, as respects such matters as aforesaid, the like right of entry and inspection as is conferred on inspectors of the department concerned.

Short title, construction, commencement, and repeal.

7.—(1) This Act may be cited as the Factory and Workshop Act, 1907, and shall be construed as one with the Factory and Workshop Act, 1901, and the Factory and Workshop Act, 1901, and this Act may be cited together as the Factory and Workshop Acts, 1901 and 1907.

(2) *This Act shall come into operation on the first day of January one thousand nine hundred and eight.*

(3) *Section one hundred and three of the Factory and Workshop Act*, 1901, *is hereby repealed* (*a*).

(*a*) Words in italics repealed by S. L. R. A., 1927.

THE FINANCE ACT, 1908.

(8 Edw. 7, c. 16.)

An Act to grant certain duties of Customs and Inland Revenue, to alter other duties, and to amend the Law relating to Customs and Inland Revenue and the National Debt, and to make other provisions for the Financial Arrangements of the year. [1st August, 1908.]

* * * * * *

PART III.

Local Taxation Licences.

Collection of duties on certain local taxation licences by county councils.

6.—(1) The power to levy the duties on local taxation licences to which this section applies shall, as from the date to be fixed by Order in Council under this section, be transferred (*a*) in England and Wales to county councils, and section seventeen of the Finance Act, 1907, shall, as from the date of the transfer, cease to apply to or in respect of any such duties or the proceeds thereof.

(2) His Majesty may, by Order in Council, fix the date of the transfer under this section, and make any such further provisions as it appears necessary or expedient to make in order to give full effect to the transfer, and may make provision for the furnishing by county councils of returns to the Local Government Board (*c*) as to the amounts levied under the power transferred by this section.

The transfer under this section shall not affect any equitable adjustment respecting the distribution of the proceeds of the local taxation licences made under the Local Government Act, 1888, or otherwise, but provision may be made by Order in Council under this section for any alteration which it appears necessary or expedient to make in consequence of the transfer in the procedure for making any payments, or otherwise giving effect to any such adjustment.

Sub-sections (3) (4) and (5) of section twenty of the Local Government Act, 1888, and any other provisions of that Act relating to the levy of the duties on local taxation licences by county councils shall, as respects the duties to which this section applies, have effect as if the power to levy those duties had been transferred under subsection (3) of section twenty of that Act.

(3) *When the transfer under this section takes effect there shall be charged on and paid annually out of the Consolidated Fund or the growing produce thereof to the Local Taxation Account a sum of forty thousand pounds, and the sum so*

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(4) The duties on local taxation licences to which this section applies are the duties on licences to deal in game, licences for dogs, killing game, guns, carriages (including duties charged under subsection (1) of section eight of the Locomotives on Highways Act, 1896) (*e*), armorial bearings, and male servants:

Provided that if the rate of any such duty is altered, that duty shall, unless Parliament makes provision to the contrary, cease to be a duty to which this section applies (*f*.)

(5) The expressions "county" and "county council" in this section respectively include a county borough and the council of a county borough.

(*a*) The transfer contemplated by this section was effectuated by an Order in Council, dated October 19th, 1908. See the Order, a Circular of the L. G. B., and a memorandum of the Inland Revenue Commissioners at 6 L. G. R., Part III., pp. 169 *et seq.* No officer of the local authority can take proceedings for the recovery of a fine under any Act relating to inland revenue without an order from the local authority directing him to take proceedings in the particular case, and a general direction to take proceedings in such cases is sufficient (*Jones* v. *Wilson*, [1918] 2 K. B. 36; 82 J. P. 277).

(*c*) Now the M. of H.

(*d*) This subsection was repealed by the L. G. A., 1929, Sch. XII., Pt. VI. The amount formerly payable under this subsection as amended by s. 62 of the Finance Act, 1921, is among the grants discontinued by s. 85 and Sch. II. of the 1929 Act. As to the new grants substituted for those discontinued, see Pt. VI. of the L. G. A., 1929, *ante*, p. 1947, and the M. of H. Circular, L. G. A., 17, in App. II., *post*, p. 3499.

(*e*) *I.e.*, duties on motor cars, as to which see now section 13 and Second Schedule to Finance Act, 1920, and the Roads Act, 1920, *ante*, p. 1292.

(*f*) See hereon the Roads Act, 1920, *ante*, p. 1292.

THE POST OFFICE ACT, 1908.

(8 EDW. 7, c. 48.)

An Act to consolidate Enactments relating to the Post Office.

[21st December, 1908.]

* * * * * *

POSTMASTER-GENERAL AND OFFICERS.

Exemption of officers of Post Office from certain offices.

43 (*a*). Notwithstanding anything in any other Act, neither the Postmaster-General nor any officer of the Post Office (*b*) shall be compelled to serve as a mayor or sheriff, or in any ecclesiastical or corporate or parochial or other public office or employment, or on any jury or inquest, or in the militia.

(*a*) This section reproduces s. 12 of the Post Office (Management) Act, 1837, repealed by the present Act. Other statutes containing exemptions couched in varying terms are: as to Registrars of Births and Marriages, the Births and Deaths Registration Act, 1837, s. 18 ("parochial or corporate office"); as to medical practitioners, the Medical Act, 1858, s. 35 ("corporate, parochial, ward, hundred and township offices"); as to dentists, the Dentists Act, 1878, s. 30 (similarly worded); as to customs officers and servants, the Customs Consolidation Act, 1876, s. 9 ("corporate, parochial or other public office"); as to inland revenue officers and servants, the Inland Revenue Regulation Act, 1890, s. 8 (similarly worded); as to army reservists, the Reserve Forces Act, 1882, s. 7 ("parochial, township or borough office"); as to territorials, the Territorial and Reserve Forces Act, 1907, s. 23 (4) ("peace officer or parish officer"); as to factory inspectors, the Factory and Workshop Act, 1901, s. 118 (6) ("parochial or municipal office"); as to full pay and half-pay officers, and persons employed in military or naval establishments, etc., the Municipal Corporations Act, 1882, s. 253 ("any office or duty in any borough"). Most of the above exemptions extend also to jury service and inquests.

(*b*) By s. 89, the expression "officer of the post office" includes, unless the context otherwise requires, the Postmaster-General, and any person employed in any business of the Post Office, whether employed by the Postmaster-General, or by any person under him or on behalf of the Post Office.

Note to Section 43.

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EXTENSION OF POSTAL FACILITIES AND ACCOMMODATION.

Indemnity on account of extending post office accommodation

48. The Postmaster-General may contract with, or take security from, any person applying to him to establish any post or telegraph office or to extend the accommodations of the postal or telegraphic service to any place, for indemnifying the Postmaster-General against any loss he may sustain thereby, and the indemnity may be either for the whole or any part of the loss sustained, and for such time as the Postmaster-General may think necessary.

Power for local authority to contribute towards new post office, or undertake to pay loss on extra postal facilities.

49.—(1) (*a*) Where the council of any borough or any urban district consider that it would be beneficial to the inhabitants of the borough or district that any new post office (*b*) should be on a more expensive site, or of a larger size or of a more ornate building, or otherwise of a more expensive character than the Postmaster-General would otherwise provide, the council may contribute towards the new post office, either by a grant of money, or, with the consent of the [Minister of Health], by the appropriation of land belonging to the council, or by the purchase of land for the purpose.

(2) (*c*) Where the council of any borough or any urban district consider that it would be beneficial to the inhabitants of the borough or district that any post or telegraph office (*b*) should be established or any additional facilities (postal or other) (*d*) provided by the Postmaster-General in or for the purposes of the borough or district, the council may undertake to pay to the Postmaster-General any loss he may sustain by reason of the establishment or maintenance of the office or the provision of the facilities.

(3) (*e*) Where the council of any rural district, or the parish council of a parish, or in the case of a parish not having a parish council the parish meeting, consider that it would be for the benefit, in the case of a rural district council, of any contributory place or places (*f*) within their district, and in the case of a parish council or parish meeting of their parish, that any post or telegraph office (*b*) should be established or any additional postal or other facilities (*d*) provided by the Postmaster-General whether within or without the area to be benefited, that council or meeting may undertake to pay to the Postmaster-General any loss he may sustain by reason of the establishment or maintenance of the office, or the provision of the facilities:

Provided that a rural district council shall not exercise their powers under this provision as respects any office established or facilities provided outside the contributory place proposed to be charged unless the parish council, or if there is no parish council the parish meeting, of any parish wholly or partly situated in the contributory place consent to the exercise of the powers.

(4) (*g*) Any expenses incurred by the council of a borough under this section may be paid out of the borough fund or borough rate, and any expenses incurred by the council of an urban district (not a borough) may be paid out of the rate (*h*) out of which the general expenses of the council under the Public Health Act, 1875, are defrayed.

(5) (*g*) Any expenses incurred by the rural district council in pursuance of an undertaking under this section may be defrayed as special expenses legally incurred in respect of the contributory place or places, and shall be apportioned between those places if more than one, and sections two hundred and twenty-nine, two hundred and thirty, and two hundred and thirty-one of the Public Health Act, 1875, shall apply accordingly (*i*).

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(6) (*g*) Any expenses incurred by a parish council or meeting in pursuance of an undertaking under this section shall be defrayed as expenses of that council or meeting, as the case may be, within the provisions of the Local Government Act, 1894 (*k*).

(7) (*a*) The council of a borough may borrow for the purposes of sub-section (1) of this section under section one hundred and six of the Municipal Corporations Act, 1882, and any enactment amending the same, and the council of an urban district (not a borough) may borrow for the purposes of the same sub-section in like manner as if these purposes were purposes of the Public Health Act, 1875, and the provisions of that Act with respect to borrowing shall apply accordingly (*e*).

(8), (9), (10), (11) [*Scotland, Ireland, Channel Islands, Isle of Man.*]

(*a*) Sub-sections (1) and (7) reproduce in practically identical words s. 7 of the Post Office Act, 1891, repealed by the present Act.

(*b*) By s. 89, unless the context otherwise requires, the expression " post office " includes any house, building, room, carriage, or place used for the purpose of the Post Office and any post office letter box, and the expression " post office letter box " includes any pillar box, wall box, or other box or receptacle provided by the permission or under the authority of the Postmaster-General for the purpose of receiving postal packets, or any of them, for transmission by or under the authority of the Postmaster-General.

(*c*) This sub-section reproduces in practically identical words s. 1 of the Post Office Guarantee (No. 2) Act, 1898, repealed by the present Act.

(*d*) Including telephone facilities.

(*e*) This sub-section reproduces without material alteration s. 8 of the Post Office Act, 1891, the Post Office Amendment Act, 1895, and the Post Office (Guarantee) Act, 1898, repealed by the present Act.

(*f*) As to a " contributory place," see the P. H. A., 1875, s. 229, *ante*, p. 514.

(*g*) The incidence of the expenses was the same under the various repealed Acts referred to in the preceding notes.

(*h*) *I.e.*, the general rate ; see the P. H. A., 1875, s. 207, *ante*, p. 495, as amended by the R. and V. Act, 1925, *ante*, p. 1633.

(*i*) S. 229 is set out at p. 514, *ante*. Sections 230 and 231 were repealed by the R. and V. Act, 1925, *q.v.* at p. 1633, *ante*. As to such apportionments, see now s. 56 of the L. G. A., 1929, *ante*, p. 1919.

(*k*) *I.e.*, out of the general rate.

(*l*) As to these provisions, see the P. H. A., 1875, ss. 233—241, *ante*, pp. 519—535.

PUBLIC MEETING ACT, 1908.

(8 EDW. 7, C. 66.)

An Act to prevent Disturbance of Public Meetings. [21st December, 1908.]

Penalty on endeavour to break up public meeting.

1.—(1) Any person who at a lawful public meeting (*a*) acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together shall be guilty of an offence, and, if the offence is committed at a political meeting held in any parliamentary constituency between the date of the issue of the writ for the return of a member of Parliament for such constituency and the date at which a return to such writ is made, he shall be guilty of an illegal practice within the meaning of the Corrupt and Illegal Practices Prevention Act, 1883, and in any other case shall, on summary conviction, be liable to a fine not exceeding five pounds, or to imprisonment not exceeding one month.

46 & 47 Vict. c. 51.

(2) Any person who incites others to commit an offence under this section shall be guilty of a like offence.

(a) Reference may be made to a definition of "public meeting" in s. 4 of the Law of Libel Amendment Act, 1888. Whether a meeting of a council to which the public are admitted can be said to be a public meeting within the meaning of this Act is at any rate doubtful; but presumably a parish meeting falls within it. A meeting is not "unlawful" merely because it is held upon a highway (*Burden* v. *Rigler*, [1911] 1 K. B. 337); see as to such meetings the cases there cited in argument, and *M'Ara* v. *Edinburgh Magistrates*, 1913] S. C. 1059.

Note to Section 1.

2. This Act may be cited as the Public Meeting Act, 1908.

Short title.

THE ELECTRIC LIGHTING ACT, 1909.

(9 EDW. 7, c. 34) (a).

An Act to amend the Acts relating to Electric Lighting. [25th November, 1909.]

Compulsory acquisition of land for generating stations.

1.—(1) The [Minister of Transport] may by Provisional Order authorise any local authority, company, or person, who is authorised by the same or any previous Provisional Order or by Act of Parliament to supply electricity in any area, to acquire compulsorily (b), or to use, for the purpose of a generating station any land specified in the Order, whether situated within or without the area of supply, and, in the case of a local authority, whether situated within or without their district.

(2) For the purpose of the acquisition of land authorised to be taken compulsorily under any such Provisional Order, the provisions of the Lands Clauses Acts which relate to the purchase and taking of lands otherwise than by agreement, and to the entry upon lands by the promoters of the undertaking, are, subject to the modifications set out in the First Schedule (c) to this Act, incorporated with the Electric Lighting Acts, as well as the provisions of those Acts already incorporated by the Electric Lighting Act, 1882.

(3) Rules (d) made by the [Minister of Transport] under section five of the Electric Lighting Act, 1882, shall provide for proper notice being given of an application for a Provisional Order, by which it is proposed to authorise the compulsory acquisition or use of land for the purpose of a generating station, to owners, lessees, and occupiers of land, and also for public notice being given of the proposal by advertisement.

(a) This Act amends the Electric Lighting Acts, 1882 and 1888, *ante*, pp. 2437, 2495. See also the Electricity (Supply) Acts, 1919, 1922, 1926 and 1928, *post*. The powers and duties of the Board of Trade under these Acts have been transferred to the Minister of Transport by s. 39 of the Electricity Supply Act, 1919, and the Ministry of Transport (Electricity Supply) Order, 1920, as from January 23rd, 1920.

(b) Under the previous Acts there was no power to acquire land compulsorily; for definition of "generating station," see s. 25, *post*, p. 2703. See s. 24, *post*, p. 2702, as to land belonging to gas or water undertakers. The purposes for which a joint electricity authority may be authorised to acquire compulsorily or to use land under this section, now include the development of water power for the generation of electricity. See the Electricity (Supply) Act, 1919 (9 & 10 Geo. 5, c. 100), s. 15 (3), *post*, p. 2790.

(c) See this Schedule, *post*, p. 2703.

(d) See the rules in App. II., *post*, p. 3251.

Construction of generating station on land acquired by agreement.

2. It shall not be lawful for any undertakers after the passing of this Act, except with the consent of the [Minister of Transport], to construct any generating station on any land acquired by them after the thirty-first day of March one thousand nine hundred and nine unless the construction is authorised and the land is specified in a special Act or Provisional Order, and the [Minister of Transport] shall not in any case give such consent until notice has been given, by advertisement or otherwise, as the [Minister of Transport] may direct, to

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This section shall not apply to any station for transforming, converting or distributing electrical energy (*b*).

(*a*) Formerly, though undertakers had no powers of compulsory purchase, they were under no such restriction so long as they could purchase by agreement. But see now the restrictions on the establishment of new generating stations imposed by the Act of 1919, s. 11, *post*, p. 2786.

(*b*) This proviso is a limitation on the definition of "generating station" in s. 25, *post*, p. 2703, but conforms with the definition of "generating station" in s. 36 of the Electricity (Supply) Act, 1919, *post*, p. 2802.

Breaking up streets, &c., outside area of supply.

3. For the purpose of enabling electricity to be brought into an area of supply from a generating station belonging to any undertakers situated outside that area, the [Minister of Transport] may by Provisional Order apply to any roads, railways, or tramways situated outside that area the provisions of the Electric Lighting Acts which authorise, or enable the [Minister of Transport] to authorise, the breaking up of any road, railway, or tramway, so far as those provisions do not already so apply (*a*):

Provided that a Provisional Order authorising the breaking up of roads outside the area of supply shall not be granted by the [Minister of Transport] except with the consent of the local authority in whose district the road is situate, unless the [Minister of Transport] in any case in which the consent of any such local authority is refused, [is] of opinion that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in that case [he] shall make a special report to Parliament stating the grounds on which [he has] dispensed with the consent.

(*a*) See ss. 12 *et seq.* of the Electric Lighting Act, 1882, *ante*, p. 2446; for definition of "road," see s. 25, *post*, p. 2703.

Supply in bulk.

4.—(1) The [Minister of Transport] unless [he is] of opinion that, by reason of the character or magnitude of the proposed undertaking, the matter ought to be dealt with by private Bill, may by Provisional Order—

(a) authorise any local authority or company to supply electricity in bulk (*a*);

(b) provide for any supply so authorised being compulsory; and

(c) make such other provisions as appear to [him] necessary for adapting the Electric Lighting Acts to any case where a local authority or company are authorised to supply electricity in bulk, including the application to roads, railways, and tramways along the route along which lines are authorised to be laid for the purpose of giving the supply in bulk of the provisions of those Acts which authorise or enable the [Minister of Transport] to authorise the breaking up of any road, railway, or tramway:

Provided that a Provisional Order authorising the breaking up of roads outside the area of supply of the local authority or company by whom the supply is to be given shall not be granted by the [Minister of Transport] except with the consent of the local authority in whose district the road is situate, unless the [Minister of Transport], in any case in which the consent of any such local authority is refused, [is] of opinion that, having regard to all the circumstances of the case, such consent ought to be dispensed with, and in that case [he] shall make a special report to Parliament stating the ground on which [he has] dispensed with the consent.

(2) If the [Minister of Transport] refuse to grant a Provisional Order under this section, on the ground that the matter ought to be dealt with by a private Bill, the notices published and served for the purposes of the proposed Order shall, subject to Standing Orders, be held to have been published and served for a private Bill applying for similar powers:

Provided that the applicants for the Order shall, by notice served in the prescribed manner and within the prescribed time, inform all opponents of their intention to proceed by way of private Bill, and, subject to Standing Orders, the application for a Provisional Order shall be deemed and taken to be a petition for leave to bring in a private Bill, and the applicants shall also give such additional notice (if any) as may be required by Standing Orders.

(3) The [Minister of Transport] may, if [he] think[s] fit, by order permit any undertakers to supply electricity in bulk to any other undertakers upon such terms and subject to such conditions as may be specified in the order, if the supply can be given without breaking up any streets except such as the undertakers giving or the undertakers receiving the supply are authorised to break up; but the [Minister of Transport] shall not in any case make such an order until notice of the intention to make the order has been given by advertisement or otherwise as the [Minister of Transport] may direct, and an opportunity has been given to any person who appears to the [Minister] to be affected of stating any objections he may have thereto.

(*a*) See s. 25, *post*, p. 2703, for definition of "supply in bulk"; and see s. 20, *post*, p. 2701, as to the construction of provisions prohibiting association where undertakers desire to take a supply in bulk from other undertakers.

Supply of electricity to railways, tramways, and canals partly outside area of supply.

5.—(1) Any local authority, company, or person authorised to supply electricity in any area may, with the consent of the [Minister of Transport], supply at any point within that area electricity for the purposes of haulage or traction on any railway, tramway, or canal situate partly within and partly without that area, and for the purposes of lighting vehicles and vessels used on any such railway, tramway, or canal; but the [Minister of Transport] shall not in any case give any such consent until notice of the application for the consent has been given by advertisement or otherwise in such manner as the [Minister of Transport] may direct, and an opportunity has been given to any person who appears to the [Minister] to be affected of stating any objections he may have thereto.

(2) The [Minister of Transport] may by Provisional Order authorise any such local authority, company, or person so to supply electricity to be used for purposes incidental to the working or lighting of the railway, tramway, or canal, other than the purposes aforesaid (*a*).

(3) A company, local authority, or body receiving a supply of electricity under this section shall not use the electricity in such manner as to cause or to be likely to cause any interference with Government observatories or laboratories, or observatories or laboratories now or hereafter erected, owned, or managed in pursuance of any present or future statutory enactment, but this subsection shall not apply to any such company, local authority, or body who, by any Act of Parliament, or Order confirmed by or having the effect of an Act of Parliament, containing provisions for the protection of such observatories, or laboratories, are authorised to use electricity for the purposes for which a supply is authorised to be given under this section.

(*a*) See now s. 47, Electricity (Supply) Act, 1926, *post*, p. 2935, which enables undertakers to supply and railway companies to use electricity for purposes other than haulage or traction with the consent of the Minister and without the necessity for a special order.

Supply to premises outside area of

6.—(1) Where it is proved to the satisfaction of the [Minister of Transport] that the occupier of any premises is desirous of obtaining a supply of electricity

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supply in certain cases.

from any undertakers within whose area of supply those premises are not situate, the [Minister of Transport] may if the local authority within whose district the premises are situate, and the undertakers (if any) authorised to supply electricity to such premises, consent, by order permit the first-mentioned undertakers to give a supply to those premises on such terms and subject to such conditions as the [Minister] think[s] fit (*a*) :

Provided that, if in the opinion of the [Minister of Transport] any consent required by this subsection is unreasonably withheld, the [Minister of Transport] may proceed as if such consent had been given.

(2) An order given by the [Minister of Transport] under this section may, for the purpose of enabling a supply to be given thereunder, confer any such powers and impose any such duties on the undertakers as would have been conferred or imposed by the Electric Lighting Acts and as might have been conferred or imposed by Provisional Order if the premises and the route along which lines are to be laid for the purpose of giving the supply were within the area of supply of the undertakers, anything in the special Act or Order relating to the undertaking to the contrary notwithstanding.

(3) If the undertakers on whom powers are conferred by an order under this section are not a local authority, the works and lines erected and laid under the powers so conferred shall, so long as the order remains in force, be deemed, for the purposes of the provisions as to purchase applicable to the undertaking to form part of the undertaking within the district of the local authority which comprises the area of supply of the undertakers, or, if that area is comprised within the districts of more than one local authority, within such of those districts as the [Minister of Transport] may determine.

(4) Nothing in this section shall enable the [Minister of Transport], without the consent of the undertakers within whose area of supply the premises are situate, to give such permission as aforesaid to any undertakers where the last-mentioned undertakers are by any Act of Parliament specifically prohibited from supplying electricity within the area of the first-mentioned undertakers.

(*a*) Where the undertakers obtained an order under this section to supply electricity to consumers outside the area of supply and obtained the supply therefor from an outside source, it was held to be a breach of an agreement between the undertakers and another statutory company under which a joint generating station had been provided (*Kensington Electric Light Co.* v. *Notting Hill Electric Light Co.* (1918), 82 J. P. 197).

Provisions as to right of local authority to purchase.

7.—(1) Where the generating station, mains, or other works of a company used solely for supplying electricity within the district of a local authority are situated outside the district of that local authority, the generating station, mains, and other works so used shall for the purposes of the provisions of the Electric Lighting Acts, and any Provisional Order conferring on local authorities power to purchase undertakings (*a*), be deemed to be situated within the district of that local authority, and, where any generating station, mains, and other works are used solely for supplying electricity within the districts of two or more local authorities, but are not situated within any of those districts, the [Minister of Transport] may, on the application of all or any of those authorities, by Provisional Order apply this provision subject to such adaptations as the circumstances of the case may require :

Provided that this subsection shall not, except by agreement between the local authority and the company concerned, apply to any generating station, mains, or other works authorised by a special Act passed before the passing of this Act.

(2) Any local authority having power under the Electric Lighting Acts or any Provisional Order to purchase so much of the undertaking of a company as is within the district of that local authority may, with the consent of and

upon such terms and conditions as may be approved by the [Minister of Transport], and, in the case of an undertaking authorised before the commencement of this Act, with the consent of the company, transfer their rights of purchase to any other local authority having power to purchase so much of the same undertaking as is within the district of that last-mentioned local authority, and the deed of transfer may contain such consequential provisions as may be necessary for giving effect to the transfer.

(a) As to an authority's power to purchase, see s. 2 of the Electric Lighting Act, 1888, *ante*, p. 2495. This power may be transferred to a joint electricity authority under s. 13 (2), Electricity Supply Act, 1919, *post*, p. 2788.

Exercise of electric lighting powers by authorities jointly.

8. The [Minister of Transport] may, with the concurrence of the [Minister of Health], by Provisional Order make such provisions as appear to them necessary or expedient, by the constitution of a joint committee or joint board or otherwise, for the joint exercise of all or any of the powers under the Electric Lighting Acts, or this Act, or any Provisional Order, by two or more local authorities as respects any area of supply consisting of the whole or parts of the districts of those authorities, in any case where it appears to them that the joint exercise of those powers would be expedient, and any such Provisional Order may contain such provisions as may appear necessary or proper for adapting any of the provisions of the Electric Lighting Acts, or this Act, or any such Provisional Order to the case of any committee or board so constituted (*a*).

(*a*) See also s. 39, Electricity (Supply) Act, 1926, *post*, p. 2931, and the definition of "local authority" in s. 51, *ibid.*, *post*, p. 2937.

July notices.

9. The [Minister of Transport] may grant a Provisional Order notwithstanding that the notice required by section four (*a*) of the Electric Lighting Act, 1882, to be given to a local authority on or before the first day of July has not been given in the case of any local authority which waives its right to receive such a notice, and no such notice need be given to the local authority of a district in which it is not intended to take power to distribute electricity.

(*a*) See this section, *ante*, p. 2440.

10. (*a*).

(*a*) This section, which related to the revision of maximum price, was repealed by s. 22 (6) of the Electricity (Supply) Act, 1922. See now s. 22 of that Act, *post*, p. 2845, as to methods of charging and revision of prices.

Certification of meters.

11.—(1) The sections set out in the Second Schedule (*a*) to this Act shall be substituted for sections forty-nine, fifty, fifty-one, and fifty-three of the Schedule to the Electric Lighting (Clauses) Act, 1899, as incorporated with any Act or Order passed or confirmed after the commencement of this Act.

(2) The provisions contained in the sections so set out shall, subject to such adaptations (if any) as may be necessary, be substituted for any corresponding provisions as to the use, examination, and certification of meters, and their connection and disconnection with electric lines, contained in or incorporated with any special Act or Provisional Order relating to the supply of electricity passed or confirmed before the commencement of this Act.

(*a*) See this Schedule at p. 2704, *post*.

Accounts of local authorities.

12. For the purposes of section nine (*a*) of the Electric Lighting Act, 1882, the accounts of any undertakers being a local authority shall be made up to the thirty-first day of March in each year, and accordingly as respects

Section 12.

those accounts the thirtieth day of June shall be substituted in that section for the twenty-fifth day of March, and the thirty-first day of March for the thirty-first day of December: Provided that, if any such undertakers show to the [Minister of Transport] that some other dates are, owing to special circumstances, more convenient in their case than the thirty-first day of March and the thirtieth day of June, the [Minister of Transport] may substitute such other dates for the said thirty-first day of March and thirtieth day of June, and this section shall as respects those undertakers be construed with the substituted dates.

(*a*) See this section, *ante*, p. 2444.

Return by [Minister of Transport] as to auditors' reports.

13. The [Minister of Transport] shall from time to time make a return to Parliament giving such particulars as [he] may think proper with regard to the reports (*a*) made by any auditors appointed by [him] to audit the accounts of any undertakers, and any action taken in such reports by the [Minister] and by the undertakers.

(*a*) See s. 30 of the Electric Lighting Act, 1882, *ante*, p. 2453, as to the annual report to be made by the Minister.

Restriction on transfer of powers, &c., of undertakers.

14.—(1) A local authority, company, or person who have obtained a licence, order, or special Act for the supply of electricity shall not, by transfer or otherwise, divest themselves of any of the powers, rights, or obligations conferred or imposed upon them by the Electric Lighting Acts, or by any licence, order, or special Act, otherwise than under and in accordance with a provision contained in a licence, order, or special Act authorising such a divestiture.

(2) Section eleven (*a*) of the Electric Lighting Act, 1882, shall be repealed from "but no local authority" to the end of the section.

(*a*) See s. 11 of the Electric Lighting Act, 1882, and note thereto, *ante*, p. 2445. But see now the powers for selling and leasing conferred by the Electricity (Supply) Acts, 1919 and 1922, *post*, pp. 2782, 2835.

15. [*Supply of electricity to premises having separate supply*] (*a*).

(*a*) Repealed by s. 23 (2), Electricity Supply Act, 1922, and in lieu thereof, see s. 23 (1) of that Act, *post*, p. 2846.

Electric lines, &c., let on hire, though fixed to premises, to remain the property of undertakers.

16. All electric lines, fittings, apparatus, and appliances let by any undertakers on hire or belonging to any undertakers, but being in or upon premises of which the undertakers are not in possession, shall, whether they be or be not fixed or fastened to any part of any premises in or upon which they may be situate, or to the soil under any such premises, at all times continue to be the property of, and be removable by the undertakers, and sections twenty-four and twenty-five of the Electric Lighting Act, 1882, shall extend and apply to all such electric lines, fittings, apparatus, and appliances: Provided that such electric lines, fittings, apparatus, or appliances have upon them respectively a distinguishing metal plate affixed to a conspicuous part thereof, or a distinguishing brand or other mark conspicuously impressed or made thereon, sufficiently indicating the undertakers as the actual owners thereof.

For the purposes of this section, electric lines, fittings, apparatus, and appliances disposed of by the undertakers on terms of payment by instalments shall, until the whole of the instalments have been paid, be deemed to be electric lines, fittings, apparatus, and appliances let on hire by the undertakers.

Nothing in this section shall affect the amount of the assessment for rating of any premises upon which any electric lines, fittings, apparatus, or appliances are or shall be fixed.

17.—(1) Twenty-four hours' notice in writing shall be given to the undertakers by every consumer before he quits any premises supplied with electrical energy by the undertakers, and, in default of such notice, the consumer so quitting shall be liable to pay to the undertakers the money accruing due in respect of such supply up to the next usual period for ascertaining the register of the meter on such premises, or the date from which any subsequent occupier of such premises may require the undertakers to supply electrical energy to such premises, whichever shall first occur.

Section 17.

Notice to be given to undertakers before removing.

(2) Notice to the effect of this section shall be endorsed upon any demand note for charges for electrical energy.

18. The undertakers may refuse (*a*) to supply electrical energy to any person whose payments for the supply of electrical energy are for the time being in arrear (not being the subject of a bonâ fide dispute), whether any such payments be due to the undertakers in respect of a supply to the premises in respect of which such supply is demanded or in respect of other premises.

Power to refuse to supply electrical energy in certain cases.

(*a*) As to the general obligation to supply, see s. 19 of the Electric Lighting Act, 1882, and notes thereto, *ante*, p. 2449.

19. Electrical energy shall be deemed to be goods, wares, or merchandise for the purposes of section fifty-nine of the Stamp Act, 1891 (*a*) (which makes certain contracts chargeable with stamp duty as conveyances on sale), and also for the purposes of the exemption numbered 3 under the heading "Agreement or any memorandum of an agreement" contained in the First Schedule to that Act.

Exemption of agreements for the supply of electricity from stamp duty.

(*a*) As to the stamping of agreements for the supply of electricity, see also *County of Durham Electrical Power Co., Ltd.* v. *Inland Revenue Commissioners*, [1909] 2 K. B. 604; *British Electric Traction Co., Ltd.* v. *Inland Revenue Commissioners*, [1902] 1 K. B. 441.

20. For removing doubts, it is hereby declared that so much of any Provisional Order or special Act, or of the Schedule to the Electric Lighting (Clauses) Act, 1899 (*a*), as incorporated with any such Order or Act, as prohibit undertakers from associating themselves with any company or person supplying energy under any licence, Provisional Order, or special Act unless the undertakers are authorised by Parliament to do so, shall not be construed as prohibiting the undertakers from taking a supply of electricity in bulk (*b*) from any company or person authorised to give such a supply.

Construction of provisions prohibiting association.

(*a*) See s. 3 (1), p. 2571, *ante*.
(*b*) As to the meaning of a "supply in bulk," see s. 25, *post*, p. 2703.

21. Money borrowed (*a*) under the Electric Lighting Acts shall not be reckoned as part of the total debt of a local authority for the purpose of any limitation on borrowing under the enactments relating to borrowing by the local authority.

Provision as to borrowing by local authorities.

(*a*) As to borrowing powers, see s. 8 of the Electric Lighting Act, 1882, *ante*, p. 2443. Local authorities may borrow for the purpose of lending money to, subscribing for securities issued by or guaranteeing interest on money borrowed by joint electricity authorities under s. 5 of Electricity Supply Act, 1922, *post*, p. 2837.

22.—(1) With a view to the protection of the royal palaces, parks, and gardens, museums, and other public buildings, and their contents (in this section referred to as "the protected premises"), the Commissioners of Works and their engineer, or other officer duly authorised in writing under the hand of their secretary, may from time to time enter upon and inspect any generating station of any undertakers, and, if on such inspection it should

For the protection of the Commissioner of Works.

Section 22.

appear to the Commissioners that proper precautions are not being adopted for the due consumption of smoke, and for preventing as far as reasonably practicable the evolution of oxides of sulphur, and generally for the prevention of nuisance in relation to the protected premises, they may, without prejudice to any other remedy, require the undertakers forthwith to carry out such works and to do such things as are necessary in the circumstances.

(2) The undertakers shall give all reasonable facilities for such inspection to the Commissioners and their engineer or other officer as aforesaid.

(3) Any dispute arising between the Commissioners and the undertakers in relation to any of the provisions of this section shall be determined by arbitration.

This section shall not apply to the station of the Westminster Electric Supply Corporation, Limited, at Horseferry Road, in the city of Westminster.

Prohibiting unauthorised undertakers from competing with statutory undertakers.

23. (*a*) Where in any area a local authority, company, or person is authorised to supply electricity under Act of Parliament or under licence or Provisional Order granted under the Electric Lighting Acts, it shall not, after the passing of this Act, be lawful for any other local authority, company, or person to commence to supply (*b*) or distribute electricity within the same area unless such supply or distribution is authorised by Act of Parliament, or by licence or Provisional Order granted in terms of the Electric Lighting Acts: Provided that this section shall not prevent any company or person from affording a supply of electrical energy to any other company or person where the business of the company or person affording the supply is not primarily that of the supply of electrical energy to consumers (*c*):

Provided also that this section shall not prevent any company who at the passing of this Act are empowered by their memorandum of association to generate electrical energy from affording a supply to a railway company for purposes incidental to that company's undertaking other than the conveyance of public traffic.

(*a*) See s. 1 of the Electric Lighting Act, 1888, *ante*, p. 2495.

(*b*) The word "supply" was held to include a case where the supplier and consumer were the same body and the electrical energy was required for the supplier's own purposes (*Southport Corporation* v. *Attorney-General*, [1924] A. C. 909; 88 J. P. 181).

Where a supply was given to a firm part only of whose works were in the area of the undertaker's supplying and the energy so supplied was used throughout the works the greater part of which were within the relators' area of supply, it was held that the supply was given at the consumer's terminals, and as these were within the area of supply of the undertaker's who gave the supply there was no breach of the prohibition in this section (*A.-G.* v. *County of London Electric Supply Co., Ltd.*, [1926] Ch. 542; 95 L. J. Ch. 357).

(*c*) Where a draper and property owner generated electricity and supplied the energy to light his own business and adjoining premises owned by him he was held to be protected by this proviso (*Caerphilly U. D. C.* v. *Griffin*, "Times," 8th December, 1927).

For the protection of gas undertakers.

24. Nothing in this Act shall enable the [Minister of Transport] by Provisional Order to authorise the compulsory acquisition of any land which, at the date of the first publication of the notice for the Order, belongs to any gas or water undertakers and is used or authorised to be used by them for the purposes of their undertaking.

Definitions.

25. In this Act, unless the context otherwise requires,—

The expression "Provisional Order" means a Provisional Order under the Electric Lighting Acts:

The expression "Electric Lighting Acts" means—

(a) As respects England and Ireland, the Electric Lighting Acts 1882 and 1888; and ,

(b) As respects Scotland, the Electric Lighting Acts, 1882 and 1888, the Electric Lighting (Scotland) Act, 1890, and the Electric Lighting (Scotland) Act, 1902:

The expression "authorised" means authorised by Act of Parliament or Provisional Order (*a*):

The expression "area of supply" means any area within which any local authority, company, or person is authorised to supply electricity:

The expression "undertakers" means any local authority, company, or person, authorised to supply electricity to whom the Electric Lighting Acts apply:

The expression "road" includes any street (*b*) as defined by the Electric Lighting Act, 1882:

The expression "generating station" includes any station for generating, transforming, converting, or distributing electricity:

The expression "to supply electricity in bulk" means to supply electricity—

(a) to any local authority, company, or person authorised to distribute electricity to be used for the purposes of distribution; or

(b) to any local authority authorised by any general or special Act to undertake or contract for the lighting of streets, bridges, or public places, to be used for the purposes of lighting streets, bridges, and public places.

(*a*) Licences to supply electricity under the Act of 1882 are practically obsolete.
(*b*) See definition of "street" in s. 32, *ante*, p. 2454.

26. [*Application to Scotland and Ireland.*]

Short title, construction, and commencement.

27.—(1) This Act may be cited as the Electric Lighting Act, 1909.

(2) This Act and the Electric Lighting Acts (*a*) shall be construed together as one Act, and may be cited as the Electric Lighting Acts, 1882 to 1909.

(3) This Act shall come into operation on the first day of April nineteen hundred and ten.

(*a*) *I.e.*, the Acts of 1882 and 1888, *ante*, pp. 2437, 2495 (see s. 25, *supra*).

SCHEDULES.

FIRST SCHEDULE.

(Section I.)

MODIFICATIONS OF THE LANDS CLAUSES ACTS.

The following modifications shall have effect in the construction of the provisions of the Lands Clauses Acts incorporated by this Act for the purposes of the Electric Lighting Acts:—

(a) The expression "special Act" means the Electric Lighting Acts, inclusive of any Provisional Order authorising the compulsory acquisition of land, except that the period of three years mentioned in section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845 (8 & 9 Vict. c. 18), shall be calculated from the passing of the Act confirming the Provisional Order; and

(b) The expressions "the promoters" and "the undertaking" mean respectively the undertakers and the undertaking under the Electric Lighting Acts, and the expression "company" in the Railways Act (Ireland), 1851, the Railways Act (Ireland), 1860, and the Railways Act (Ireland), 1864, means the undertakers under the Electric Lighting Acts; and

(c) The expression "land" includes easements in or relating to land.

SECOND SCHEDULE.

(Section XI.)

SECTIONS TO BE SUBSTITUTED FOR SECTIONS 49, 50, 51, AND 53 OF THE SCHEDULE TO THE ELECTRIC LIGHTING (CLAUSES) ACT, 1899.

Meters to be used except by agreement.

"49. The amount of energy supplied by the undertakers to any ordinary consumer under the special Order, or the electrical quantity contained in the supply (according to the method by which the undertakers elect to charge), hereinafter referred to as 'the value of the supply,' shall, except as otherwise agreed between the consumer and the undertakers, be ascertained by means of an appropriate meter duly certified under the provisions of the special Order, and fixed and connected with the service lines in some manner approved by the [Minister of Transport].

Meter to be certified.

"50. A meter shall be considered to be duly certified under the provisions of the special Order if it be certified by an electric inspector appointed under the special Order to be a meter capable of ascertaining the value of the supply within such limits of error as may, as respects meters of the class to which the meter belongs, be allowed by the [Minister of Transport], and to be of some construction and pattern approved by the [Minister of Transport], and every such meter is hereinafter referred to as a 'certified meter': Provided that, where any alteration is made in any certified meter, that meter shall cease to be a certified meter unless and until it is again certified as a certified meter under the provisions of the special Order.

Inspector to certify meter.

"51. An electric inspector, on being required to do so by the undertakers or by any consumer, and on payment of the prescribed fee by the party so requiring him, shall examine any meter used or intended to be used for ascertaining the value of the supply, and shall certify it as a certified meter if he considers it entitled to be so certified, and the inspector shall, on the like requisition and payment, examine the manner in which any such meter has been fixed and connected with the service lines, and shall certify that it has been fixed and connected with the service lines in some manner approved by the [Minister of Transport], if he considers that it is entitled to be so certified.

Meters not to be connected or disconnected without notice.

"53. The undertakers shall not, nor shall any consumer, connect any meter used or to be used under the special Order for ascertaining the value of the supply with any electric line through which energy is supplied by the undertakers, or disconnect any such meter from any such electric line, unless the one has given to the other not less than forty-eight hours' notice in writing of the intention to do so, and the undertakers or any consumer acting in contravention of this section shall be liable for each offence to a penalty not exceeding forty shillings."

THE FINANCE (1909–10) ACT, 1910.

(10 EDW. 7, c. 8.)

PART I.

DUTIES ON LAND VALUES.

* * * * * *

SUPPLEMENTAL.

Exemption for land held by rating authorities.

35.—(1) No duty under this Part of this Act (*a*) shall be charged in respect of any land or interest in land held by or on behalf of a rating authority or any statutory combination representative of two or more local or rating authorities, . . . (*b*).

(2) For the purposes of this section the expression "rating authority" means any body who have power to raise a rate or administer money raised by a rate; and the expression "rate" means a rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an

assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument, requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

(a) The duties under Part I. were the "Duties on Land Values," viz. Increment Value Duty (ss. 1—12), Reversion Duty (ss. 13—15), Undeveloped Land Duty (ss. 16—19), and Mineral Rights Duty (ss. 20—24). All these duties, except the Mineral Rights Duty, ceased to be chargeable from 4th August, 1920 (Finance Act, 1920, s. 57).

(b) The remainder of this sub-section was repealed by s. 64 (3) and Sched. IV., Finance Act, 1920.

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PART VI.

CUSTOMS AND EXCISE OTHER THAN LIQUOR LICENCE DUTIES.

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85. (a) [*Exemptions and allowances in respect of the duty on motor spirit.*]

(a) Repealed as from 1st July, 1921, by s. 64 (3) and Sched. IV., Finance Act, 1920. The customs duty on motor spirit was repealed by s. 12 of Finance Act, 1920.

86. (a) [*Duty on licences for motor cars.*]

(a) Repealed as from 1st January, 1921, by s. 64 (3) and Schedule IV., Finance Act, 1920. The excise duty on licences for mechanically propelled vehicles was repealed by s. 12 of Finance Act, 1920, and fresh duties were imposed by s. 13 of the same Act. See, however, the Roads Act, 1920 (*ante*, p. 1292).

PART VII.

PROVISIONS AS TO PAYMENTS TO LOCAL AUTHORITIES AND TO ROAD IMPROVEMENT ACCOUNT.

Payments in respect of monopoly value to go to Exchequer.

87.—(1) All payments made in pursuance of conditions attached by licensing justices to the grant of new licences under section four of the Licensing Act, 1904 (a), shall, notwithstanding anything in that or any other Act, be paid into the Exchequer.

(a) See also s. 14 (3) of the Licensing (Consolidation) Act, 1910.

Payments into local taxation account in respect of liquor licences and provisions as to duties on motor car licences.

88.—(1) *For the purpose of subsection* (3) *of section seventeen of the Finance Act*, 1907 (*which makes provision with respect to the method of calculating proceeds of duties in the event of any alteration of the rate of duties*), *the proceeds of the duties on the licences for the sale of intoxicating liquor* and on licences for motor cars *imposed by this Act shall, so far as respects the sums to be paid into any local taxation account out of the Consolidated Fund in respect thereof, be deemed notwithstanding anything in that subsection to be the amount of the proceeds of the duties on those licences during the year ending the thirty-first day of March nineteen hundred and nine* (a).

(2) Notwithstanding the proviso to subsection (4) of section six of the Finance Act, 1908 (b), the duties on licences for motor cars in England and Wales shall continue to be duties to which that section applies, but any sum by which the proceeds of those duties levied in any financial year by the council of any county or county borough exceed the amount of the proceeds of those duties certified by the Local Government Board to have been collected in that county or county borough during the year ending the thirty-first day of March nineteen hundred and nine shall be paid into the Exchequer,

Section 88.

and a council shall be entitled to be paid any sum by which the proceeds of those duties levied by them in any year are less than that amount, and the sums so to be paid shall be charged on and paid out of the Consolidated Fund or the growing produce thereof.

(3) *Any reference in this section to duties on licences for motor cars or to the proceeds of those duties shall be construed to be a reference only to the duties on the licences which are affected by this Act* (*c*).

(*a*) The words "and on licences for motor cars" were repealed by the Revenue Act, 1911, *post*. As to such duties, see next sub-section. The remainder of the sub-section and s. 17 of the Finance Act, 1907, referred to therein were repealed by the L. G. A., 1929, Sch. XII., Pt. VI., consequent upon the winding up of the local taxation accounts, and the discontinuance of the grants out of the Consolidated Fund by s. 85 and Sch. II., *ibid.*, *ante*, p. 1948.

(*b*) See this sub-section, *ante*, p. 2692. By virtue of s. 18 (1) of the Revenue Act, 1911, *post*, p. 2707, the present sub-section now applies to the duties on all carriage licences (including motor cars), and stereotypes the portion thereof applicable to local purposes.

(*c*) Repealed by the Revenue Act, 1911, *post*, p. 2707.

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Payment of duties on motor spirit and motor car licences to road improvement account.

90.—(1) There shall be charged on and paid out of the Consolidated Fund or the growing produce thereof a sum (in this Act referred to as the road improvement grant) (*a*) equal to the net proceeds of the duties on motor spirit and the net proceeds of the duties on licences for motor cars which are affected by this Act.

(2) The road improvement grant shall be carried to a separate account to be established under regulations made by the Treasury for the purpose, and, subject to such regulations as may be made by the Treasury with respect to accounts and accumulations of moneys standing to the account, be administered and applied in manner provided by the Development and Road Improvement Funds Act, 1909.

(3) The expression "the net proceeds of the duties" means the amount of those duties paid into the Exchequer, after deducting such sums as are certified by the Commissioners to be the cost of collecting the duties, and after deducting in the case of duties payable on licences for motor cars any sum which is payable to any local taxation account in respect of the proceeds of those duties, or to any council in respect of any deficiency in the proceeds of those duties.

(*a*) This is now the Road Fund. See the Development and Road Improvement Funds Act, 1909, as amended by the Roads Act, 1920, and notes thereto, *ante*, p. 1200. By s. 18 (3) of the Revenue Act, 1911, *post*, p. 2707, the provisions of this section were extended to the duties on carriage licences generally.

Payment of half the proceeds of the duties on land values for benefit of local authorities.

91. (*a*)—(1) There shall be charged on and paid out of the Consolidated Fund or the growing produce thereof a sum equal to one-half of the net proceeds of the duties on land values under Part I. of this Act (including mineral rights duties).

(2) The sums so charged shall be carried to a separate account, to be established under regulations made by the Treasury for the purpose, and, subject to such regulations as may be made by the Treasury in respect of accounts, audit, and accumulation of moneys standing to the account, be appropriated for the benefit of local authorities in the United Kingdom in such manner as Parliament may hereafter determine.

(*a*) The operation of this section is suspended until Parliament otherwise determines, see Revenue Act, 1911, s. 16, *post*, p. 2707, as amended by s. 16, Finance Act, 1914 (Sess. 2). The Act of 1911 repealed it, but such repeal was annulled by s. 21 of the Finance Act, 1911, *post*, p. 2710.

* * * * * *

THE REVENUE ACT, 1911.

(1 GEO. 5, c. 2.)

PART V.

PROVISIONS AS TO PAYMENTS FOR LOCAL AUTHORITIES.

Repeal of s. 91 of 10 Edw. 7, c. 8.

16. Section ninety-one (*a*) of the principal Act (which provides for the payment of half the proceeds of the duties on land values for the benefit of local authorities) shall be suspended in its operation as from the date of the principal Act until Parliament shall otherwise determine (*b*).

(*a*) See this section, *ante*, p. 2706.

(*b*) The closing words of this section which limited the suspension to 31st March, 1914, were repealed by s. 16 of Finance Act, 1914 (Sess. 2). The next section which dealt with certain payments into the Local Taxation Account was repealed by the L. G. A., 1929, Sch. XII., Pt. VI., see note (*a*) to s. 88 of the Finance Act, 1910, *ante*, p. 2706.

* * * * * *

Extension of s. 88 of 10 Edw. 7, c. 8, to all carriage licences.

18.—(1) So much of subsection (2) of section eighty-eight (*a*) of the principal Act as provides for the payment of a part of the proceeds of the duties on licences for motor cars in England and Wales into the Exchequer, and for the payment out of the Consolidated Fund to the council of a county or county borough of any deficiency in the proceeds of those duties, shall extend to the proceeds of the duties on all carriage licences (whether licences for motor cars or not), and that provision shall be construed accordingly.

(2) [*Scotland.*]

(3) Section ninety (*b*) of the principal Act (which relates to the payment out of the Consolidated Fund of a sum equal to the net proceeds of the duties on motor spirit and motor car licences as the road improvement grant) shall be construed as it a reference to the duties on carriage licences were substituted in that section for the references to the duties on licences for motor cars which were affected by that Act and to the duties payable on licences for motor cars.

(4) In this section, the expression " duties on carriage licences " means the duties on all licences for carriages, including any duty charged under subsection (1) of section eight of the Locomotives on Highways Act, 1896, and any duty charged under section eighty-six of the principal Act in respect of motor cars.

59 & 60 Vict. c. 36.

(*a*) See this sub-section, *ante*, p. 2705.

(*b*) See this section, *ante*, p. 2706.

PART VII.

MISCELLANEOUS.

Repeal, construction, and short title.

20.—(1) *The enactments specified in the Schedule to this Act are hereby repealed to the extent mentioned in the third column of that Schedule* (*a*).

(*a*) This sub-section and the Schedule referred to therein were repealed by S. L. R. A., 1927.

Schedule.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	*Short Title.*	*Extent of Repeal.*
10 *Edw.* 7, *c.* 8.	*Finance* (1909–10) *Act,* 1910.	*Section fourteen, sub-section* (3); *section forty-four, sub-section* (1); *the words "and on licences for motor cars" in sub-section* (1) *of section eighty-eight; sub-section* (3) *of section eighty-eight; and section ninety-one* (*a*).

(*a*) The repeal of s. 91 was annulled by the Finance Act, 1911, s. 21, *post*, p. 2710.

THE MUNICIPAL ELECTIONS (CORRUPT AND ILLEGAL PRACTICES) ACT, 1911.

(1 & 2 GEO. 5, C. 7.)

An Act to amend the Municipal Elections (*Corrupt and Illegal Practices*) *Act*, 1884 (*a*). [18th August, 1911.]

Certain false statements concerning a candidate to be an illegal practice.

Injunction against person making false statement.

47 & 48 Vict. c. 70.

1.—(1) Any person who, or the directors of any body or association corporate which, before or during any municipal election, shall, for the purpose of affecting the return of any candidate at such election, make or publish any false statement of fact in relation to the personal character (*b*) or conduct of such candidate shall be guilty of an illegal practice within the meaning of the provisions of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (*c*), and shall be subject to all the penalties for and consequences of committing an illegal practice in the said Act mentioned, and the said Act shall be taken to be amended as if the illegal practice defined by this Act had been contained therein.

(2) No person shall be deemed to be guilty of such illegal practice if he can show that he had reasonable grounds for believing and did believe, the statement made by him to be true.

(3) Any person who shall make or publish any false statement of fact as aforesaid may be restrained by interim or perpetual injunction by the High Court of Justice from any repetition of such false statement or any false statement of a similar character in relation to such candidate, and, for the purpose of granting an interim injunction, prima facie proof of the falsity of the statement shall be sufficient (*d*).

(4) A candidate (*e*) shall not be liable nor shall be subject to any incapacity, nor shall his election be avoided, for any illegal practice under this Act committed by his agent, unless it can be shown that the candidate has authorised or consented to the committing of such illegal practice, or has paid for the circulation of the false statement constituting the illegal practice, or unless upon the hearing of an election petition the election court shall find and report that the election of such candidate was procured or materially assisted in consequence of the making or publishing of such false statements.

(*a*) It appears that this Act will apply to elections of urban and rural district councillors conducted under the L. G. A., 1894, s. 48, and the rules made thereunder, see s. 2, *post*, p. 2709.

(b) A statement that a candidate is a "Communist" is not a statement as to personal character within this section (*Burns* v. *Associated Newspapers, Ltd.* (1925), 89 J. P. 205; 42 T. L. R. 37).

Note to Section 1.

(c) See this Act, *ante*, p. 2460; see s. 7 thereof for the punishment on conviction for an illegal practice.

(d) Where justification is pleaded, an interlocutory injunction will not be granted unless defendants have no reasonable prospect of success at the trial (*Burns* v. *Associated Newspapers, Ltd., supra*).

(e) As to the liability of a candidate, see ss. 8, 19, of the principal Act, *ante*, pp. 2463, 2467.

2. This Act may be cited as the Municipal Elections (Corrupt and Illegal Practices) Act, 1911, and shall be construed as one with the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, and that Act and this Act may be cited together as the Municipal Elections Corrupt and Illegal Practices Acts, 1884 and 1911.

Short title and construction.

THE PUBLIC WORKS LOANS ACT, 1911.

(1 & 2 GEO. 5, c. 17.)

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4. In section eleven (a) of the Public Works Loans Act, 1875, as amended by section five of the Public Works Loans Act, 1898, fifty years shall be substituted for thirty years as the maximum period for the repayment of a loan in a case where no period for repayment is specified by the special Act relating to the loan.

Amendment of s. 11 of 38 & 39 Vict. c. 89, as to term for repayment of loans. 61 & 62 Vict. c. 54.

(a) See this section, *ante*, p. 2361. The period had already been extended from twenty years, as originally enacted, to thirty years by s. 5 of the Public Works Loans Act, 1898, which is now omitted from this volume as spent.

5. This Act may be cited as the Public Works Loans Act, 1911.

Short title.

THE FINANCE ACT, 1911.

(1 & 2 GEO. 5, c. 48.)

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11. (a) [*Exemption of motor cars used for fire brigade purposes from duty on licences for motor cars.*]

(a) Repealed by s. 64 and Schedule IV., Finance Act, 1920.

12. (a) [*Exemption for motor fire engines, &c., in respect of the duty on motor spirit.*]

(a) Repealed by s. 64 and Schedule IV., Finance Act, 1920. As to the exemption of fire engines, ambulances, and other vehicles used by local authorities from the duties now in force, see s. 13 (4), Finance Act, 1920.

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PART IV.

NATIONAL DEBT.

16.—(1) The old sinking fund for the financial year ending the thirty-first day of March nineteen hundred and eleven, as calculated under section nineteen of the Revenue Act, 1911, shall, notwithstanding anything in the Sinking Fund Act, 1875—

Partial application of surplus for development fund and sanatoria. 38 & 39 Vict. c. 45.

Section 16.
9 Edw. 7, c. 47.

(a) to the extent of one million five hundred thousand pounds, be issued and paid by the Treasury at such times as they direct to the development fund under the Development and Road Improvement Funds Act, 1909 (*a*), in lieu of the sums to be issued out of the consolidated fund under subsection (2) of section two of that Act in the years ending the thirty-first day of March nineteen hundred and thirteen, nineteen hundred and fourteen, and nineteen hundred and fifteen respectively ; and

(b) to the extent of one million five hundred thousand pounds, be issued by the Treasury at such times as they direct, and carried by the Treasury to a separate account, and made available in such manner as Parliament may determine for the purposes of the provision of, or making grants in aid to, sanatoria and other institutions (*b*) for the treatment of tuberculosis, or such other diseases as the [Minister of Health], or as respects Scotland the Local Government Board for Scotland, or as respects Ireland the Local Government Board for Ireland, with the approval of the Treasury, may appoint ; and

(*a*) See this Act as amended, *ante*, p. 1200.
(*b*) See the National Insurance Act, 1911, s. 64, *post*, p. 2714.

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Amendment of schedule to Revenue Act, 1911.
1 Geo. 5, c. 2.

21. The Revenue Act, 1911, shall be read as if section ninety-one of the Finance (1909-10) Act, 1910, were not included in the schedule of enactments repealed (*a*).

(*a*) But s. 91, though not repealed, is at present suspended, see note thereto, *ante*, p. 2706.

Repeal, construction, and short title.

22.—(1) *The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule* (*a*).

(*a*) This sub-section and the Schedule referred to therein were repealed by S. L. R. A., 1927.

. . . .

Section 22.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	*Short Title.*	*Extent of Repeal.*
9 *Edw.* 7, c. 47.	*The Development and Road Improvement Funds Act*, 1909.	*Sub-section* (2) *of section two, as from the thirty-first day of March nineteen hundred and twelve* (*a*).

(*a*) See note to this section, *ante*, p. 1202.

COAL MINES ACT, 1911 (*a*).

(1 & 2 GEO. 5, c. 50.)

An Act to consolidate and amend the Law relating to Coal Mines and certain other mines. [16th December, 1911.]

APPLICATION OF ACT.

Application of Act.

1. The mines to which this Act applies (*b*) are mines of coal, mines of stratified ironstone, mines of shale, and mines of fire-clay ; and in this Act the expression "mine," unless the context otherwise requires, means a mine to which this Act applies.

Note to Section 1.

(a) This Act repealed the provisions of the Coal Mines Regulation Act, 1887, as to the matters dealt with in the text.

(b) Shafts of abandoned mines of a kind to which this Act does not apply are dealt with by the Metalliferous Mines Regulation Act, 1872, *ante*, p. 2329 ; and reference should be made to the cases cited in the notes thereto.

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Fencing in case of abandoned mine.

26.—(1) Where any mine (*a*) is abandoned or the working thereof discontinued (*b*), at whatever time the abandonment or discontinuance occurred, it shall be the duty of the owner (*a*) thereof, and of every other person interested in the minerals of the mine, to cause the top or entrance of every (*c*) shaft and outlet to be kept surrounded by a structure of a permanent character sufficient to prevent accidents :

Provided that—

(i) Subject to any contract to the contrary, the owner of the mine shall, as between himself and any other person interested in the minerals of the mine, be liable to carry this section into effect, and to pay any costs, charges and expenses incurred by any other person interested in the minerals of the mine in carrying this section into effect :

(ii) Nothing in this section shall exempt any person from any liability under any other Act, or otherwise.

(2) No person shall be precluded by any agreement or otherwise from doing, or be liable to any injunction, damages, penalty, or forfeiture in respect of, such acts as may be necessary in order to comply with the provisions of this section.

(3) Any shaft or outlet which is not kept surrounded by a structure as required by this section shall be deemed to be a nuisance within the meaning of section ninety-one of the Public Health Act, 1875 (*d*).

38 & 39 Vict. c. 55.

(*a*) See definitions in s. 122, *infra.*

(*b*) Where a shaft is abandoned or working thereof discontinued, notice must be given to the Inspector of Mines (s. 19). Section 37 deals with the fencing of shafts not abandoned or permanently out of use.

(*c*) This provision applies to all shafts and outlets and is no longer restricted as under the repealed Act to such as are within fifty yards of a highway, road, footpath, or place of public resort, or are in open or uninclosed land.

(*d*) For the effect of this provision see note (*a*) to the Quarry Fencing Act, 1887, *ante*, p. 2488. There appears to be no longer any penalty for mere neglect to fence before service of a " nuisance " notice.

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PART III.

PROVISIONS AS TO HEALTH.

Provisions as to sanitary conveniences.

76. General regulations shall be made under this Act with respect to the provision and use of sanitary conveniences in mines, both above and below ground (*a*).

(*a*) As to this section, see note to s. 38 of the P. H. A., 1875, *ante*, p. 107. The general regulations referred to are made by the Home Secretary (s. 86).

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Interpretation.

122. In this Act, unless the context otherwise requires,—

" Mine " includes every shaft in the course of being sunk, and every level and inclined plane in the course of being driven, and all the shafts, levels, planes, works, tramways, and sidings, both below ground and above ground, in and adjacent to and belonging to the mine, but does not include any part of such premises on which any manufacturing process is carried on other than a process ancillary to the getting, dressing or preparation for sale of minerals :

Section 122.

"Owner," when used in relation to any mine, means any person or body corporate who is the immediate proprietor or lessee, or occupier of any mine, or of any part thereof, and in the case of a mine the business whereof is carried on by a liquidator or receiver includes such liquidator or receiver, but does not include a person or body corporate who merely receives a royalty, rent, or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant, or licence for the working thereof, or is merely the owner of the soil, and not interested in the minerals of the mine; but any contractor for the working of any mine, or any part thereof, shall be subject to this Act in like manner as if he were an owner, but so as not to exempt the owner from any liability:

THE RAG FLOCK ACT, 1911.

(1 & 2 GEO. 5, c. 52.)

An Act to prohibit the sale and use for the purpose of the manufacture of certain articles of unclean Flock manufactured from Rags.

[16th December, 1911.]

Prohibition of sale and use for the purpose of manufacture of certain articles of unclean flock manufactured from rags.

1.—(1) It shall not be lawful for any person to sell or have in his possession for sale flock manufactured from rags (*a*) or to use for the purpose of making (*b*) any article of upholstery, cushions, or bedding flock manufactured from rags or to have in his possession flock manufactured from rags intended to be used for any such purpose, unless the flock conforms to such standard of cleanliness as may be prescribed by regulations (*c*) to be made by the [Minister of Health], and, if any person sells or uses or has in his possession flock in contravention of this Act, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, or in the case of a second or subsequent offence fifty pounds.

56 & 57 Vict. c. 66.

(2) All regulations made by the [Minister of Health] under this Act shall be laid before Parliament as soon as may be after they are made, and the Rules Publication Act, 1893 (*d*), shall apply to such regulations as if they were statutory rules within the meaning of section one of that Act.

(3) Where, in any proceedings against a person charged with an offence under this Act, it is proved that an offence under this Act has been committed, but that the person charged with the offence—

(a) purchased the flock in respect of which the offence was committed from a person resident within the United Kingdom who sold the flock under a warranty that it complied with the prescribed standard of cleanliness; and

(b) took reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained in the warranty;

the person so charged shall be entitled upon an information duly laid by him to have the person who gave the warranty brought before the court, and that person may be summarily convicted of the offence, and the person originally charged shall be exempt from any fine, and the person so convicted shall, in the discretion of the court, also be liable to pay any costs incidental to the proceedings.

(4) Where a person is charged with having flock in his possession in contravention of this Act any flock proved in the proceedings to have been found in his possession shall be deemed to be intended for sale or for use in the manufacture of such articles as aforesaid, unless the contrary is proved.

(5) It shall be the duty of a sanitary authority to enforce the provisions of this Act within their district, and for that purpose the medical officer of health, the inspector of nuisances or sanitary inspector, or any other officer whom the sanitary authority may appoint, shall have power, if so authorised (*e*) by the sanitary authority, to institute and carry on any proceedings which the sanitary authority is authorised to institute and carry on under this Act, and to enter at all reasonable times any premises in which he has reasonable cause to believe that an offence under this Act is being committed, and to examine and take samples for the purposes of analysis of any flock found therein:

Provided that, where a sample is so taken, the occupier of the premises may require the officer taking the sample to divide it into two parts and to mark, seal, and deliver to him one part.

If any person wilfully obstructs any such officer in the execution of his powers under this section, he shall be liable on summary conviction to a fine not exceeding five pounds.

(6) The expenses of sanitary authorities under this Act shall be defrayed—

(a) in the case of the mayor, aldermen and commons of the city of London in common council assembled, out of the general rate;

(b) in the case of the council of a metropolitan borough, as part of the expenses incurred by the council in the execution of the Public Health (London) Act, 1891; 54 & 55 Vict. c. 76.

(c) in the case of any other sanitary authority, namely the council of a municipal borough or urban or rural district, as part of the general expenses incurred in the execution of the Public Health Acts.

(7) All fines imposed in any proceedings instituted by a sanitary authority in pursuance of their powers and duties under this Act shall be paid to the sanitary authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

(8), (9) [*Application to Scotland and Ireland.*]

(*a*) Flock consisting of jute refuse, composed partly of waste fluff from the machines, and partly of cuttings from woven jute fabric trimmed away in manufacture, was held to be within the Act (*Cooper* v. *Swift*, [1914] 1 K. B. 253; 78 J. P. 57). This case was followed in *Balmforth* v. *Chadburn*, [1927] 1 K. B. 663; 91 J. P. 21, where it was held that the word "rags" in the section was not limited to rags which have become polluted through association with human or animal life, but included flock made from new and uncontaminated material.

In order to remove doubts, the Rag Flock Act (1911) Amendment Act, 1928, *post*, p. 3019, was passed, which declares that the expression "flock manufactured from rags" means "flock which has been produced wholly or partly by tearing up woven or knitted or felted materials whether old or new, but does not include flock obtained wholly in the processes of the scouring and finishing of newly woven or newly knitted or newly felted fabrics."

(*b*) The restuffing of a mattress with flock—the flock being taken from the same cover and put back again without any addition—is not the "making any article of bedding" within the meaning of this sub-section (*Gamble* v. *Jordan*, [1913] 3 K. B. 149; 77 J. P. 269). But putting a new cover in place of an old one on a mattress containing rag flock is "making any article of bedding" within the sub-section (*Guildford Corporation* v. *Brown*, [1915] 1 K. B. 256; 79 J. P. 143). The sub-section does not apply to the mere sale of second-hand articles which contain rag flock (*Cooper* v. *Evan Cook's Depositories, Ltd.*, [1915] 1 K. B. 344; 79 J. P. 159).

(*c*) Regulations, citable as "The Rag Flock Regulations, 1912," were issued on June 8th, 1912, and provide as follows:—"Flock shall be deemed to conform to the standard of cleanliness for the purposes of sub-section (1) of section 1 of the Act when the amount of soluble chlorine, in the form of chlorides, removed by thorough washing with distilled water at a temperature not exceeding 25 degrees Centigrade from not less than 40 grammes of a well-mixed sample of flock, does not exceed 30 parts of chlorine in 100,000 parts of the flock."

(*d*) In the case of rules to which s. 1 of the Rules Publication Act, 1893, applies, notice of the intention to make rules and of the place where copies of the draft rules may be obtained must be published in the Gazette at least forty days before the rules are made,

Note to Section 1.

and during those forty days any public body may make representations or suggestions. There is, however, power to make provisional rules without such notice in cases of urgency.

(e) Presumably a general authority will suffice. It should be by resolution (*cf. Duchesne* v. *Finch* (1912), 76 J. P. 377; *Watt* v. *Hegarty* (1913), 47 Ir. L. T. 86).

Short title and commencement.

2. This Act may be cited as the Rag Flock Act, 1911, and shall come into operation on the first day of July nineteen hundred and twelve.

THE NATIONAL INSURANCE ACT, 1911.

(1 & 2 GEO. 5, c. 55.)

An Act to provide for Insurance against Loss of Health and for the Prevention and Cure of Sickness and for Insurance against Unemployment and for purposes incidental thereto (a). [16th December, 1911.]

(a) This Act was for the most part repealed by the National Health Insurance Act, 1924, *post*, p. 2867. The only provisions unrepealed and pertinent to this work is s. 64.

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SUPPLEMENTARY PROVISIONS.

Provision of sanatoria, &c.

64 (*a*).—(1) If under any other Act of the present session any sum is made available for the purposes of the provision of or making grants in aid to sanatoria and other institutions for the treatment of tuberculosis or such other diseases as the Local Government Board (*b*) with the approval of the Treasury may appoint, such sum shall be distributed by the Local Government Board (*b*) with the consent of the Treasury in making grants for those purposes, and the Treasury before giving their consent shall consult with the Insurance Commissioners:

Provided that such sum shall be apportioned between England, Wales, Scotland, and Ireland in proportion to their respective populations ascertained in accordance with the returns of the census taken in the year nineteen hundred and eleven.

(2) If any such grant is made to a county council, the Local Government Board (*b*) may authorise the county council to provide any such institution, and, where so authorised, the county council shall have power to erect buildings and to manage and maintain the institution and for that purpose to enter into agreements and make arrangements with Insurance Committees and other authorities and persons, and to do all such things as may be necessary for the purposes aforesaid, and any expenses of the county council, so far as not defrayed out of the grant, shall be defrayed out of the county fund as expenses for general county purposes, or, if the order of the Local Government Board (*b*) so directs, as expenses for special county purposes charged on such part of the county as may be provided by the order.

(3) For the purpose of facilitating co-operation amongst county councils, county borough councils, and other local authorities (not being Poor Law authorities) for the provision of such sanatoria and other institutions as aforesaid, the Local Government Board (*b*) may by order make such provisions as appear to them necessary or expedient, by the constitution of joint committees, joint boards, or otherwise, for the joint exercise by such councils and authorities of their powers in relation thereto, and any such order may provide how, in what proportions, and out of what funds or rates the expenses of providing such institutions, so far as they are not defrayed out of grants under this section, are to be defrayed, and may contain such consequential, incidental, and supplemental provisions as may appear necessary for the

purposes of the order, and an order so made shall be binding and conclusive in respect of the matters to which it relates.

(4) (c).

(a) See the Finance Act, 1911, s. 16 (1) (b), *ante*, p. 2710, and the P. H. (Tuberculosis) Act, 1921, *ante*, p. 1305.

(b) Now the Minister of Health (9 & 10 Geo. 5, c. 21).

(c) Sub-section (4) was repealed by 10 & 11 Geo. 5, c. 10, Schedule IV., Part II.

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THE SHOPS ACT, 1912.

(2 GEO. 5, C. 3.)

An Act to consolidate the Shops Regulation Acts, 1892 *to* 1911 (*a*).

[29th March, 1912.]

Conditions of Employment.

Hours of employment and meal times (*b*).

1.—(1) On at least one week day in each week (*c*) a shop assistant (*c*) shall not be employed about (*d*) the business of a shop (*d*) after half-past one o'clock in the afternoon:

Provided that this provision shall not apply to the week preceding a bank holiday (*c*) if the shop assistant is not employed on the bank holiday, and if on one week day in the following week in addition to the bank holiday the employment of the shop assistant ceases not later than half-past one o'clock in the afternoon (*e*).

(2) The occupier (*f*) of a shop shall fix, and shall specify in a notice in the prescribed form (*g*) which must be affixed in the shop in such manner (*h*) and at such time (*i*) as may be prescribed, the day of the week on which his shop assistants are not employed after half-past one o'clock, and may fix different days for different shop assistants.

(3) Intervals for meals shall be allowed to each shop assistant in accordance with the First Schedule (*k*) to this Act:

Provided that this provision shall not apply to a shop if the only persons employed as shop assistants are members of the family of the occupier of the shop, maintained by him, and dwelling in his house (*l*).

(4) In the case of any contravention of, or failure to comply with, the provisions of this section, the occupier (*m*) of the shop shall be guilty of an offence against this Act, and shall be liable to a fine (*n*) not exceeding:—

(a) in the case of a first offence, one pound;

(b) in the case of a second offence, five pounds; and

(c) in the case of a third or subsequent offence, ten pounds—

unless, in the case of a shop assistant employed after half-past one o'clock in contravention of this section, he proves that the shop assistant was employed merely for the purpose of serving a customer whom he was serving at the time, or, where the time of the closing of the shop was also half-past one o'clock (*o*), that the shop assistant was employed merely for the purpose of serving customers who were in the shop at that time.

(*a*) See also the Shops Act, 1913, *post*, p. 2730, and the Shops (Hours of Closing) Act, 1928, *post*, p. 3013. Under the last-named Act hours of closing of general application were prescribed, subject to the right of local authorities to vary these hours within limits prescribed by the Act.

Note to Section 1.

These three Acts are to be construed together and may be cited as the Shops Acts, 1912 to 1928 (see s. 10 of the 1928 Act).

(*b*) This section substantially re-enacts ss. 1, 8 (1), 13 (2), Schedule I., of the Shops Act, 1911, which never came into operation, being repealed by s. 22, *post.* There had been no earlier legislation on the subject.

Generally speaking, this section does not, if the employer so elects and takes certain steps, apply to shop assistants employed in the sale of "refreshments"; as to them, see the Shops Act, 1913, *post*, p. 2730. With one other exception, viz., under certain conditions and for limited periods in holiday resorts (s. 11, *post*, p. 2724), sub-s. (1) applies to the shop assistants in every shop, even though the shop itself may be one which need not be closed for a weekly half-holiday, and even though the assistants be members of the shopkeeper's family. The shopkeeper fixes the day (which may not be Sunday) on which each assistant is to have his half-holiday; he may fix different days for different assistants, and may vary the days fixed as often as he likes, so long as he complies with sub-s. 2 as to giving notice thereof.

(*c*) See definition in s. 19 (1), *post*, p. 2728. A firm gave no half-holiday in the week ending December 21st, but gave whole holidays in the following week on Christmas Day and Boxing Day. It was held that no offence was committed, Christmas Day being a weekday on which (in addition to one Bank Holiday—Boxing Day) the assistant was not employed after 1.30 p.m. (*Todd Burns & Co., Ltd.* v. *Dublin Corporation*, [1913] 2 I. R. 397).

(*d*) "Employed about" means "busy about" or "engaged in": therefore where a bookstall assistant, though ordered to take his weekly half-holiday on a certain afternoon, busied himself on that afternoon about the business of the bookstall, the employers, who had taken no steps under s. 14 (3), *post*, were held liable (*Ward* v. *W. H. Smith & Sons*, [1913] 3 K. B. 154; 77 J. P. 370). The appellant was manager of a shop at B. belonging to a company which owned many similar shops in different parts of the country. The appellant employed his shop assistants in consideration of extra remuneration to distribute certain handbills in the neighbourhood in their spare time. The handbills consisted of an advertisement of the company's margarine, but contained no mention of their particular shop at B. The assistants distributed the handbills to passers-by in the streets and at houses in the neighbourhood on the afternoon of the day of the week fixed under the Act for the weekly half-holiday for that shop. It was held that in order to constitute a breach of the above section it was not necessary that the handbills should specially refer to the shop at B., and that the assistants delivering them were not the less employed about the business of that shop because they were also thereby advertising the business of the company's other shops; and further that the employment of the assistants to do the work in their spare time generally included an employment to do it on the half-holiday afternoon which was their principal spare time (*George* v. *James*, [1914] 1 K. B. 278; 78 J. P. 156).

Where an employer has two shops an assistant at one shop cannot lawfully be employed during the time when one shop is closed under this section, at the other shop (*London C. C.* v. *Wettman*, [1922] 1 K. B. 153; 86 J. P. 4).

(*e*) An employer may fix an assistant's weekly half-holiday to coincide with a bank holiday. If, however, he fixes it for another day in that week, and if he does not employ the assistant at all on the bank holiday, he need not give him a half-holiday in the preceding week.

(*f*) A brewery company owned a public-house which was in charge of a manager who held the licence. The Liverpool stipendiary convicted the company for not as "occupiers" specifying in a notice the day on which a "shop assistant"—*i.e.*, the licence-holder—was to take his half-holiday. The licence-holder had signed and posted a notice dealing with all other persons employed on the premises ((1913), 77 J. P. N. 402). In a similar case, *Hancock & Co.* v. *Nicholas* (18th November, 1925, unreported), a Divisional Court upheld the conviction.

(*g*) For the prescribed form of notice, see Regulation No. 1 and Form I., *post*, App. II., p. 3747.

(*h*) As to the prescribed manner of affixing, see Regulation No. 2, *post*, App. II., p. 3747.

(*i*) The employer may vary the day of his assistants' weekly half-holiday as often as he likes; but notice must be affixed before assistants to whom it relates cease work on the Saturday preceding the week during which it is to have effect; see Regulation 3, *post*, App. II., p. 3747.

(*k*) See this Schedule, *post*, p. 2729.

(*l*) If any assistant is not a member of the family, the provision applies to all assistants, whether members or not.

(*m*) As to the liability of other persons, and as to an occupier shifting the liability on to some one else, see s. 14 (2), (3), *post*, p. 2726. As to a limited company being an occupier, see note (*t*) to s. 4, *post*, p. 2720.

(*n*) As to the recovery of penalties, see s. 14 (1), *post*, p. 2726.

(*o*) As it may be under s. 4 (4), *post*, p. 2718.

Hours of employment of young persons (*a*).

2.—(1) No person under the age of eighteen years (in this Act referred to as a "young person") shall be employed in or about (*b*) a shop (*c*) for a longer period than seventy-four hours, including meal times, in any one week (*d*).

(2) No young person shall, to the knowledge of the occupier of the shop, be employed in or about a shop—

(a) having been previously on the same day employed in any factory or workshop, as defined by the Factory and Workshop Act, 1901 (*e*), for the number of hours permitted by that Act; or

1 Edw. 7, c. 22.

(b) for a longer period than will, together with the time during which he has been previously employed on the same day in a factory or workshop, complete such number of hours as aforesaid.

(3) In every shop in which a young person is employed a notice shall be kept exhibited by the occupier of the shop in a conspicuous place referring to the provisions of this section and stating the number of hours in the week during which a young person may lawfully be employed in or about the shop (*f*).

(4) Where a young person is employed in or about a shop contrary to the provisions of this section, the occupier (*g*) of the shop shall be guilty of an offence against this Act, and liable to a fine (*h*) not exceeding one pound, or, where more than one young person is so employed, one pound for each young person, and, if the occupier (*g*) of a shop fails to comply with the provisions of this section with respect to notices, he shall be guilty of an offence against this Act, and liable to a fine (*h*) not exceeding forty shillings.

(5) This section (*i*) shall apply to wholesale shops, and to warehouses in which assistants are employed for hire, in like manner as if they were shops within the meaning of this Act, and the provisions of sections thirteen and fourteen of this Act shall, for the purposes of the enforcement of this section, be construed accordingly.

(6) This section shall not apply to any person wholly employed as a domestic servant (*k*).

(*a*) This section substantially reproduces the provisions of the Shop Hours Act, 1892, repealed by s. 22, *post*. As to restrictions on the employment of children under fourteen, see the Education Act, 1921, Part VIII.

(*b*) A boy employed by a newsagent fetched newspapers to the shop, delivered them at customers' houses, and sold them inside and outside the shop; he also worked in the shop, folding newspapers, tying up parcels, sweeping and cleaning windows; it was held under the Act of 1892, that the whole of his employment was "in or about" the shop (*Collman* v. *Roberts*, [1896] 1 Q. B. 457).

(*c*) For definition of "shop," see s. 19, *post*, p. 2728, but this section applies to wholesale shops and warehouses (sub-s. (5)). It applies too to members of a shopkeeper's family.

(*d*) Note that unless sub-s. (2) applies there is no limit to the length of employment on any one day; for definition of "week," see s. 19, *post*, p. 2728.

(*e*) See s. 149 of that Act, *ante*, p. 2646.

(*f*) For a form of notice suggested, but not prescribed, by the Home Office, see App. II., *post*, p. 3758.

(*g*) See note (*m*) to s. 1, *ante*, p. 2716.

(*h*) As to the recovery of penalties, see s. 14 (1), *post*, p. 2726.

(*i*) The general definition of "shop" appears in s. 19, *post*, p. 2728.

(*k*) A page boy at an hotel slept on the premises; in the mornings he helped to dust the reception rooms, but he was principally employed as a messenger; the High Court approved a finding that he was not "wholly employed as a domestic servant" (*Savoy Hotel Co.* v. *London C. C.*, [1900] 1 Q. B. 665).

Seats for female shop assistants (*a*).

3.—(1) In all rooms of a shop (*b*) where female shop-assistants (*b*) are employed in the serving of customers, the occupier of the shop shall provide seats behind the counter, or in such other position as may be suitable for the purpose, and such seats shall be in the proportion of not less than one seat to every three female shop-assistants employed in each room.

(2) Any person (*c*) failing to comply with the provisions of this section shall be guilty of an offence against this Act, and liable for a first offence to

Section 3. a fine (*d*) not exceeding three pounds, and for a subsequent offence to a fine not less than one pound and not exceeding five pounds.

(*a*) This section reproduces in slightly varied language the provisions of the Seats for Shop Assistants Act, 1899, repealed by s. 22, *post.*

(*b*) See definitions in s. 19, *post*, p. 2728.

(*c*) See note (*m*) to s. 1, *ante*, p. 2716.

(*d*) As to the recovery of penalties, see s. 14 (1), *post*, p. 2726.

Closing of Shops.

Closing of shops on weekly half-holiday.

4.—(1) Every shop (*a*) shall, save as otherwise provided by this Act (*b*), be closed for the serving of customers (*c*) not later than one o'clock in the afternoon of one week day in every week (*a*).

(2) The local authority (*d*) may (*e*), by order (*f*), fix the day on which a shop is to be so closed (in this Act referred to as "the weekly half-holiday"), and any such order may either fix the same day for all shops, or may fix—

(a) different days for different classes of shops (*g*); or
(b) different days for different parts of the district; or
(c) different days for different periods of the year:

Provided that—

(i) where the day fixed is a day other than Saturday, the order shall (*h*) provide for enabling Saturday to be substituted for such other day; and
(ii) where the day fixed is Saturday, the order shall (*h*) provide for enabling some other day specified (*i*) in the order to be substituted for Saturday;

as respects any shop in which notice (*k*) to that effect is affixed by the occupier, and that no such order shall be made unless the local authority, after making such inquiry as may be prescribed (*l*), are satisfied that the occupiers of a majority of each of the several classes of shops affected by the order approve the order (*m*).

(3) Unless and until such an order is made affecting a shop, the weekly half-holiday as respects the shop shall be such day as the occupier may specify in a notice affixed in the shop, but it shall not be lawful for the occupier of the shop to change the day oftener than once in any period of three months (*n*).

(4) Where the local authority (*d*) have reason to believe that a majority of the occupiers of shops of any particular class in any area are in favour of being exempted from the provisions of this section, either wholly or by fixing as the closing hour instead of one o'clock some other hour not later than two o'clock, the local authority, unless they consider that the area in question is unreasonably small, shall take steps to ascertain the wishes of such occupiers, and, if they are satisfied that a majority of the occupiers of such shops are in favour of the exemption, or, in the case of a vote being taken, that at least one half of the votes recorded by the occupiers of shops within the area of the class in question are in favour of the exemption, the local authority shall make an order exempting the shops of that class within the area from the provisions of this section either wholly or to such extent as aforesaid (*o*).

(5) Where a shop is closed during the whole day on the occasion of a bank holiday (*p*), and that day is not the day fixed for the weekly half-holiday, it shall be lawful for the occupier of the shop to keep the shop open for the serving of customers after the hour at which it is required under this section to be closed either on the half-holiday immediately preceding, or on the half-holiday immediately succeeding, the bank holiday.

(6) This section shall not apply to any shop in which the only trade or business carried on is trade or business of any of the classes mentioned in

the Second Schedule (*q*) to this Act, but the local authority may, by order (*r*) made and revocable in the manner hereinafter provided with respect to closing orders (*s*), extend the provisions of this section to shops of any class exempted under this provision if satisfied that the occupiers of at least two-thirds of the shops of that class approve the order.

(7) In the case of any contravention of or failure to comply with any of the provisions of this section, the occupier (*t*) of the shop shall be guilty of an offence against this Act, and shall be liable to a fine (*u*) not exceeding—

(a) in the case of a first offence, one pound ;

(b) in the case of a second offence, five pounds ; and

(c) in the case of a third or subsequent offence, ten pounds :

Provided that the occupier of a shop shall not be guilty of an offence against this Act when a customer is served at any time at which the shop is required to be closed under this section if he proves either that the customer was in the shop before the time when the shop was required to be closed (*v*), or that there was reasonable ground for believing that the article supplied to the customer was required in the case of illness.

(8) Nothing in this section shall prevent customers from being served at a time when the shop in which they are sold is required to be closed with victuals, stores, or other necessaries for a ship, on her arrival at or immediately before her departure from a port (*x*).

(*a*) See definition in s. 19, *post*, p. 2728. Where a dairyman had affixed an automatic machine to the door of his shop so that milk could be obtained by putting a penny in a slot while the shop was closed, it was held that the place where the sale of milk occurred was a shop within the meaning of the Act (*Willesden U. D. C.* v. *Morgan*, [1915] 1 K. B. 349 ; 79 J. P. 166).

(*b*) Certain shops are or may be exempted from this provision, see sub-ss. (4), (6), but assistants employed in them must nevertheless have a half-holiday on some week-day in every week (see s. 1, *ante*, p. 2715). There are also special provisions as to bank holidays (sub-s. (5)) and emergency sales (sub-ss. (7), (8)), and as to shops in holiday resorts (s. 11, *post*, p. 2724).

(*c*) This means the personal serving of customers and does not apply to trade or business carried on by means of an automatic machine (*Willesden U. D. C.* v. *Morgan*, *supra*). Other work (*e.g.*, tidying up) may be done, but assistants taking their half-holiday on that day must leave by 1.30 p.m. As to sales after 1 p.m. to customers in the shop at that hour, or in cases of illness, see sub-s. (7) and s. 1 (4), *ante*, p. 2715.

(*d*) As to the "local authority," see s. 13, *post*, p. 2725.

(*e*) If they do not, a shopkeeper fixes his own day (sub-s. (3)).

(*f*) The order does not require confirmation. As to revocation of such an order, see s. 18 (2), *post*, p. 2727. For a model form of order, see Form C, *post*, App. II., p. 3756. An order under s. 11, *post*, exempting shopkeepers in holiday resorts from the obligation to close for the weekly half-holiday during a portion of the year should not be incorporated in an order under this sub-section. As to publication of such an order, see Regulation 22, *post*, App. II. There was power to order a weekly half-holiday under the Shops Act, 1904 ; see s. 22, *post*, as to how far existing orders under that Act were continued in force. The weekly half-holiday must be fixed on some day other than the "late day" under s. 1 of the 1928 Act (s. 1 (2), *ibid.*, *post*, p. 3013). A large firm of drapers carried on a hairdressing business in a small portion of their premises for the convenience primarily of customers shopping in the various departments of their warehouse. The whole premises were closed every Tuesday afternoon for the statutory weekly half-holiday. The local authority made an order under sub-s. (2) fixing Wednesday as the day on which hairdressers' shops should be closed for the weekly half-holiday. It was held that the hairdressing department in the warehouse in question was not a hairdresser's shop within the meaning of the Act and order, and accordingly did not require to be closed on Wednesday (*Thomson* v. *Somerville*, [1917] S. C. (J.) 3). This case was followed in *MacDonald* v. *Groundland*, [1923] S. C. (J.) 28, where a jewellery and tobacconist's shop occupied the front of the premises and a barber's shop belonging to the owner occupied a back portion of the premises.

(*g*) As to a butcher selling dripping on a day when provision and grocery shops (but not butchers' shops) ought to be closed, see *Schuck* v. *Banks*, [1914] 2 K. B. 491 ; 78 J. P. 229.

(*h*) The authority cannot insert conditions fettering a shopkeeper's right to elect between two days.

(*i*) The alternative day must be specified, and not left to the discretion of each shopkeeper.

Note to Section 4.

(*k*) No special form of notice has been prescribed.

(*l*) Regulation 4, *post*, App. II., p. 3747, prescribes the inquiries to be made by an authority who contemplate making an order under this sub-section. As to the necessary register to be prepared, see Regulation 19, *post*, App. II., p. 3749; as to the method of taking a vote of occupiers, see Regulation 20, *post*, App. II., p. 3750.

(*m*) A person occupying more shops than one, has a vote in respect of each. As to "classes" of shops, see *Att.-Gen.* v. *Brighton Corporation*, *post*, p. 2721.

(*n*) Where no weekly half-holiday order has been made by a local authority, and the shopkeepers of a town have themselves fixed the day and specified it in notices affixed on their shops in accordance with this sub-section, a change of the day in one week and the reversion in the subsequent week back to the original closing day is a contravention of the concluding words of the section (*Owen* v. *Parry* (1914), 79 J. P. 64; 12 L. G. R. 1228).

(*o*) Such an order does not require confirmation. As to revocation of such an order, see s. 18 (2), *post*, p. 2727. For a model form of order, see Form D, *post*, App. II., p. 3757. No hour later than 2 p.m. can be fixed; effect can only be given to a desire for a later closing hour by complete exemption.

There is apparently no power to make an order for part only of a year; but it would be possible to make and revoke orders at the beginning and end of every "season." The sub-section does not allow a general exemption of all shops; each class of shop must be dealt with separately. As to "classes," see *Att.-Gen.* v. *Brighton Corporation*, *post*, p. 2721.

Semble, whether an area is "unreasonably small" is not a question only of superficial area, but may partly depend upon whether out of similar shops of the same class, some are just within and others just without the proposed boundary (*R.* v. *Manchester City Council, Ex parte Batty* (1912), 77 J. P. 43, *per* CHANNELL, J.).

A council after ascertaining the wishes of the shopkeepers, of whom a majority desired exemption, rescinded their former resolution approving of the area selected and consenting to grant exemption; an application for a *mandamus* directing the council to make an exemption order was refused on the ground that, if the court could grant a *mandamus*, they ought not to do so in view of the circumstances under which the two resolutions were passed (*ibid.*).

The "steps" to be taken by the authority are in their discretion; the majority required is a majority of occupiers, not of shops as under sub-s. 2; and if a vote is taken, one-half of the votes recorded (not of the persons entitled to vote) is sufficient.

(*p*) See definition in s. 19, *post*, p. 2728.

(*q*) See this Schedule, *post*, p. 2729; as to mixed businesses, see s. 10 (1), *post*, p. 2723, and *Schuck* v. *Banks*, *ante*, p. 2719; as to post office shops, see s. 12, *post*, p. 2725.

(*r*) For model form of order, see Form E, *post*, App. II., p. 3757. It will be noticed that this does not merely declare the provisions of s. 4 to be extended to the particular class of shop, leaving the authority to make and revoke further orders under sub-s. (2), and (if necessary) sub-s. (4), as to the day and hour for closing. It appears to contemplate that the shopkeepers will ask for a particular day (and perhaps hour) and that any subsequent variation must be sanctioned by the Home Secretary. An order was made under this sub-section extending the provisions of the section to such parts of the retail businesses of pork butchers as are exempted by Schedule II., *post*, p. 2729. The respondents were confectioners and refreshment-room proprietors, and as incidental to this trade they sold, on the afternoon of the weekly half-holiday, pork sausages for consumption off the premises. It was held that they had not committed an offence against the Act (*Margerison* v. *Wilson* (1914), 79 J. P. 38; 112 L. T. 76). Where an order under this sub-section extended the provisions of this Act to the sale by retail of confectionery (including sweets and chocolates), it was held that the order included shops in which sweets and chocolates only were sold, and not only those in which they were sold in addition to pastry and confectionery (*Gee* v. *Davies* (1916), 85 L. J. K. B. 1431; 80 J. P. 285). An order extending the provisions of sub-s. (2) to the sale of tobacco and smokers' requisites does not apply to a railway bookstall at which a substantial part of the business consists in the sale of these articles (*Fyfe* v. *Menzies*, [1920] S. C. (J.) 7).

(*s*) See ss. 5, 8, *post*, pp. 2721, 2723.

(*t*) As to the liability of other persons, and as to an occupier shifting the liability on to some one else, see s. 14 (2), (3), *post*, p. 2726. A limited company can be fined as an "occupier" under this section (*Evans & Co., Ltd.* v. *London C. C.*, [1914] 3 K. B. 315; 78 J. P. 345).

(*u*) As to recovery of penalties, see s. 14 (1), *post*, p. 2726.

(*v*) This proviso applies only to the case of a customer who has accidentally failed to complete a purchase by the closing hour. It does not enable a shopkeeper to collect persons on the premises before the closing hour so as to carry on business after that hour by inviting them to bid for articles which they had not set out to purchase and which were not in process of being sold before the closing hour (*Salford Cattle Market Salerooms, Ltd.* v. *Osborne* (1923), 87 J. P. 134; 21 L. G. R. 468).

(*x*) In a sea-port town it will probably be advisable to insert a similar provision in closing orders under s. 5, *post*, p. 2721.

Closing orders.

5 (*a*).—(1) An order (in this Act referred to as "a closing order") made by a local authority (*b*), and confirmed by the Secretary of State in manner provided by this Act, may fix the hours on the several days of the week at which, either throughout the area of the local authority or in any specified part thereof, all shops (*c*) or shops of any specified class are to be closed for serving customers (*d*).

(2) The hour fixed by a closing order (in this Act referred to as "the closing hour") shall not be earlier than seven o'clock in the evening on any day of the week.

(3) The order may—

(a) define the shops and trades to which the order applies; and

(b) authorise sales after the closing hour in cases of emergency and in such other circumstances as may be specified or indicated in the order; and

(c) contain any incidental, supplemental, or consequential provisions which may appear necessary or proper (*e*).

(4) (*f*). . . .

(5) . . .

(*a*) Closing orders made under this section and in force on 3rd August, 1928, which fix earlier closing hours than those prescribed by or under the Shops (Hours of Closing) Act, 1928, *post*, p. 3013), continue in force, but any order which fixes hours later than those so prescribed or any provision in any closing order inconsistent with the Act of 1928, has ceased to have effect. The power to make closing orders under the section in the text is now severely limited by the Act of 1928, s. 4. As to orders by local authorities varying the general hours of closing prescribed by the Act of 1928 see s. 2 (as to confectionery), s. 3 (as to tobacco, etc.), s. 5 (as to exhibitions), and s. 6 (as to holiday resorts, etc.). Nothing in any closing order made under this Act is to prevent the serving of a customer already in the shop at the closing hour, or in case of illness or any transaction mentioned in Sched. I. of the 1928 Act (s. 1 (3), *ibid.*). Any closing order made under this Act may be suspended by the Home Secretary or by local authorities on special occasions. The power to suspend in the case of local authorities is limited to an aggregate of not more than seven days in any one year (s. 7 of the 1928 Act, *post*, p. 3016).

(*b*) See s. 13, *post*, p. 2725.

(*c*) See definition in s. 19, *post*, p. 2728.

(*d*) For model forms of closing orders, see App. II., *post*, p. 3754. Under similar words in the Shop Hours Act, 1904, it was held that an authority might fix a closing hour to be observed on one or more days of the week, and need not fix one for every day (*Att.-Gen.* v. *Brighton Corporation* (1908), 77 L. J. Ch. 603). In the same case it was held in the court below, that barbers and hairdressers formed one sufficiently specific "class," and that an authority were not bound to distinguish between the different requirements of different shopkeepers in the same trade (77 L. J. Ch. 6); see also as to this point the Home Office Circular of April 4th, 1912.

Semble, when once an authority have made an order and submitted it for approval, the court will not interfere by injunction to restrain the authority from acting upon it (*Att. Gen.* v. *Brighton Corporation, supra*).

See s. 22, *post*, p. 2729, as to how far existing orders made under the Shops Act, 1904, were continued in force. As to revocation of closing orders, see s. 8, *post*, p. 2723.

(*e*) See, *e.g.*, note (*x*) to s. 4, *ante*, p. 2720, and s. 10 (2), and s. 12 (1) (c), *post*, pp. 2724, 2725.

(*f*) These two subsections which dealt with exemptions from and penalties for contravention of a closing order were repealed by s. 10 (4) and Sch. IV. of the Act of 1928. As to exemptions see now s. 1 (3), *ibid.*, and as to penalties for contravention of a closing order see s. 8, *ibid.*, *post*, pp. 3013, 3016.

Procedure for making orders (*a*).

6.—(1) Whenever a local authority (*b*) are satisfied that a primâ facie case is made out for making a closing order (*c*), the authority shall give public notice in the prescribed manner and in the prescribed form (*d*) of their intention to make an order, specifying therein a period (not being less than the prescribed period (*e*)) within which objections may be made to the making of the proposed order, and, if after taking into consideration any objections they may have received the local authority are satisfied (*f*) that it is expedient to make the order and that the occupiers of at least two-thirds in number of the shops to be affected by the order approve the order, they may make the order.

(2) Notice of the provisions of the order shall be given, and copies thereof shall be supplied in the prescribed manner (*g*), and the order shall be submitted to the Secretary of State (*h*), and the Secretary of State shall consider any objections to the order, and may either disallow the order or confirm the order with or without amendment.

(3) As soon as the Secretary of State has confirmed any order (*i*), the order shall become final and have the effect of an Act of Parliament (*k*):

Provided that every closing order shall be laid before each House of Parliament as soon as may be after it is confirmed, and, if an address is presented to His Majesty by either House within the next subsequent forty days on which that House has sat after any such order is laid before it praying that the order may be cancelled, His Majesty in Council may annul the order, and any order so annulled shall thenceforth become void and of no effect, but without prejudice to any proceedings which may in the meantime have been taken under the order and without prejudice to the power of making any new closing order.

(*a*) As to revoking orders, see s. 8, *post*, p. 2723.

(*b*) See s. 13, *post*, p. 2725.

(*c*) As soon as they are so satisfied they must cause the necessary register to be prepared: see Regulations 6, 19, *post*, App. II., pp. 3748, 3749.

(*d*) As to the prescribed manner and form, see Regulation 7, and Form A, *post*, App. II., pp. 3748, 3754.

(*e*) The prescribed period is four weeks (Regulation 8, *post*, App. II., p. 3748).

(*f*) Regulation 9, *post*, App. II., p. 3748, prescribes how they are to satisfy themselves as to the wishes of the occupiers concerned; as to the method of taking a vote of occupiers, see Regulation 20, *post*, App. II., p. 3750.

(*g*) As to the giving of this notice, see Regulation 10, *post*, App. II., p. 3748.

(*h*) As to the documents, etc., to be submitted with the order, see Regulation 11, *post*, App. II., p. 3749.

(*i*) As to publication of such an order, see Regulation 22, *post*, App. II., p. 3750.

(*k*) As to the meaning of this expression, see *Institute of Patent Agents* v. *Lockwood*, [1894] A. C. 347, and comments thereon in *R.* v. *Pharmaceutical Society*, [1899] 2 I. R. 132; *Waterford* v. *Murphy*, [1920] 2 I. R. 165. See also *per* YOUNGER, L.J., in *R.* v. *Electricity Commissioners*, [1924] 1 K. B. at p. 212. Notwithstanding this provision a closing order fixing hours of closing later than the general closing hours fixed by the 1928 Act will be of no effect, see s. 4 of the 1928 Act, *post*, p. 3014.

As to the suspension of a closing order, see s. 7 of the 1928 Act, *post*, p. 3016.

Local inquiries for the purpose of promoting and facilitating early closing (*a*).

7.—(1) Where it appears to the Secretary of State, on the representation of the local authority (*b*) or a joint representation from a substantial number of occupiers of shops and shop assistants in the area of the local authority, that it is expedient to ascertain the extent to which there is a demand for early closing in any locality, and to promote and facilitate the making of a closing order therein, the Secretary of State may appoint a competent person to hold a local inquiry.

(2) If, after holding such an inquiry and conferring with the local authority, it appears to the person holding the inquiry that it is expedient that a closing order should be made, he shall prepare a draft order and submit it to the Secretary of State together with his report thereon.

(3) If the Secretary of State, after considering the draft order and report, and any representations which the local authority may have made in respect thereof, is of opinion that it is desirable that a closing order should be made, he may communicate his decision to the local authority, and thereupon there shall be deemed to be a primâ facie case for making a closing order in accordance with the terms of the draft order, subject to such modifications (if any) as the Secretary of State may think fit.

(4) The person who held the inquiry shall, if so directed by the Secretary of State on the application of the local authority, assist and co-operate with the local authority in taking the steps preliminary to making the order.

Note to Section 7.

(a) Regulations 12—18, *post*, App. II., p. 3749, provide for the holding of such local inquiries. See further as to their object a Home Office Circular of April 4th, 1912. As to the expenses, see s. 15, *post*, p. 2727.

(b) See s. 13, *post*, p. 2725.

Revocation of closing orders (a).

8. The Secretary of State may, at any time on the application of the local authority, revoke a closing order either absolutely or so far as it affects any particular class of shops, and, if at any time it is made to appear to the satisfaction of the local authority that the occupiers of a majority of any class of shops to which a closing order applies are opposed to the continuance of the order, the local authority shall apply to the Secretary of State to revoke the order in so far as it affects that class of shops, but any such revocation shall be without prejudice to the making of any new closing order.

(a) Orders made under s. 4 (6), *ante*, p. 2718, are on the same footing as closing orders. Other orders may be revoked by the local authority, see s. 18, *post*, p. 2727. Before asking the Home Secretary to revoke an order the authority must ascertain the wishes of the shopkeepers concerned: see Regulation 23, *post*, App. II., p. 3750.

As to publication of notice of revocation, see Regulation 24, *post*, App. II., p. 3750.

Provisions with respect to Special Classes of Trade or Business.

Provisions as to trading elsewhere than in shops.

9. It shall not be lawful in any locality to carry on in any place not being a shop (*a*) retail trade or business of any class at any time when it would be unlawful in that locality to keep a shop open for the purposes of retail trade or business of that class, and, if any person carries on any trade or business in contravention of this section, this Act shall apply as if he were the occupier of a shop and the shop were being kept open in contravention of this Act:

Provided that—

(a) the prohibition imposed by this section shall, as respects any day other than the weekly half-holiday, be subject [in so far as the prohibition is affected by any closing order, to such exemptions and conditions, if any, as may be contained in the order)] (*b*); and

(b) nothing in this section shall be construed as preventing a barber or hairdresser from attending a customer in the customer's residence, or the holding of an auction sale of private effects in a private dwelling-house; and

(c) nothing in this section shall apply to the sale of newspapers.

(*a*) *E.g.*, in the streets, or in a house temporarily used for the purpose (*Cowden* v. *McEvoy*, [1914] 3 K. B. 108; 78 J. P. 336). For definitions of "shop," "retail trade or business," see s. 19, *post*, p. 2728. As to the sale of milk by means of an automatic machine affixed to the door of a closed shop, see *Willesden U. D. C.* v. *Morgan*, *ante*, p. 2719. *Semble*, this section cannot apply to the weekly half-holiday where each shopkeeper fixes his own half-holiday at will. But, when an order fixes (say) Thursday for the half-holiday, trading in the streets, or in places not being shops, on that afternoon is forbidden, although an individual shopkeeper might elect to substitute Saturday for his own shop (*Cowden* v. *McEvoy*, *supra*). As to weekly half-holidays, see s. 4, and as to closing orders, see s. 5, *ante*, pp. 2718, 2721.

(*b*) Words in brackets were substituted for the words "to such exemptions and conditions (if any) as may be contained in closing orders" by s. 9 and Sch. III. of the Act of 1928.

Provisions as respects shops where more than one business is carried on.

10.—(1) Where several trades or businesses are carried on in the same shop, and any of those trades or businesses is of such a nature that, if it were the only trade or business carried on in the shop, the shop would be exempt from the obligation to be closed on the weekly half-holiday, the exemption shall apply to the shop so far as the carrying on of that trade or business is concerned, subject, however, to such conditions as may be prescribed (*a*).

[" (1a) Where several trades and businesses are carried on in the same " shop and any of those trades or businesses consist only of transactions of

Section 10.

" such a nature that if they were the only transactions carried on in the shop " the provisions of this Act relating to general closing hours would not apply " to the shop, the shop may be kept open after the general closing hour for " the purposes of those transactions alone, subject, however, to such con- " ditions as may be prescribed " ;] (*b*)

(2) Where several trades and businesses are carried on in the same shop and any of those trades or businesses are of such a nature that if they were the only trades or businesses carried on in the shop a closing order would not apply to the shop, the shop may be kept open after the closing hour for the purposes of those trades and businesses alone, but on such terms and under such conditions as may be specified in the order (*c*).

(3) Where several trades or businesses are carried on in the same shop, the local authority may require the occupier of the shop to specify which trade or business he considers to be his principal trade or business, and no trade or business other than that so specified shall, for the purpose of determining a majority [or any proportion or number of occupiers or of shops for the purposes of] (*d*) this Act, be considered as carried on in the shop unless the occupier of the shop satisfies the local authority that it forms a substantial part of the business carried on in the shop (*e*).

(*a*) This sub-section relates to s. 4, *ante*, p. 2718. For the prescribed conditions, see Regulation 5, *post*, App. II., p. 3748; certain notices must be affixed, and, as far as reasonably practicable, no goods connected with a business not exempted may be exhibited.

(*b*) This sub-section was added by s. 9 and Sch. III. of the 1928 Act. As to transactions which are excluded from the operation of the general closing hours, see Sch. I., *ibid.*, *post*, p. 3017.

(*c*) This sub-section relates to s. 5, *ante*, p. 2721.

(*d*) These words were substituted for " under " by s. 9 and Sch. III. of the 1928 Act. The added words were included to meet the cases provided for by s. 3 of the 1928 Act, *post*, p. 3014.

(*e*) The effect of this provision is that a shopkeeper selling a little drapery as a mere adjunct to a distinct business, but being in no real sense a draper, will not be entitled to vote on questions affecting drapers. In connection with this sub-section, see Regulations 4 (1), 6 and 19, *post*, App. II., p. 3747, as to preparation of a register of occupiers of shops.

Special provisions as to holiday resorts.

11 (*a*).—(1) In places frequented as holiday resorts (*b*) during certain seasons of the year, the local authority may by order (*c*) suspend, for such period or periods as may be specified in the order, not exceeding in the aggregate four months in the year, any obligation imposed by this Act to close shops on the weekly half-holiday (*d*).

[(1A) Any order made under this section may be made so as to apply to the whole or to any part of the area of the local authority, and to all shops, or to shops of any class, within that area or part.] (*e*)

(2) Where the occupier of any shop in any place in which any such order of suspension is in force satisfies the local authority that it is the practice (*f*) to allow all his shop assistants a holiday on full pay of not less than two weeks in every year, and keeps affixed in his shop a notice to that effect, the requirement (*g*) that on one day in each week a shop assistant shall not be employed after half-past one o'clock shall not apply to the shop during such period or periods as aforesaid.

(*a*) As to the alteration of general closing hours under the 1928 Act in case of holiday resorts and sea fishing centres, see s. 6, *ibid.*, *post*, p. 3015.

(*b*) " Holiday resort " is not defined: presumably it means a resort frequented by holiday makers at particular seasons of the year as opposed to one where the influx of visitors is not appreciably greater at one time than at another. If an authority wrongly treat their town as a holiday resort, the validity of their order could apparently be impugned in the courts.

(*c*) As to revocation of such an order, see s. 18 (2), *post*, p. 2727. For a model form of order, see Form F, *post*, App. II., p. 3757. The order, if made at all, must apparently apply to all classes of shops. For this reason it should be kept distinct from orders under s. 4, *ante*, p. 2718, fixing the day and hour for half-holiday closing.

Note to Section 11.

(*d*) *I.e.*, under s. 4, *ante*, p. 2718.

(*e*) This sub-section was added by s. 9 and Sch. III. of the 1928 Act in order to make the power of suspension under the section in the text consistent with the power of altering the general closing hours given by s. 6 of that Act, *post*, p. 3015.

(*f*) The authority must be satisfied as to the shopkeeper's practice on the point. See as to this the Home Office Circular of April 4th, 1912. *Semble*, the holiday must be one of two consecutive weeks.

(*g*) *I.e.*, in s. 1, *ante*, p. 2715.

Application to Post Office business.

12.—(1) Where Post Office business is carried on in any shop in addition to any other business, this Act shall apply to that shop subject to the following modifications :—

(a) If the shop is a telegraph office, the obligation to close on the weekly half-holiday shall not apply to the shop so far as relates to the transaction of Post Office business thereat :

(b) Where the Postmaster-General certifies that the exigencies of the postal service require that Post Office business should be transacted in any such shop at times when under the provisions of this Act relating to the weekly half-holiday the shop would be required to be closed, or under conditions not authorised by section one of this Act, the shop shall, for the purpose of the transaction of Post Office business, be exempted from the provisions of this Act to such extent as the Postmaster-General may certify to be necessary for the purpose :

Provided that in such cases the Postmaster-General shall make the best arrangements that the exigencies of the postal service allow with a view to the conditions of employment of the persons employed being on the whole not less favourable than those secured by this Act :

(c) *The provisions contained in any closing order imposing terms or conditions on the keeping open of any such shop after the closing hour for the transaction of Post Office business shall be subject to the approval of the Postmaster-General* (*a*).

(2) Save as aforesaid, nothing in this Act shall apply to Post Office business, or to any premises in which Post Office business is transacted.

(*a*) This sub-section was repealed by s. 10 (4) and Sch. IV. of the 1928 Act.

Enforcement of Act.

Powers and duties of local authorities.

13.—(1) It shall be the duty of every local authority (*a*) to enforce within their district the provisions of this Act, and of the orders made thereunder or under any enactment repealed by this Act (*b*), and for that purpose to institute and carry on such proceedings in respect of failures to comply with or contraventions of this Act and such orders as aforesaid as may be necessary to secure the observance thereof, and to appoint inspectors (*c*) ; and an inspector so appointed shall, for the purposes of his powers and duties, have in relation to shops all the powers conferred in relation to factories and workshops on inspectors by section one hundred and nineteen of the Factory and Workshop Act, 1901 (*d*), and that section and section one hundred and twenty-one (*e*) of the same Act shall apply accordingly ; and an inspector may, if so authorised by the local authority, institute and carry on any proceedings under this Act on behalf of the authority (*f*). 1 Edw. 7, c. 22.

(2) In this Act the expression " local authority " means—

as respects the city of London, the common council ;

as respects any municipal borough, the council of the borough ;

Section 13.

as respects any urban district with a population according to the returns of the last published census for the time being of twenty thousand or upward, the district council;

elsewhere, the county council:

Provided that a county council may, with the approval of the Secretary of State, make arrangements with the council of an urban district in the county with a population of less than twenty thousand, or with the council of a rural district, for the exercise by the council of that district as agents for the county council, on such terms and subject to such conditions as may be agreed on, of any powers of the county council under this Act within the district, and the council of the district may, as part of the agreement, undertake to pay the whole or any part of the expenses incurred in connection with the exercise of the powers delegated to them, and the London County Council may, with the like approval, make similar arrangements with the council of any metropolitan borough.

(3) The expenses of a local authority under this Act (including any expenses which a council undertake to pay as aforesaid) shall be defrayed—

in the case of the common council of the city of London, out of the general rate;

in the case of the council of a borough, out of the borough fund or borough rate (*g*);

in the case of a district council, as part of the general expenses incurred in the execution of the Public Health Acts (*h*);

in the case of a county council, as expenses for special county purposes;

in the case of a metropolitan borough council, as part of the expenses of the council.

(*a*) For definition of "local authority," see sub-s. (2).

(*b*) As to closing orders made under the repealed Shops Act, 1904, continuing in force until expressly revoked, see proviso to s. 22, *post*, p. 2729.

(*c*) The Home Secretary deprecated the appointment of police officers as whole time or part time inspectors under this Act, see Home Office Circular of June 28th, 1912. See the same Circular for suggestions as to how the police may nevertheless render assistance in enforcing the Act.

(*d*) This section (see *ante*, p. 2638) gives to an inspector wide powers of entering and inspecting shops and of questioning persons found therein.

(*e*) This section (see *ante*, p. 2639) requires an inspector on applying for admission to produce a certificate of his appointment if it be asked for. A form of certificate is prescribed, see Regulation 25 and Form V., *post*, App. II., pp. 3750, 3752.

(*f*) Presumably a general authority will suffice. It should be by resolution: *cf. Duchesne* v. *Finch* (1912), 76 J. P. 377; *Watt* v. *Hegarty* (1913), 47 Ir. L. T. 86.

(*g*) Now the general rate fund and general rate. See the R. & V. Act, *ante*, p. 1633.

(*h*) See s. 207, P. H. A., 1875, *ante*, p. 495, as amended by the R. and V. Act, 1925.

Provisions with respect to offences.

14.—(1) All offences against this Act shall be prosecuted, and all fines under this Act shall be recovered in like manner as offences and fines are prosecuted and recovered under the Factory and Workshop Act, 1901, and sections one hundred and forty-three to one hundred and forty-six of that Act, and so much of section one hundred and forty-seven thereof as relates to evidence respecting the age of any person, so far as those provisions are applicable, shall have effect as if re-enacted in this Act and in terms made applicable thereto (*a*):

Provided that all fines imposed in any proceedings instituted by or on behalf of a local authority in pursuance of their powers and duties under this Act shall be paid to the local authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

(2) Where an offence for which the occupier of a shop is liable under this Act, has, in fact, been committed by some manager, agent, servant, or other

person, the manager, agent, servant, or other person shall be liable to the like penalty as if he were the occupier. **Section 14.**

(3) Where the occupier of a shop is charged with an offence against this Act, he shall be entitled upon information duly laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, he proves to the satisfaction of the court that he has used due diligence to enforce the execution of the Act, and that the said other person has committed the offence in question without his knowledge, consent, or connivance, the said other person shall be summarily convicted of such offence, and the occupier shall be exempt from any fine.

(*a*) See these sections, *ante*, pp. 2614, 2645.

General Provisions.

Expenses of Secretary of State.

15. Any expenses incurred by the Secretary of State under this Act, including the remuneration of any person holding a local inquiry under section seven of this Act, shall, to such extent as may be sanctioned by the Treasury, be paid out of moneys provided by Parliament.

Local inquiries.

16. In addition to the local inquiries which the Secretary of State is empowered to hold under section seven of this Act, the Secretary of State may cause a local inquiry to be held for the purposes of any of his powers and duties under this Act, and the costs incurred in relation to any such last-mentioned inquiry, including the salary of any officer engaged in the inquiry, not exceeding three guineas a day, shall be paid by the local authority concerned, and the Secretary of State may certify the amount of the costs incurred. Any sums so certified shall be a debt to the Crown from the local authority (*a*).

(*a*) They would therefore be recoverable by an extent of the authority's property.

Regulations.

17. The Secretary of State may make regulations (*a*)—

(a) for prescribing anything which under this Act is to be prescribed; and

(b) as to the mode of ascertaining the opinion of occupiers of shops; and

(c) as to conduct of local inquiries and matters incidental thereto; and

(d) as to the procedure for obtaining the revocation of a closing order; and

(e) generally for carrying into effect the provisions of this Act.

(*a*) Regulations (see *post*, App. II., p. 3747) dated April 1st, 1912 (Stat. R. & O., No. 316 of 1912), have been made under this section.

By Regulation 21 (*post*, App. II., p. 3750) no informality in complying with the Regulations is to frustrate the making of, or invalidate, any order.

Proof and revocation of orders.

18.—(1) Any order made by a local authority under this Act may be proved by the production of a copy thereof certified to be a true copy by a person purporting to be the clerk of the local authority by whom the order is made.

(2) Any order made by a local authority under this Act may, unless some other method of revocation is provided by this Act, be revoked by an order made in the like manner and subject to the like approval, if any, as the original order (*a*).

(*a*) Closing orders under s. 5 and orders made under s. 4 (6), which require confirmation by the Home Secretary, can only be revoked by him, see s. 8, *ante*, p, 2723. The authority may themselves revoke the orders: *cf.* Interpretation Act, 1889. s. 32 (3). Before doing so, they must ascertain the wishes of the shopkeepers concerned: see Regulation 23, *post*, App. II.. p. 3750.

As to publication of notice of revocation, see Regulation 24, *post*, App. II.. p. 3750.

Section 19.

Interpretation and saving.

19.—(1) In this Act (*a*)—

The expression " shop " (*b*) includes any premises where any retail trade or business is carried on (*c*) ;

The expression " retail trade or business " includes the business of a barber or hairdresser, the sale of refreshments or intoxicating liquors, and retail sales by auction, but does not include the sale of programmes and catalogues and other similar sales at theatres and places of amusement ;

The expression " shop assistant " means any person wholly or mainly employed in a shop in connexion with the serving of customers or the receipt of orders or the despatch of goods (*a*) ;

The expression " bank holiday " includes any public holiday or day of public rejoicing or mourning ;

The expression " week " means the period between midnight on Saturday night and midnight on the succeeding Saturday night.

(2) Nothing in this Act shall apply to any fair lawfully held or any bazaar or sale of work for charitable or other purposes from which no private profit is derived.

(*a*) As to these definitions, see the Home Office Memorandum of March, 1912.

(*b*) In the Shop Hours Act, 1892, unless the context otherwise required, " shop " meant " retail and wholesale shops, markets, stalls, and warehouses in which assistants are employed for hire," and included " licensed public houses and refreshment houses of any kind." A building used solely as a high-class hotel and restaurant, having no bar or counter for the sale of liquor, and not being in the ordinary sense of the term a " public house," although fully licensed under the Alehouse Act, 1828, was held to be a " public house," and therefore a " shop " within this definition (*Savoy Hotel Co.* v. *London C. C.*, *ante*, p. 2717). See, however, as to refreshment houses the Act of 1913, *post*, p. 2730. A boy employed at the railway bookstall at R. went every morning to the village two miles off to deliver newspapers ; he then sold newspapers for a short time at the station before returning to R. ; for the purposes of such sale, he erected each day a stall consisting of a board upon trestles. It was held that the stall was probably a " shop " for some purposes of the Act, but not for the purposes of s. 4 (see s. 2 (3) of this Act), as to exhibiting a notice, because the boy was really employed at R., where a notice was duly exhibited (*Smith & Son* v. *Kyle*, [1902] 1 K. B. 286). See also *Ward* v. *Smith & Son*, *ante*, p. 2716. Where milk was procured from an automatic machine attached to the door of a closed shop it was held that the place where the sale occurred was a shop within the meaning of the Act (*Willesden U. D. C.* v. *Morgan*, *ante*, p. 2719). A hotel is not a shop, nor are the waiters employed therein shop assistants within the meaning of this definition (*Gordon Hotels, Ltd.* v. *London C. C.*, [1916] 2 K. B. 27 ; 80 J. P. 266). But a coal merchant's branch office in which no coal is kept and only orders are dealt with is a shop, and the attendant in it who takes the orders is a shop assistant (*Wallace* v. *Dixon*, [1917] 2 Ir. 236).

A booth or stall erected on a beach and used only for mechanical games of chance or skill, in which members of the public are invited to participate on payment of an entrance fee is not a shop within the above definition (*Dennis* v. *Hutchinson*, [1922] 1 K. B. 693 ; 86 J. P. 85). As to a kitchenmaid in a restaurant being a " shop assistant," see *Melhuish* v. *London C. C.*, [1914] 3 K. B. 325 ; 78 J. P. 441. As to the employment of a potman on licensed premises whose duties were regarded by the court as sufficiently proximate to the serving of customers, see *Prance* v. *London C. C.*, [1915] 1 K. B. 688 ; 79 J. P. 242.

For the purposes of s. 2, wholesale shops and warehouses are to be treated as shops (see s. 2 (5)), *ante*, p. 2717.

(*c*) An order under the Act fixed the closing hours for shops " in which the retail trade or business of a jeweller, gold or silversmith, ironmonger, hardware merchant, or tool dealer is carried on." The respondent, who was an auctioneer, and who sold on his premises, being a shop, all kinds of articles, including articles of jewellery entrusted to him for sale by auction and pawnbrokers' pledges, sold by auction in the ordinary way, on certain days after the closing hours fixed by the order, articles of jewellery. It was held that the respondent had not thereby carried on the retail business of a jeweller within the meaning of the order (*Lucas* v. *Reubens*, [1921] 2 K. B. 482 ; 85 J. P. 166).

20. [*Scotland.*]

21. [*Ireland.*]

Section 22.

Short title, commencement, and repeal.

22.—(1) This Act may be cited as the Shops Act, 1912.

(2) *This Act shall come into operation on the first day of May nineteen hundred and twelve.*

(3) *The Shops Regulation Acts*, 1892 *to* 1911 (*a*), *are hereby repealed :* (*b*)

4 Edw. 7, c. 31.

Provided that any closing order made under the Shop Hours Act, 1904 (*c*), which is in force at the commencement of this Act, shall continue in force until revoked in accordance with the provisions of this Act, except in so far as it fixes a closing hour earlier than seven o'clock for any shop to which the provisions of this Act with respect to the weekly half-holiday apply.

(*a*) The Shops Regulation Acts, 1892 to 1911, were : (i.) the Shop Hours Act, 1892, as to hours of employment of young persons, substantially re-enacted in s. 2, *ante ;* (ii.) the Shop Hours Act, 1893, as to salaries of inspectors ; (iii.) the Shop Hours Act, 1895, passed merely to remedy a draftsman's omission disclosed by *Hammond* v. *Pulsford*, [1895] 1 Q. B. 223 ; (iv.) the Seats for Shop Assistants Act, 1899, substantially re-enacted in s. 3, *ante ;* (v.) the Shop Hours Act, 1904, as to closing orders, substantially re-enacted in ss. 5 *et seq.*, *ante ;* and (vi.) the Shop Hours Act, 1911, as to hours of employment and meal times and weekly half-holidays, see now ss. 1, 4, *ante.* This last Act never came into operation.

(*b*) Words in italics repealed by S. L. R. A., 1927.

(*c*) Such orders could combine weekly half-holiday and ordinary closing provisions.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

Intervals for Meals.

Intervals for meals shall be arranged so as to secure that no person shall be employed for more than six hours without an interval of at least twenty minutes being allowed during the course thereof.

Without prejudice to the foregoing provision—

(1) where the hours of employment include the hours from 11.30 a.m. to 2.30 p.m., an interval of not less than three-quarters of an hour shall be allowed between those hours for dinner ; and

(2) where the hours of employment include the hours from 4 p.m. to 7 p.m., an interval of not less than half-an-hour shall be allowed between those hours for tea ;

and the interval for dinner shall be increased to one hour in cases where that meal is not taken in the shop, or in a building of which the shop forms part or to which the shop is attached :

Provided that an assistant employed in the sale of refreshments or in the sale by retail of intoxicating liquors need not be allowed the interval for dinner between 11.30 a.m. and 2.30 p.m., if he is allowed the same interval so arranged as either to end not earlier than 11.30 a.m. or to commence not later than 2.30 p.m., and the same exemption shall apply to assistants employed in any shop on the market day in any town in which a market is held not oftener than once a week, or on a day on which an annual fair is held.

SECOND SCHEDULE (*a*).

Section 4.

Trades and Businesses exempted from the Provisions as to Weekly Half-Holiday.

The sale by retail of intoxicating liquors.

The sale of refreshments, including the business carried on at a railway refreshment room.

The sale of motor, cycle, and air-craft supplies and accessories to travellers (*b*).

The sale of newspapers and periodicals.

The sale of meat, fish, milk, cream, bread, confectionery, fruit, vegetables, flowers, and other articles of a perishable (*c*) nature.

Sched. II.

The sale of tobacco and smokers' requisites.

The business carried on at a railway bookstall on or adjoining a railway platform.

The sale of medicines and medical and surgical appliances.

Retail trade carried on at an exhibition or show, if the local authority certify that such retail trade is subsidiary or ancillary only to the main purpose of the exhibition or show.

(*a*) See as to this schedule generally, the notes to s. 4, *ante*, p. 2719, and the cases therein cited.

(*b*) This provision only includes the sale of supplies and accessories for motors, cycles, and air-craft and not the sale of other supplies or accessories to travellers (*Williams* v. *Gosden*, [1914] 1 K. B. 35; 77 J. P. 464).

(*c*) The Home Secretary has been advised that "preserved" foods, etc., are not "of a perishable nature." Butter has been held to be "perishable" (*London C. C.* v. *Welford's Surrey Dairies, Ltd.*, [1913] 2 K. B. 529; 77 J. P. 206). *Semble*, "run honey" is not confectionery (*ibid.*). As to the sale of sweets and chocolates, see *Gee* v. *Davies, ante*, p. 2720.

Section 5.

THIRD SCHEDULE.

TRADES AND BUSINESSES EXEMPTED FROM PROVISIONS OF CLOSING ORDERS (*a*).

(*a*) This schedule was repealed by s. 10 (4) and Sch. IV. of the 1928 Act. As to transactions exempted from the provisions of closing orders see now Sch. I. of that Act, *post*, p. 3017.

FOURTH SCHEDULE.

[*Ireland.*]

FIFTH SCHEDULE.

[*Ireland.*]

THE SHOPS ACT, 1913.

(2 & 3 GEO. 5, c. 24.)

An Act to amend the Shops Act, 1912, *in its application to premises for the sale of refreshments.* [7th March, 1913.]

Amendment of 2 Geo. 5, c. 3, in its application to premises for the sale of refreshments.

1.—(1) The provisions of section one (*a*) of the Shops Act, 1912, shall not apply to shop assistants employed in any premises for the sale of refreshments, whether licensed for the sale of intoxicating liquor or not, if their employment is wholly or mainly in connexion with the sale of intoxicating liquors or refreshments for consumption on the premises, and if the occupier of the premises, by such notice as is hereinafter mentioned, signifies that he elects that instead of those provisions the following provisions shall apply :—

(a) No such assistant shall be employed for more than sixty-five hours in any week exclusive of meal times.

(b) Provision shall be made for securing to every such assistant—

(i) thirty-two whole holidays on a week day in every year, of which at least two shall be given within the currency of each month and which shall comprise a holiday on full pay of not less than six consecutive days;

(ii) twenty-six whole holidays on Sunday in every year, so distributed that at least one out of every three consecutive Sundays shall be a whole holiday:

Provided that two half holidays on a week day shall be deemed equivalent to one whole holiday on a week day.

Section 1.

(c) Intervals for meals shall be allowed to every such assistant amounting on a half holiday to not less than three-quarters of an hour, and on every other day to not less than two hours, and no assistant shall be employed for more than six hours without being allowed an interval of at least half an hour:

Provided that this provision shall not apply if the only persons employed as such shop assistants are members of the family of the occupier of the premises maintained by him and dwelling in his house.

(d) The occupier shall affix and constantly maintain in a conspicuous position in the premises a notice in the prescribed form referring to the provisions of this section, and stating the steps taken with a view to compliance therewith.

(2) Where the occupier of any premises has signified as aforesaid that he elects that the foregoing provisions shall apply, and any of those provisions are not complied with, the occupier of the premises shall be guilty of an offence against the Shops Act, 1912, and shall be liable to a fine not exceeding:—

(a) in the case of a first offence, one pound;
(b) in the case of a second offence, five pounds; and
(c) in the case of a third or subsequent offence, ten pounds.

(3) For the purposes of this section, the expression "half holiday" means a day on which the employment of an assistant ceases not later than three o'clock in the afternoon and on which he is not employed for more than six hours including meal time.

(4) A notice under this section may be withdrawn by the occupier of the shop at the expiration of a year from the date when it was given, and thereafter at the expiration of any succeeding year, and upon any such withdrawal section one of the Shops Act, 1912, shall apply to the shop in like manner as before the notice was given.

(5) The Shops Act, 1912, as amended by this Act, shall, in its application to any premises in respect to which a notice under this section is in force, have effect as though the definition of "shop assistant" included all persons wholly or mainly employed in any capacity at the premises in connexion with the business there carried on (*b*).

(*a*) See this section, *ante*, p. 2715.

(*b*) Where the occupier of premises elects to apply this Act to such premises he must be taken to elect to adopt the definition of "shop assistant" contained in this sub-section and cannot be heard to say that any one who falls within that definition is not a shop assistant (*Rutherford* v. *Trust Houses, Ltd.*, [1926] 1 K. B. 321; 90 J. P. 62).

Short title and extent.

2.—(1) This Act may be cited as the Shops Act, 1913, and shall be construed as one with the Shops Act, 1912; and the Shops Act, 1912, and this Act may be cited together as the Shops Acts, 1912 and 1913.

(2) This Act shall not extend to shops in Ireland in which the business of the sale by retail of intoxicating liquors is carried on.

THE FABRICS (MISDESCRIPTION) ACT, 1913.

(3 & 4 GEO. 5, c. 17.)

An Act to prevent the Misdescription of Fabrics. [15th August, 1913.]

Prohibition of sale with misleading description as to inflammability.

1. It shall not be lawful for any person to sell, or expose, or have in his possession for sale, any textile fabric either in the piece, or made up into garments, or in any other form, to which is attributed expressly or inferentially the quality of non-inflammability, or safety from fire, or any degree of such quality of non-inflammability or safety from fire—

Section 1.

(1) by wording or marking, descriptive or otherwise—
(a) upon the material; or
(b) upon any wrapper or band; or
(c) contained in any letterpress or writing referring to the material; or
(2) by verbal representation at the time of sale;

unless such textile fabric conforms to such standard of non-inflammability as may be prescribed by regulations (*a*) to be made by the Secretary of State, and, if any person sells, or has in his possession, textile fabric in contravention of this Act, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, or, in the case of a second or subsequent offence, fifty pounds.

(*a*) On January 20th, 1914, the Home Secretary made the following regulations under this section:—1. A textile fabric shall be deemed to conform to the standard of non-inflammability if, when tested in accordance with the prescribed method of testing, it is not set alight, or, if set alight, burns without a flame or with a flame which does not spread but converges and dies out. 2. The prescribed method of testing shall be as follows:—A sample of the fabric measuring not less than one square yard shall be taken, and, after it has been four times in succession thoroughly washed with soap and water, dried and ironed, shall be suspended vertically without folds or creases and so that the lower edge shall not be a selvedge or a folded edge. The flame of a wax taper not less than $\frac{1}{8}$ inch or more than $\frac{3}{16}$ inch in thickness shall then be brought in contact with the fabric at its lower edge and shall be kept in contact for not less than twelve or more than fifteen seconds.

Power of Secretary of State to make regulations. 56 & 57 Vict. c. 66.

2. All regulations made by the Secretary of State under this Act shall be laid before Parliament as soon as may be after they are made, and the Rules Publication Act, 1893, shall apply to such regulations as if they were statutory rules within the meaning of section one of that Act.

Cases where vendors purchase under warranty.

3. Where in any proceedings against a person charged with an offence under this Act, it is proved that an offence under this Act has been committed, but that the person charged with the offence—
(a) purchased the textile fabric in respect of which the offence was committed from a person resident within (*a*) the United Kingdom who sold the textile fabric under a warranty that it complied with the prescribed standard of non-inflammability; and
(b) took reasonable steps to ascertain, and did in fact believe in the accuracy of the statement contained in the warranty;

the person so charged shall be entitled upon an information duly laid by him to have the person who gave the warranty brought before the court, and that person may be summarily convicted of the offence, and the person originally charged shall be exempt from any fine, and the person so convicted shall, in the discretion of the court, also be liable to pay any costs incidental to the proceedings.

(*a*) If the fabric is purchased from a person outside the United Kingdom, the purchaser must take all responsibility for it.

Material found in possession deemed to be for sale.

4. Where a person is charged with having textile fabric in his possession in contravention of this Act, any such material proved in the proceedings to have been found in his possession shall be deemed to be intended for sale as aforesaid unless the contrary is proved.

Powers and duties of local authorities.

5.—(1) It shall be the duty of every local authority to enforce the provisions of this Act within their district, and for that purpose any male or female person or officer whom the local authority may appoint shall have power, if so authorised by the local authority, to institute and carry on any proceedings which the local authority is authorised to institute and carry on under this Act.

(2) In this Act the expression "local authority" meons—
as respects the city of London the common council;
as respects any municipal borough, the council of the borough;
as respects any urban district, the district council;
elsewhere, the county council:

Provided that the London County Council may, with the approval of the Secretary of State, make arrangements with the council of any metropolitan borough for the exercise by the metropolitan borough as agents for the London County Council, on such terms and subject to such conditions as may be agreed on, of any powers of the London County Council under this Act within the district of the metropolitan borough, and the council of the metropolitan borough may, as part of the agreement, undertake to pay the whole or any part of the expense incurred in connection with the exercise of the powers delegated to them.

(3) The expenses of a local authority under this Act shall be defrayed,—
in the case of the common council of the city of London, out of the general rate;
in the case of the council of a borough, out of the borough fund or borough rate (*a*);
in the case of a district council, as part of the general expenses incurred in the execution of the Public Health Acts (*b*);
in the case of a county council, as expenses for special county purposes;
in the case of a metropolitan borough council, as part of the expenses of the council.

(*a*) Now general rate fund or general rate, see the R. & V. Act, 1925, *ante*, p. 1633.
(*b*) See s. 207 of the P. H. A., 1875, as amended by the R. & V. Act, 1925, *ante*, p. 495.

6. All fines imposed in any proceedings instituted by a local authority in pursuance of their powers and duties under this Act shall be paid to the local authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed. Fines imposed to be paid to local authorities.

7. 8. [*Scotland; Ireland.*]

9. This Act may be cited as the Fabrics (Misdescription) Act, 1913, and shall come into operation on the first day of January nineteen hundred and fourteen. Short title and commencement of Act.

THE ANCIENT MONUMENTS CONSOLIDATION AND AMENDMENT ACT, 1913.

(3 & 4 GEO. 5, c. 32.)

* * * * * *

Miscellaneous.

18. Where it appears to the council of a borough or a district, which expression in this Act shall include the Common Council of the City of London, that the erection of buildings of a style of architecture in harmony with other buildings of artistic merit existing in the locality is impeded in consequence of any byelaws (*a*) with respect to new streets or buildings in force in the borough or district, the council may, with the consent of the Local Government Board (*b*), relax the byelaws so far as may be necessary to allow the erection of such buildings, provided that the council is satisfied that such buildings can be erected with due regard to safety from fire and to sanitation: Provided Relaxation of byelaws.

Section 18. also that no byelaws in force in the city of London shall be relaxed under this section except such as are administered by the Common Council of the city of London.

(*a*) As to such byelaws, see the P. H. A., 1875, ss. 157 *et seq.*, *ante*, pp. 346 *et seq.*
(*b*) Now the M. of H. (see M. of H. Act, 1919).

Power of councils to make byelaws regulating advertisements.

19. The Advertisements Regulation Act, 1907 (*a*), shall be construed as if the powers of the local authority as defined by that Act included a power to make byelaws prohibiting or restricting the display of advertisements or notices of such a nature or in such a manner as to be deterimental to the amenities of any ancient monument specified in the byelaw. Any power to make byelaws given by this section shall be in addition to and not in derogation of, the powers to make byelaws given by the Advertisements Regulation Act, 1907, or by any other Act. 7 Edw. 7, c. 27.

(*a*) See this Act, *ante*, p. 1096, and the amending Act of 1925, *ante*, p. 1529. Reference may also be made to the Petroleum (Consolidation) Act, 1928, s. 11, *post*, p. 2996.

* * * * * *

THE BANKRUPTCY ACT, 1914.

(4 & 5 Geo. 5, c. 59.)

An Act to consolidate the Law relating to Bankruptcy (a).

[10th August, 1914.]

* * * * * *

Priority of debts.

33.—(1) In the distribution of the property of a bankrupt there shall be paid in priority to all other debts (*b*)—

(*a*) All parochial or other local rates (*c*) due from the bankrupt at the date of the receiving order, and having become due and payable within twelve months next before that time, and all assessed taxes, land tax, property or income tax, assessed on the bankrupt up to the fifth day of April next before the date of the receiving order, and not exceeding in the whole of one year's assessment (*d*);

(*b*) All wages or salary of any clerk or servant in respect of services rendered to the bankrupt during four months before the date of the receiving order, not exceeding fifty pounds (*e*);

(*c*) All wages of any labourer or workman not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the bankrupt during two months before the date of the receiving order: Provided that, where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, the priority under this section shall extend to the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the date of the receiving order;

6 Edw. 7, c. 58.

(*d*) All amounts, *not exceeding in any individual case one hundred pounds* (*f*), due in respect of compensation under the Workmen's Compensation Act, 1906, the liability wherefor accrued before the date of the receiving order, subject nevertheless to the provisions of section five of that Act (*g*); and

1 & 2 Geo. 5, c. 55.

(*e*) All contributions payable under the National Insurance Act, 1911, by the bankrupt, in respect of employed contributors or workmen in

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an insured trade during four months before the date of the receiving order (*h*).

(2) The foregoing debts shall rank equally between themselves and shall be paid in full, unless the property of the bankrupt is insufficient to meet them, in which case they shall abate in equal proportions between themselves.

(3) Subject to the retention of such sums as may be necessary for the costs of administration or otherwise, the foregoing debts shall be discharged forthwith so far as the property of the debtor is sufficient to meet them.

(4) In the event of a landlord or other person distraining or having distrained on any goods or effects of a bankrupt within three months next before the date of the receiving order the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom such payment is made (*i*).

(5) This section shall apply, in the case of a deceased person who dies insolvent, as if he were a bankrupt, and as if the date of his death were substituted for the date of the receiving order (*k*).

(6) In the case of partners the joint estate shall be applicable in the first instance in payment of their joint debts, and the separate estate of each partner shall be applicable in the first instance in payment of his separate debts. If there is a surplus of the separate estates, it shall be dealt with as part of the joint estate. If there is a surplus of the joint estate, it shall be dealt with as part of the respective separate estates in proportion to the right and interest of each partner in the joint estate.

(7) Subject to the provisions of this Act, all debts proved in the bankruptcy shall be paid pari passu.

(8) If there is any surplus after payment of the foregoing debts, it shall be applied in payment of interest from the date of the receiving order at the rate of four pounds per centum per annum on all debts proved in the bankruptcy.

(9) Nothing in this section shall alter the effect of section three of the Partnership Act, 1890, or shall prejudice the provisions of the Friendly Societies Act, 1896, or of section fourteen of the Trustee Savings Banks Act, 1863, or the provisions of any enactment relating to deeds of arrangement respecting the payment of expenses incurred by the trustee under a deed of arrangement which has been avoided by the bankruptcy of the debtor (*l*).

53 & 54 Vict. c. 39.
59 & 60 Vict. c. 25.
26 & 27 Vict. c. 87.

* * * * * *

(*a*) This Act repeals the Bankruptcy Act, 1883, and the sections which are here set out are in substance a re-enactment of those of the earlier Act relating to the preferential payments in bankruptcy.

For the corresponding provisions of the Companies Act, 1929, relating to preferential payments in the winding-up of companies, see that Act, *post*, p. 3021.

As to when a bankruptcy commences, see *In re Bumpus, Ex parte White*, [1908] 2 K. B. 330.

(*b*) These words must be read subject to s. 130 (6) of the Act, which provides that in the administration of the property of a deceased debtor under an order of administration the official receiver or trustee shall have regard to any claim by the legal personal representative of the deceased debtor to payment of the proper funeral and testamentary expenses incurred by him in and about the debtor's estate, and such claims shall be deemed a preferential debt under the order, and shall, notwithstanding anything to the contrary in the provisions of the Act relating to the priority of other debts, be payable in full out of the debtor's estate in priority to all other debts.

(*c*) This expression would include general rates made by an urban or rural authority. It does not include harbour dues (*In re H. & Co.* (1890), 27 L. R. Ir. 271). It was held *In re Mannesman Tube Co.*, [1901] 2 Ch. 93; 65 J. P. 377 (apparently without argument), to include meter charges for water: *sed quære.* The *Mannesman Tube* case was not followed by a county court judge in *Worthing Corporation* v. *Orbell* (1923), 45 M. C. C. 217, who applied the definition of "local rate" contained in the Local Loans Act, 1875,

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s. 34, *ante*, p. 2354, and held that a water rate was not a "local rate" within the Act since it was not applicable for public local purposes. See also *In re an arranging debtor*, [1921] 2 Ir. R. 1.

(*d*) A. was assessed to a local rate as the occupier of certain premises, and his rate was payable in advance for half a year on October 8th, 1886. On January 17th, 1887, A. became bankrupt, and at that time the rate remained unpaid. On February 1st, 1887, the official receiver, as trustee, sold A.'s interest in the premises to B., who allowed A. to remain in occupation as his tenant. The rate was claimed from the trustee for the whole half-year; the trustee offered to pay the proportion of it up to February 1st, being for the period during which he continued occupier. *Held*, that the bankrupt had not ceased to be occupier, and that the trustee was liable for the rate for the whole half-year (*Ex parte Ystradyfodwg L. B., Re Thomas* (1888), 57 L. J. Q. B. 39; 58 L. T. 113). See also in *Re Smith, Ex parte Mason, ante*, p. 2318. Where a trustee in bankruptcy entered upon the premises of the bankrupt and subsequently disclaimed the tenancy under s. 54 of the Bankruptcy Act, 1914, the trustee was held personally liable for the rates on the premises during the period between his entry and the subsequent disclaimer (*In re Lister, Ex parte Bradford Overseers and Bradford Corporation*, [1926] 1 Ch. 149; 90 J. P. 33).

(*e*) See *Re Smith, Ex parte Fox* (1886), 17 Q. B. D. 4; *Re Klein, Ex parte Goodwin*, [1906] W. N. 148; 22 T. L. R. 664; *Cairney* v. *Back*, [1906] 2 K. B. 746; *Re Newspaper Proprietary Syndicate, Ltd.*, [1900] 2 Ch. 349; *Winter German Opera, Ltd.* (1907), 23 T. L. R. 662. The wages or salary referred to in this paragraph apply to the said wages or salary whether or not earned wholly or in part by way of commission (Bankruptcy (Amendment) Act, 1926, s. 2).

(*f*) Words in italics repealed by the Workmen's Compensation Act, 1923, s. 31 and Sch. II.

(*g*) This exception is taken from the Workmen's Compensation Act, 1906 (6 Edw. 7, c. 58), s. 5 (3). The costs of obtaining an award under that Act are not, however, a priority payment. See *In re Jinks*, [1914] W. N. 337.

(*h*) This exception was taken from the National Insurance Act, 1911, s. 110, see now s. 106 of the National Health Insurance Act, 1924.

(*i*) This sub-section was an addition to the previous law. The landlord who has distrained within the three months herein mentioned, must, out of the proceeds of his distress, pay the rates and other preferential debts mentioned in the section, but he, in turn, will have the right to be repaid before other creditors.

(*k*) The priority as to rates, etc., applies in the case of a deceased insolvent whose estate is being administered in the Chancery Division (*In re Heywood, Parkington* v. *Heywood*, [1897] 2 Ch. 593).

(*l*) The 28 & 29 Vict. c. 86 ("Bovills" Act) was repealed by the Partnership Act, 1890; but s. 5 was, in effect, reproduced by ss. 2 (3) (*d*) (*e*) and 3 thereof. By s. 2, in determining whether a partnership does or does not exist, regard shall be had to the following rules: (3) The receipt by a person of a share of the profits of a business is *primâ facie* evidence that he is a partner in the business, but the receipt of such a share or of a payment contingent on or varying with the profits of a business does not of itself make him a partner in the business; and in particular (*d*) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such. Provided that the contract is in writing, and signed by or on behalf of all the parties thereto; (*e*) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of a sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such. And by s. 3 of the same Act, in the event of any person to whom money has been advancd by way of loan upon such a contract as is mentioned in the last foregoing section, or of any buyer of a goodwill in consideration of a share of the profits of the business, being adjudged a bankrupt, entering into an arrangement to pay his creditors less than twenty shillings in the pound, or dying in insolvent circumstances, the lender of the loan shall not be entitled to recover anything in respect of his loan; and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied. But this section does not deprive the lender of his right to retain any security he may have taken for his money nor to foreclose his security (*Ex parte Shiel*, [1877] 4 Ch. D. 789; *Badeley* v. *Consolidated Bank* (1887), 34 Ch. D. 536).

The Friendly Societies Act, 1875, is now repealed by the Friendly Societies Act, 1896, but the provisions of s. 15 (7) are reproduced by s. 35 of that Act as follows, viz. (1) In the following cases, namely, (*a*) upon the death or bankruptcy of any officer of a registered society or branch having in his possession by virtue of his office any money or property belonging to the society or branch; or (*b*) if any execution, attachment, or

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other process is issued, or action or diligence raised against any such officer or against his property, his heirs, executors, or administrators, or trustee in bankruptcy; or the sheriff or other person executing the process, or the party using the action or diligence respectively, shall, upon demand in writing of the trustees of the society or branch, or of any two of them, or of any person authorised by the society or branch, or by the committee thereof, to make the demand, pay the money, and deliver over the property to the trustees of the society or branch in preference to any other debt or claim against the estate of the officer. (2) In this section the expression "bankruptcy" shall include liquidation of a debtor's affairs by arrangement in England, *Cessio bonorum* of a debtor in Scotland, and a petition for arrangements with creditors in Ireland; and the expression "trustee in bankruptcy" shall include a judicial factor in Scotland, and an assignee in Ireland. Upon the bankruptcy of an officer of a friendly society the trustees are, under this sub-section, entitled to preferential payment of sums received by him by virtue of his office, notwithstanding that these sums cannot be specifically traced, and are not at the time of the bankruptcy in his actual possession (*In re Miller, Ex parte Official Receiver*, [1893] 1 Q. B. 327; 57 J. P. 469, applied to the case of an ex-officer in *In re Eilbeck*, [1910] 1 K. B. 136).

The Trustee Savings Bank Act, 1863 (26 & 27 Vict. c. 87), s. 14, provides that the executors, trustees in bankruptcy, etc., of officers of savings banks shall pay any money due to savings banks before any other debts.

THE GAS (STANDARD OF CALORIFIC POWER) ACT, 1916.

(6 & 7 GEO. 5, c. 25.)

An Act to authorise as respects gas undertakings the substitution of a standard of calorific power for a standard of illuminating power (*a*).

[3rd August, 1916.]

Power to substitute standard of carlorific power for standard of illuminating power.

1.—(1) Where, by virtue of any Act or Order confirmed by Act of Parliament regulating the undertaking of any company, authority, or person authorised to supply gas in any area in the United Kingdom (hereinafter referred to as the undertakers), the gas supplied by the undertakers is required to be of a prescribed illuminating power, and the undertakers are liable to penalties in the case of the illuminating power of the gas provided by them being less than, or being less by a prescribed extent than, such prescribed illuminating power, then on application being made by the undertakers the appropriate Government department (*b*) may, if they think it expedient, and subject to such conditions, if any, as they consider proper, including such variation as they may think desirable of the prescribed pressure at which the gas is to be supplied, by order—

(*a*) substitute for the prescribed standard of illuminating power a prescribed standard of calorific power;

(*b*) exempt the undertakers from penalties in respect of a deficiency in illuminating power and substitute for the provisions imposing such penalties provisions imposing penalties in the case of deficiency in calorific power; and

(*c*) substitute for the provisions as to testing for illuminating power provisions as to testing for calorific power;

and on the making of such an order the Act or Order regulating the undertaking shall have effect as amended by the order.

(2) In considering the expediency of making such an order the department shall have special regard to whether the undertakers have erected and worked, or are prepared to erect and work, suitable crude benzol recovery plant for the production of benzol and toluol.

(3) Before making an order under this section the appropriate Government department (*b*) shall require the undertakers to give public notice, in such manner as the department may consider best adapted for informing persons affected, of the application for an order under this section, and of the calorific standard proposed to be adopted, and as to the manner in which and time

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within which objections may be made, and shall consider any objections which may be duly made, and shall, where they think it expedient to do so, hold an inquiry, and the costs (if any) incurred by the department in connection with the inquiry shall be borne by the undertakers.

(4) For the purposes of this section " the appropriate Government department " means—

(*a*) in cases where the undertakers are a local authority, the Local Government Board (*c*), or the Secretary for Scotland, or the Local Government Board for Ireland, as the case may be ; and

(*b*) in any other case, the Board of Trade.

(*a*) The special Act or order applicable to a gas undertaking makes provision for a standard of illuminating power, the minimum power usually required being a light equal to fourteen sperm candles. For some time past, however, conditions have changed, consequent on the introduction of the incandescent gas mantle and the development of the use of gas for cooking, heating, and power, whereby the importance of a high illuminating power is greatly lessened. The Act provides that, subject to certain conditions, a standard of calorific power may be substituted for the prescribed standard of illuminating power. See generally as to the latter standard the provisions of the Gasworks Clauses Act, 1871, *ante*, p. 2315.

See further as to the power of the Board of Trade to make orders providing for the repeal of any enactments or other provisions requiring the undertakers to supply gas of any particular illuminating or calorific value, and for substituting power to charge for thermal units supplied in the form of gas, the Gas Regulation Act, 1920 (10 & 11 Geo. 5, c. 28), *post*, p. 2807. The Gas Undertakings Act, 1929, *post*, p. 3025, requires the Board of Trade to make such orders in the case of undertakers supplying more than 20 million cubic feet of gas in any year subsequent to 1927.

(*b*) See the definition of this expression in sub-s. (4).

(*c*) The powers under this Act were transferred to the Ministry of Health by 9 & 10 Geo. 5, c. 21, s. 3 (1), *post*, p. 2751. They have again been transferred to the Board of Trade by an Order in Council made on November 9th, 1920, under sub-ss. (3) and (4) of the same section.

Short title.

2. This Act may be cited as the Gas (Standard of Calorific Power) Act, 1916.

THE WAR CHARITIES ACT, 1916.

(6 & 7 Geo. 5, c. 43.)

An Act to provide for the Registration of Charities for purposes connected with the present War (a). [23rd August, 1916.]

Prohibition against raising money for war charities unless registered.

1.—(1) It shall not be lawful to make any appeal to the public for donations or subscriptions in money or in kind to any war charity as herein-after defined, or to raise or attempt to raise money for any such charity by promoting any bazaar, sale, entertainment or exhibition, or by any similar means, unless the charity is registered under this Act and the approval in writing of the committee or other governing body of the charity has been obtained, either directly or through any person duly authorised to give such approval on behalf of such governing body, and if any person contravenes the provisions of this section he shall be guilty of an offence against this Act :

Provided that this Act shall not apply to any collection at divine service in a place of public worship nor to any charity which may, under any regulations made under this Act, be exempted by the registration authority from the provisions of this section.

(2) *This section, so far as it relates to registration, shall not apply to any charity until the expiration of one month after the passing of this Act, nor to any charity pending the decision of the registration authority on an application for the registration of such charity made within such month* (*b*).

(*a*) This Act is included in the present volume because of the duties it imposes on the councils of boroughs and urban districts in connection with the registration of war charities as defined by s. 10, *post*, p. 2742. It has been extended to charities for the blind by 10 & 11 Geo. 5, c. 49, s. 3.
(*b*) Repealed by S. L. R. A., 1927

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Registration of war charities.

2.—(1) The registration authority shall —
(*a*) as respects the City of London, be the Mayor, Aldermen, and Commons of the City of London in common council assembled;
(*b*) as respects a municipal borough or urban district, be the council of the borough or district;
(*c*) elsewhere, be the county council:

Provided that any such council may act through a committee of the council, which may, if the council think fit, comprise persons (including women) who are not members of the council.

(2) Applications for registration or exemption under this Act shall be sent to the registration authority for the area in which the administrative centre of the charity is situate, and any question as to where the administrative centre of any charity is situate shall be finally determined by the Charity Commissioners.

(3) The registration authority may, before registering any charity, make such inquiries with respect to the charity as they think fit, but shall not refuse to register any charity having its administrative centre within the area of the authority unless they are satisfied that the charity is not established in good faith for charitable purposes, or will not comply with the conditions imposed by this Act, or that it will not be properly administered.

(4) An appeal from a refusal by a registration authority to register any charity shall lie to the Charity Commissioners, and, if as the result of such appeal the Charity Commissioners determine that the application for registration ought not to be refused, the registration authority shall register the charity.

(5) Every registration authority shall give to each charity registered or exempted a certificate of registration or exemption, and shall keep a register of the charities registered by them under this Act, and lists of all charities registration of which has been refused by them and of all charities which have been exempted from registration by them, and shall send to the Charity Commissioners a copy of such register and such lists, and shall from time to time notify the Charity Commissioners of any changes in the particulars entered in the register and of changes in such lists.

(6) The Charity Commissioners shall keep a combined register of all charities registered under this Act, and a combined list of all charities in respect of which applications for registration under this Act have been refused, and a combined list of all charities which have been exempted from registration under this Act.

(7) Any expenses incurred by a council as registration authority under this Act may be paid out of any fund or rate out of which the expenses of the council are payable (*a*).

(8) Any expenses incurred by the London County Council under this Act shall be defrayed out of the county fund as expenses for general county purposes.

(*a*) In the case of an urban authority the expenses will be paid out of the general rate or general rate fund. See the P. H. A., 1875, s. 207, *ante*, p. 495, as amended by the R. & V. Act, 1925, *ante*, p. 1633.

Conditions to be complied with by registered charities.

3. Charities registered under this Act shall comply with the following conditions—
(i) the charity shall be administered by a responsible committee or other body consisting of not less than three persons; and minutes

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shall be kept of the meetings of the committee or other body in which shall be recorded the names of the members of the committee or other body attending the meetings;

(ii) proper books of account shall be kept, and such accounts shall include the total receipts and the total expenditure of any collection, bazaar, sale, entertainment, or exhibition held with the approval of the governing body of the charity, and the accounts shall be audited at such intervals as may be prescribed by regulations under this Act by some person or persons approved by the registration authority, and copies of the accounts so audited shall be sent to the registration authority;

(iii) all moneys received by the charity shall be paid into a separate account at such bank or banks as may be specified as respects the charity in the register;

(iv) such particulars with regard to accounts and other records as the registration authority or the Charity Commissioners may require shall be furnished to the registration authority or the Charity Commissioners, and the books and accounts of the charity shall be open to inspection at any time by any person duly authorised by the registration authority or by the Charity Commissioners.

Regulations.

4. The Charity Commissioners may, subject to the approval of the Secretary of State, make regulations (*a*)—

(*a*) prescribing the forms for applications under this Act and the particulars to be contained therein;

(*b*) prescribing the form of the registers to be kept under this Act and the particulars to be entered therein;

(*c*) providing for the inspection of registers and lists kept under this Act, and the making and the furnishing and certification of copies thereof and extracts therefrom;

(*d*) prescribing the fee (not exceeding ten shillings) to be paid on registration, and the fees for making or obtaining copies of, and extracts from, registers and lists;

(*e*) requiring notification to the registration authority of any changes requiring alterations in the particulars entered in the register;

(*f*) providing for the exemption of charities from this Act and prescribing the grounds of exemption;

(*g*) generally for carrying this Act into effect.

(*a*) Various regulations under this section relating to war charities and to charities for the blind (to which this Act has been extended) have been made by the Commissioners. These are too long for insertion here, but they will be found in the annual volumes on Local Government published by Butterworth & Co.

Removal from the register.

5.—(1) The registration authority, if satisfied that any charity registered under this Act is not being carried on in good faith for charitable purposes, or is not complying with any of the conditions imposed under this Act, or is not being properly administered, may remove the charity from the register, and shall notify such removal to the Charity Commissioners, and if they so remove it shall give public notice of its removal:

Provided that an appeal shall lie to the Charity Commissioners against the decision of the registration authority to remove a charity from the register.

(2) Where any charity is removed from the register the Charity Commissioners may, notwithstanding that an appeal is pending,—

(*a*) order any bank or other person who holds money or securities on behalf of the charity not to part with such money or securities without the authority of the Commissioners;

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(*b*) order any cash or securities held for any such charity to be paid or transferred to the Official Trustees of Charitable Funds and for that purpose may make, without any application to them for the purpose, any such order as they are authorised under section two of the Charitable Trusts Act, 1860, to make;

23 & 24 Vict. c. 136.

and if any person fails to comply with any such order he shall, without prejudice to any other liability, be guilty of an offence against this Act.

(3) The Charity Commissioners may also, where a charity is removed from the register, establish a scheme for the regulation of the charity in accordance with their ordinary jurisdiction under the Charitable Trusts Acts, 1853 to 1914, as if the charity were a charity within the jurisdiction of the Commissioners under those Acts, but without the necessity of any application being made for the purpose.

Powers of Charity Commissioners for purposes of appeals.

6. For the purposes of an appeal under this Act the Charity Commissioners shall, in relation to charities registered or applying to be registered under this Act, have all such powers with respect to requiring accounts, statements, written answers to inquiries, the attendance of persons for examination on oath or otherwise, the production of documents, the furnishing of copies and extracts from documents, the examination of registers and records, and the transmission of documents for examination, as are exercisable by them under the Charitable Trusts Acts, 1853 to 1914, in relation to charities within the jurisdiction of the Commissioners under those Acts, and those Acts shall apply accordingly.

Powers as to unregistered war charities.

7.—(1) Where the Charity Commissioners are satisfied on the representation of the registration authority or a chief officer of police that there is reasonable ground for believing that any unregistered war charity is not being or has not been carried on in good faith for charitable purposes, or is not complying or has not complied with conditions substantially corresponding with the conditions imposed on registered charities under this Act, or is not being or has not been properly administered, the Commissioners may exercise as respects the charity any of the powers which are exercisable by them with respect to a charity which, having been registered under this Act, has been removed from the register, and for the purpose of an inquiry into any charity under this section the Charity Commissioners shall have such powers in relation to the charity as are conferred by this Act on the Commissioners for the purposes of appeals:

Provided that the Charity Commissioners shall not exercise the power of establishing a scheme for the regulation of any charity under this section without giving the charity a full opportunity of being heard.

(2) This section shall apply to unregistered war charities whether or not an application for registration has been made, and to war charities registration of which has been refused.

False statements, etc.

8. If any person in any application for registration or exemption or in any notification of any change requiring alterations in the registered particulars makes any false statement or false representation, or if any person falsely represents himself to be an officer or agent of a war charity, or if he fails to send any notification which he is required under this Act to send, he shall be guilty of an offence against this Act.

Penalties for offences.

9.—(1) Any person guilty of an offence against this Act shall be liable on summary conviction to a fine not exceeding one hundred pounds, or to imprisonment with or without hard labour for a term not exceeding three months.

(2) No proceedings for an offence against this Act shall be instituted except by or with the consent of the Charity Commissioners.

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Interpretation.

10. For the purposes of this Act—

The expression "war charity" means any fund, institution, or association (whether established before or after the commencement of this Act) having for its object or amongst its objects the relief of suffering or distress, the supply of needs or comforts, or any other charitable purpose connected with the present war, but shall not include any fund, institution or association established before the commencement of the present war where any such object as aforesaid is subsidiary only to the principal purposes of the charity (*a*), nor shall it include the Royal Patriotic Fund Corporation or the Statutory Committee or any local or district committee established under the Naval and Military War Pensions, etc., Act, 1915.

5 & 6 Geo. 5, c. 83.

Any question whether a charity is a war charity shall be finally determined by the Charity Commissioners.

(*a*) A registered trade union may be a "war charity" within this Act as extended by 10 & 11 Geo. 5, c. 49 (*Barber* v. *Chudley* (1923), 87 J. P. 69).

11. [*Application to Scotland.*]

Short title and extent.

12.—(1) This Act may be cited as the War Charities Act, 1916.

. . . . . .

THE DEFENCE OF THE REALM (ACQUISITION OF LAND) ACT, 1916.

(6 & 7 GEO. 5, C. 63.)

An Act to make provision with respect to the possession and acquisition of land occupied or used for the Defence of the Realm in connection with the present War and for other purposes connected therewith (*a*).

[22nd December, 1916.]

1 (*b*).—[*Continuation of possession of land occupied for the purposes of the defence of the realm.*]

(*a*) This Act is amended by 10 & 11 Geo. 5, c. 79, *post*, p. 2823. Those parts of the Act which are now spent have been repealed by the S. L. R. A., 1927.
(*b*) Repealed by S. L. R. A., 1927.

2 (*a*).—[*Power to remove buildings and works.*]

(*a*) Repealed by S. L. R. A., 1927.

3 (*a*).—[*Power to acquire land permanently.*]

(*a*) This section with the exception of sub-s. (7) was repealed by S. L. R. A., 1927.

(7) Any person having power (whether subject to any consent or conditions or not) to sell land authorised to be acquired by any Government department may, subject to the like consent and conditions, grant or demise the land in perpetuity or for any term of years to the Government department at such fee farm or other rent, secured by such condition of re-entry or otherwise as may be agreed upon, and with or without a right of renewal, or grant to the Government department an option to acquire the land:

Provided that, where the power to sell arises under the Settled Lands Acts, 1882 to 1890, the powers conferred by this section shall be exercised only with the consent of the trustees of the settlement for the purposes of those Acts, or with the sanction of the court.

User of land acquired.

4. Any land which, or an interest in which, has been acquired under this Act may be used by any Government department for the purpose for which it was used during the war or for any other purpose for which it could have been used had the land been acquired under the Defence Acts, 1842 to 1873 (*a*), or the Military Lands Acts, 1892 to 1903 (*b*), notwithstanding that such user could, but for this Act, have been restrained as being in contravention of any covenant or for any other reason, and no person interested in any adjoining or neighbouring land or entitled to any riparian rights shall be entitled to restrain such user; but if, apart from this Act, any such person would have been entitled to restrain such user, then, if application for the purpose is made within three years after the date of the acquisition of the land under this Act or after the commencement of the user causing the depreciation, whichever may be the later, he shall,—

(i) if the land is used for a purpose for which it could have been used had the land been acquired under the Defence Acts, 1842 to 1873, or the Military Lands Acts, 1892 to 1903, be entitled to such compensation in respect of any breach of a restrictive covenant or damage caused by the pollution, abstraction, or diversion of water, or by the emission of noxious fumes, as in default of agreement may be determined in manner provided by this Act (*c*); and

(ii) if the land is used for any other purpose, be entitled to such compensation in respect of any damage occasioned by such user as in default of agreement may be determined in manner provided by this Act (*c*):

Provided that—

(*a*) where such compensation is claimed in respect of any land, the department may, at any time before such claim is determined, and on payment of all costs properly incurred by the claimant in respect of his claim, require the claimant to sell the land or his interest therein at such price as would have been proper if the value of the land had not been so depreciated, such price in default of agreement to be determined in like manner as if the land had been acquired under section three of this Act; and

(*b*) nothing in this section shall be construed as depriving any person of any right to recover damages in respect of any injury to property caused by accident due to such user as aforesaid; and

(*c*) in the user of land or an interest in land acquired under this Act the provisions of the Alkali, &c. Works Regulation Act, 1906 (*d*), and the Rivers Pollution Prevention Acts, 1876 and 1893 (*e*), and of any local Act dealing with the like matters, shall be complied with, and those Acts shall apply accordingly, and nothing in this section shall affect the powers conferred by any Act, whether public, general or local, on any local authority, board of conservancy, or other public authority, with respect to the prevention of the pollution of rivers, or the abatement of nuisances caused by the emission of smoke or other noxious fumes.

6 Edw. 7, c. 14.
39 & 40 Vict. c. 75.
56 & 57 Vict. c. 31.

(*a*) The Defence Acts are 5 & 6 Vict. c. 94; 23 & 24 Vict. c. 112; 36 & 37 Vict. c. 72.

(*b*) The Military Lands Acts are 55 & 56 Vict. c. 43; 60 & 61 Vict. c. 6; 63 & 64 Vict. c. 56; and 3 Edw. 7, c. 47.

(*c*) See s. 8, *post*, p. 2746. See also the provision in 10 & 11 Geo. 5, c. 79, s. 1 (2), *post*, p. 2823, as to compensation in respect of the sale of land free from restrictive covenants.

(*d*) See the Act referred to, 6 Edw. 7, c. 14, *ante*, p. 2663.

(*e*) These Acts are 39 & 40 Vict. c. 75, *ante*, p. 706, and 56 & 57 Vict. c. 31, *ante*, p. 939.

Power to sell land acquired under Act.

5.—(1) Where any land or any interest therein has by virtue of this Act been acquired by any Government department, the department may at any time thereafter sell, lease, or otherwise dispose of the land or interest (*a*).

Section 5.

(2) Where any such land is disposed of, then on the execution and delivery to the purchaser by the Government department concerned of the necessary or proper assurance of the land disposed of, the purchaser shall notwithstanding any defect in the title of such Government department thereto stand possessed thereof for such estate or interest as may be expressed or intended to be assured to him, freed and absolutely discharged (save as in the assurance may be expressed) from all prior estates, interests, rights, and claims therein or thereto:

Provided that if at any time after such disposition any such prior estate, interest, right, or claim as aforesaid is established by the person entitled thereto, there shall be paid to such person compensation to be determined in manner provided by the Lands Clauses Acts, as modified by this Act, with respect to interests in lands which by mistake have been omitted to be purchased (*b*).

(3) Before any Government department sell any land so acquired or interest therein they shall, unless such land is land upon which buildings of a permanent nature have been erected wholly or partly at the expense of the State or at the request of, or by arrangement with, any Government department, or is land used in connection with such buildings, first offer to sell the same to the person then entitled to the lands (if any) from which the same were originally severed; *or if such person refuse to purchase the same, or cannot after diligent inquiry be found, then the like offer shall be made to the person or to the several persons whose lands shall immediately adjoin the lands so proposed to be sold* (*c*).

(4) If any such persons be desirous of purchasing such lands, then within six weeks after such offer they shall signify their desire in that behalf to the Government department concerned, or if they decline such offer, or if for six weeks they neglect to signify their desire to purchase such lands, the right of pre-emption of every such person so declining or neglecting in respect of the lands included in such offer shall cease.

(5) If any person entitled to such pre-emption be desirous of purchasing any such lands and such person and the Government department concerned do not agree as to the price thereof, or other consideration therefor, then such price or other consideration shall be determined in manner provided by this Act (*d*).

(6) The provisions of the last three foregoing subsections shall apply in the case of a lease of land for a term exceeding twenty-one years in like manner as they apply to a sale of land, except where the land is leased for the purpose of the development thereof in connection with any factory, building, camp, or other premises erected or established on land retained by the Government.

(*a*) As to the power to dispose of land free from restrictive covenants, see 10 & 11 Geo. 5, c. 79, s. 1, *post*, p. 2823.

(*b*) The provisions of the Lands Clauses Act, 1845, as to interest in lands which by mistake have been omitted to be purchased, are contained in ss. 124–126 of that Act, *ante*, p. 2132. The schedule to this Act does not modify these provisions, except in so far as it affects compensation generally.

(*c*) This provision, and that in each of the three following sub-sections, take the place of the sections of the Lands Clauses Act, ss. 128–131 (*ante*, p. 2133), which were expressly excluded from incorporation in this Act by rule 2 of the schedule. The words in italics are repealed by 10 & 11 Geo. 5, c. 79, s. 2 (1), *post*, p. 2823.

(*d*) See s. 8, *post*, p. 2746.

Provisions as to highways.

6.—(1) Where, in the exercise or purported exercise of any prerogative right of His Majesty or any powers conferred by or under any enactment relating to the defence of the realm, or by agreement, or otherwise, for purposes connected with the present war, any railway or tramway or any cable line or pipes have been laid along, across, over, or under any public highway, it shall be lawful after the termination of the war (*a*) for the railway or tramway or the cable line or pipes to continue to be used and maintained along, across, over, or under the highway, subject to such conditions as the Board of Trade (*b*), in the case of railways and tramways, and in other cases as the Commission (*c*) after giving the local authority (*d*) and the authority or person responsible for the maintenance of the highway or of any other railway or tramway laid thereon an opportunity of being heard, may by order prescribe, and any such authority or person may apply to the Board or Commission to make such an order :

Provided that where any such railway or tramway crosses the roadway on the level it shall not be lawful to use the crossing after the expiration of two years from the termination of the present war (*a*) without the consent of the local authority (*e*).

(2) In the event of the use of any such railway or tramway (*f*) being discontinued, the Government department by whom it was laid down or used shall take up and remove the rails and restore the highway on which they are laid to the satisfaction of the authority or person responsible for the maintenance of such highway.

(3) Where in exercise of any such right or powers as aforesaid any public highway has been closed, it may be kept closed after the termination of the present war (*a*), but not, by virtue of this section, beyond the expiration of twelve months after such termination unless the consent of the Commission is obtained (*g*), and the Commission before giving such consent shall give to the local authority and the authority or person responsible for the maintenance of the highway an opportunity of being heard, and the Commission may require as a condition of their consent the provision of another highway in the place of the highway so closed, and any person interested in any land adjoining any highway so closed who suffers loss or damage in consequence of the closing thereof shall be entitled to such compensation as, in default of agreement, may be determined in manner provided by this Act to be the amount of such loss or damage (*h*).

(4) For the purposes of this section the expression "local authority" means, in the case of a borough or urban district, the council of the borough or urban district, and elsewhere the county council.

(5) Where any such railway, tramway, cable line, or pipes have been laid along, across, over, or under any public highway, or a public highway has been closed, in pursuance of an agreement with, or subject to any undertaking given to, the authority or person responsible for the maintenance of the highway, nothing in this section shall authorise the continuance of the user of the railway, tramway, cable line, or pipes, or the continuance of the closing of the highway beyond the time specified in the agreement or undertaking without the consent of the authority or person so responsible.

(*a*) As to the date of the termination of the war see the Termination of the Present War (Definition) Act, 1918 (8 & 9 Geo. 5, c. 59). By an Order in Council under that Act dated August 10th, 1921, the date fixed was August 31st, 1921 (S. R. & O. (1921), No. 1276).

(*b*) Now M. of T. (see 9 & 10 Geo. 5, c. 50, and orders made thereunder).

(*c*) That is the Railway and Canal Commission.

(*d*) See sub-s. (4).

(*e*) See sub-s. (4). As to the right of appeal where the consent is unreasonably withheld see s. 4 (2) of the Act of 1920, *post*, p. 2825. See also the power of the Commission to grant an extension of time under this section in s. 1 (1) of the Railway and Canal Commission (Consents) Act, 1922, *post*, p. 2849.

(*f*) Note, not a cable line or pipes.

(*g*) See also the Railway and Canal Commission (Consents) Act, 1922, *post*, p. 2849, and *Secretary of State for War* v. *Middlesex County Council* (1923), Times, 28th March, 45 M. C. C. 88.

(*h*) As to the assessment of compensation, see s. 8, *post*, p. 2746.

Section 7.

7 (*a*).—[*Provisions as to water, light, heat, and power companies and authorities.*]

(*a*) Repealed by S. L. R. A., 1927.

Determination of questions by Railway and Canal Commission.

8.—(1) All questions as to compensation or as to the purchase price of land or any interest therein to be paid under this Act shall,—

(*a*) if both parties agree within such time as may be allowed by the Commission, be determined by a single arbitrator agreed by the parties;

(*b*) if either party so requires within such time as may be allowed by the Commission, be referred to such one of a panel of referees to be appointed in like manner as the panel appointed under Part I. of the Finance (1909–10) Act, 1910, as may be selected by the Reference Committee as defined by section thirty-three of that Act, whose decision shall, subject to an appeal to the Commission on any question of law, be final (*a*);

10 Edw. 7, c. 8.

(*c*) in any other case, be determined by the Commission.

51 & 52 Vict. c. 25.

(2) The provisions of the Railway and Canal Traffic Act, 1888 (*b*), as amended by any subsequent enactment, relating to the procedure for the determination of questions by the Commission under that Act, including the provisions relating to appeals, shall apply to the determination of questions, including appeals from referees, referred to the Commission under this Act, as if they were herein re-enacted and in terms made applicable to this Act: Provided that—

(*a*) the Commission may in any case in which they think it expedient to do so call in the aid of one or more assessors specially qualified, and hear the case wholly or partially with the assistance of such assessors;

(*b*) the Commission may hold a local enquiry for the purposes of this Act by any one of their members, or by any officer of the Commission or other person whom they may direct to hold the same, and the said provisions of the Railway and Canal Traffic Act, 1888, except the provisions relating to appeals, shall, so far as applicable, apply to such enquiries, and any officer or person directed to hold an enquiry shall have power to administer an oath and shall report the result of the enquiry to the Commission;

(*c*) the Commission may act by two of their members, one of whom shall be the judge;

(*d*) the discretion of the Commission with respect to costs shall be subject to the provisions of the Lands Clauses Acts as modified by this Act as to costs, in cases where those Acts as so modified apply, but shall not be limited in the manner provided by section two of the Railway and Canal Traffic Act, 1894 (*c*).

57 & 58 Vict. c. 54.

(*a*) Under the Finance Act, 1910 (10 Edw. 7, c. 8), s. 33, the Reference Committee for England is to consist of the Lord Chief Justice, the Master of the Rolls, and the President of the Surveyors' Institution. By s. 34 of the same Act such number of persons, being persons who have been admitted Fellows of the Surveyors' Institution or other persons having experience in the valuation of land as may be appointed by the Reference Committee, are to form a panel of persons to act as referees for the purposes of Part I. of the Act. The provision that the decisions of the referee shall be final may be compared with 1 & 2 Geo. 5, c. 2, s. 7, under which the Commissioners of Inland Revenue have a right of appeal from the decision of a referee.

(*b*) See the Act, *ante*, p. 2499.

(*c*) Under the Act of 1888, the Commissioners have no power to award costs on either side unless they are of opinion that either the claim or the defence has been frivolous or vexatious (57 & 58 Vict. c. 54, s. 2). But this does not apply to cases under this Act, and in cases where the Lands Clauses Act applies the Commissioners have the powers conferred by rule 10 of the Schedule.

Payment of compensation and purchase money.

9. Until Parliament otherwise determines, all compensation and purchase money payable by a Government department under this Act, and all other expenses incurred by any Government department thereunder, shall be defrayed out of money provided by Parliament.

Evidence of certificate by Government department.

10. For the purposes of this Act a certificate by any Government department—

(*a*) that possession has been taken of any land for purposes connected with the present war; or

(*b*) that the department is in possession of such land or is the occupying department within the meaning of this Act; or

(*c*) that any sums therein specified have been expended by the State in erecting, constructing, or making buildings, works, or improvements for purposes connected with the present war on, over, or under any land; or

(*d*) that any such buildings, works, or improvements have been erected, constructed, or made with the consent of the occupying department at the expense of a person not being a person interested in the land; or

(*e*) that a railway or tramway has been laid along, across, over, or under a public highway, or that a public highway has been closed, in the exercise of any prerogative right of His Majesty, or any powers conferred by or under any enactment relating to the defence of the realm for purposes connected with the present war; or

(*f*) that water, light, heat, or power has been supplied to any premises on the requisition or at the request of a Government department for purposes connected with the present war;

shall be primâ facie evidence of the facts therein stated (*a*).

(*a*) The certificate is only *primâ facie* evidence, and it may be rebutted by evidence contradicting it on any of the points above mentioned.

Application of building laws.

11.—(1) Any street, building, or work which has been formed, erected, or constructed otherwise than in accordance with the provisions of any general or local Acts relating to streets or buildings, and with any byelaws or regulations made thereunder on any land to which section one of this Act applies, or which has been acquired under section three thereof, shall, unless the authority by whom such provisions, byelaws, or regulations are enforced consent to the continuance thereof, either be so altered as to comply with such provisions, byelaws, or regulations, or be discontinued or removed within such reasonable time, not being less than two years, after such land or building has ceased to be occupied by a Government department as such authority may order, and the owner (as defined by such Acts, byelaws, or regulations) shall have power to enter upon and carry out any works without the consent of any other person, and if he fails to comply with such order such authority as aforesaid may remove any such building or work and recover the expense incurred in such removal from the owner in a summary manner as a civil debt (*a*).

(2) If any person feels aggrieved by the neglect or refusal of such authority to give its consent, or by the conditions on which such consent is given, or as to the time within which such discontinuance or removal is ordered, he may appeal to the Local Government Board (*b*), whose decision shall be final and shall have effect as if it were a decision of the authority: Provided that the Board may before considering any such appeal require the appellant to deposit such sum not exceeding ten pounds to cover the costs of appeal as may be fixed by rules to be made by them.

(*a*) That is to say, in manner provided by the Summary Jurisdiction Act, 1879, ss. 6, 35.

(*b*) Now the Ministry of Health.

Section 12.

Interpretation.

12.—(1) For the purposes of this Act, and of the provisions of the Lands Clauses Acts incorporated with this Act, land includes any building or part of a building, any pier, jetty, or other structure on the shore or bed of the sea or any river, and any easement or right over or in relation to land.

(2) Where consideration has been given or an advance made by the State for the erection, construction, or making of any building, work, or improvement on over or under any land for purposes connected with the present war, or where any money which would otherwise have been payable to the State has with the consent of a Government department been applied towards the erection, construction, or making of any such building, work, or improvement, the building, work, or improvement shall for the purposes of this Act be deemed to have been erected, constructed, or made wholly or partly, as the case may be, at the expense of the State.

(3) For the purposes of this Act, except where the context otherwise requires, the expression "building" includes machinery and plant fixed or attached to the building, the expression "common" shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1882 (*a*), and any town or village green, and any other land subject to any right of common; the expression "open space" shall mean any land laid out as a public garden or public park or used for the purposes of public recreation; and the expression "allotment" shall mean any allotment set out for any public purpose under an Inclosure Act or award.

(4) For the purposes of this Act references to the Defence Acts, 1842 to 1873, and the Military Lands Acts, 1892 to 1903, shall include references to those Acts as applied by the Naval Works Act, 1895 (*b*).

58 & 59 Vict. c. 35.

(5) For the purposes of this Act a competent naval or military authority acting under the Acts relating to the Defence of the Realm shall be deemed to be a Government department.

(*a*) With these Acts must now be read the Commons Act, 1899. See s. 24 of that Act.

(*b*) See the notes to s. 4, *ante*, p. 2743, as to the Defence Acts and the Military Lands Acts. The Naval Works Act, 1895 (58 & 59 Vict. c. 35), extends these Acts with some modifications to the Admiralty and His Majesty's Naval Forces.

13 (*a*).—[*Savings.*]

(3) Where possession has been taken of any land under any agreement authorising the retention of the land for any period specified in the agreement, nothing in this Act shall authorise the retention of possession after the expiration of such period without the consent of the person with whom the agreement was made or the persons deriving title under him.

(*a*) This section, with the exception of sub-section (3), was repealed by S. L. R. A., 1927.

Saving of powers.

14. The powers conferred by this Act shall be in addition to and not in derogation of any other right or power of His Majesty (*a*).

(*a*) As to the powers of the Crown by virtue of the Royal Prerogative to take possession of land for the defence of the realm without compensation, see *Re a Petition of Right*, [1915] 3 K. B. 654; *Sheffield Conservative Club* v. *Brighten* (1916), 85 L. J. K. B. 1669; *A.-G.* v. *De Keyser's Hotel*, [1920] A. C. 508.

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Short title.

17. This Act may be cited as the Defence of the Realm (Acquisition of Land) Act, 1916.

Section 3 (5).

SCHEDULE (*a*).

(*a*) This schedule was repealed by S. L. R. A., 1927.

THE STATUTORY UNDERTAKINGS (TEMPORARY INCREASE OF CHARGES) ACT, 1918.

(8 & 9 GEO. 5, c. 34.)

An Act to enable the statutory provisions affecting the charges which may be made in respect of certain undertakings to be temporarily modified (*a*).

[8th August, 1918.]

Modifications of statutory provisions affecting charges.

1.—(1) Where it appears to the appropriate Government Department (*b*) that the financial position of any undertaking to which this Act applies (*c*) has been adversely affected by circumstances arising out of the present war, the Department may, if they think fit, by order provide for the modification of any statutory provisions (*b*) regulating the charges to be made by the undertakers, and of any statutory provisions consequential on or supplemental to any such provisions as aforesaid, for such period during the continuance of this Act (*d*), in such manner, and subject to such conditions, as appear to the Department to be just and reasonable:

Provided that (*e*)—

(*a*) where the undertakers are a local authority (*b*) no modification shall be authorised which will increase the statutory maximum charge by more than fifty per cent., or which is more than sufficient so far as can be estimated to enable the undertaking to be carried on without loss; and

(*b*) in any other case no modification shall be authorised which is more than sufficient to enable with due care and management a dividend on the ordinary stock or shares of the undertaking to be paid at three-quarters of the standard or maximum rate of dividend, if any, prescribed for the undertaking, or at three-quarters of the pre-war rate of dividend, whichever is lower.

(2) An application to a Department for the purposes of this Act shall be accompanied by such information, certified in such manner, as the Department may require with respect to the financial position of the undertaking in question; and before making an order the appropriate Government Department shall require the undertakers to give public notice of the application for an order under this Act, and as to the manner in which, and time within which, representations may be made; and to give a similar notice in writing to the council of each county, borough, or urban or rural district, within which any part of the undertaking, or limits of supply of the undertaking, is situate; and the Department shall consider any representations which may be duly made.

(3) The undertakings to which this Act applies are tramway undertakings (*f*), including light railways constructed wholly or mainly on public roads, and undertakings for the supply of gas, water, hydraulic power, and electricity (*g*), and in calculating the maximum charge which may be authorised under this Act in respect of such tramway undertakings fractions of a halfpenny shall be counted as a halfpenny.

(4) For the purposes of this Act—

The expression "statutory provisions" includes the provisions of any order having the force of an Act;

The expression "appropriate Government Department" means, in relation to gas and water undertakings carried on by local authorities, the Local Government Board, and in relation to other undertakings the Board of Trade (*h*);

The expression "local authority" includes any commissioners, trustees, or other public body of persons carrying on, otherwise than for purposes of private profit, any undertaking to which this Act applies;

The expression "pre-war rate of dividend" means the average rate of dividend for the three financial years immediately preceding the war.

(*a*) This is a temporary Act. It originally provided that it should be in force only until the expiration of two years after the termination of the war. See s. 3 (2), *infra*. It was provided, however, by the Expiring Laws Act, 1922, that the Act, with its amending Act, the Tramways (Temporary Increase of Charges) Act, 1920, *post*, p. 2804, shall remain in force, so far as it relates to tramway undertakings, until March 31st, 1924. The Act has been continued in force by successive Expiring Laws Acts and is now continued in force until 31st December, 1931, by the Expiring Laws Continuance Act, 1928, in so far as it relates to tramway undertakings.

(*b*) For the definition of this expression, see sub-s. (4).

(*c*) As to the undertakings to which the Act applies, see sub-s. (3).

(*d*) See note (*a*), *supra*.

(*e*) The Tramways (Temporary Increase of Charges) Act, 1920 (10 & 11 Geo. 5, c. 14), s. 1, provides that the limitations contained in this proviso shall not apply to orders made by the Minister of Transport in relation to tramway undertakings, but that in lieu thereof the limitations mentioned in the Act of 1920 shall apply. See the Act, *post*, p. 2804.

(*f*) Orders are now made by the Ministry of Transport in relation to tramway undertakings. See the Act of 1920, already referred to. And see also the Ministry of Transport Act, 1919 (9 & 10 Geo. 5, c. 50), p. 2757, *post*.

(*g*) As stated in note (*a*), *supra*, the Act is now only in force as regards tramways.

(*h*) The only Government department now concerned is the Minister of Transport, see note (*e*), *supra*.

2. [*Application to Scotland and Ireland.*]

Short title and duration.

3.—(1) This Act may be cited as the Statutory Undertakings (Temporary Increase of Charges) Act, 1918.

(2) *This Act shall have effect during the continuance of the present war and for a period of two years thereafter, and no longer* (*a*).

(*a*) This subsection was repealed by S. L. R. A., 1927.

THE TERMINATION OF THE PRESENT WAR (DEFINITION) ACT, 1918.

(8 & 9 GEO. 5, c. 59.)

An Act to make provision for determining the date of the termination of the present war, and for purposes connected therewith.

[21st November, 1918.]

Power to determine date of termination of the present war.

1.—(1) His Majesty in Council may declare what date is to be treated as the date of the termination of the present war, and the present war shall be treated as having continued to, and as having ended on that date for the purposes of any provision in any Act of Parliament, Order in Council, or Proclamation, and, except where the context otherwise requires, of any provision in any contract, deed, or other instrument referring, expressly or impliedly, and in whatever form of words, to the present war or the present hostilities:

Provided that in the case of any such Act conferring powers on any Government Department, or any officer of any Government Department, exercisable during the continuance of the present war, if it appears to His Majesty that it is expedient that the powers shall cease before the date so fixed as aforesaid, His Majesty in Council may fix some earlier date for the termination of those powers (*a*).

(2) The date so declared shall be as nearly as may be the date of the exchange or deposit of ratifications of the treaty or treaties of peace:

Provided that, notwithstanding anything in this provision, the date declared as aforesaid shall be conclusive for all purposes of this Act (*b*).

(3) His Majesty in Council may also similarly declare what date is to be treated as the date of the termination of war between His Majesty and any particular State (*c*).

(*a*) Words in italics were repealed by S. L. R. A., 1927.

(*b*) By an Order in Council dated August 10th, 1921 (S. R. & O., 1921, No. 1276). August 31st, 1921, was declared to be the date of the termination of the war generally. See, however, the War Emergency Laws (Continuance) Act, 1920 (10 & 11 Geo. 5, c. 5), which provides for the continuance of various Acts, etc., whose duration depended on that of the war.

(*c*) Orders have been made under this section in relation to Germany (S. R. & O., 1920, No. 264), Austria (S. R. & O., 1920, No. 1347), Bulgaria (S. R. & O., 1920, No. 1612), Hungary (S. R. & O., 1921, No. 1284), Turkey (S. R. & O., 1924, No. 819).

2. This Act may be cited as the Termination of the Present War (Definition) Act, 1918. Short title.

MINISTRY OF HEALTH ACT, 1919.

(9 & 10 GEO. 5, c. 21.)

An Act to establish a Ministry of Health to exercise in England and Wales powers with respect to Health and Local Government, and confer upon the Chief Secretary certain powers with respect to Health in Ireland, and for purposes connected therewith. [3rd June, 1919.]

1. For the purpose of promoting the health of the people throughout England and Wales, and for the purpose of the exercise of the powers transferred or conferred by this Act, it shall be lawful for His Majesty to appoint a Minister of Health (hereinafter called the "Minister"), who shall hold office during His Majesty's pleasure (*a*). Establishment of Minister.

(*a*) See sub-s. 1 of s. 11, *post*, p. 2755, which enacted that this Act should come into operation on such day or days as might be appointed by Order in Council and that different days might be appointed for different purposes and provisions of the Act. By Order in Council of June 25th, 1919, that day was fixed as the appointed day for s. 1.

2. It shall be the duty of the Minister, in the exercise and performance of any powers and duties transferred to or conferred upon him by or in pursuance of this Act, to take all such steps as may be desirable to secure the preparation, effective carrying out and co-ordination of measures conducive to the health of the people, including measures for the prevention and cure of diseases, the avoidance of fraud in connection with alleged remedies therefor, the treatment of physical and mental defects, the treatment and care of the blind, the initiation and direction of research, the collection, preparation, publication, and dissemination of information and statistics relating thereto, and the training of persons for health services (*a*). General powers and duties of Minister in relation to health.

(*a*) An Order in Council of June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this section.

3.—(1) There shall be transferred to the Minister— Transfer of powers and duties to and from Minister.

(*a*) all the powers and duties of the Local Government Board (*a*);

(*b*) all the powers and duties of the Insurance Commissioners and the Welsh Insurance Commissioners (*b*);

(*c*) all the powers of the Board of Education with respect to attending to the health of expectant mothers and nursing mothers and of children who have not attained the age of five years and are not

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in attendance at schools recognised by the Board of Education (c);

(d) . . . (d);

2 Edw. 7, c. 17. 8 & 9 Geo. 5, c. 43.

(e) all the powers of the Privy Council and of the Lord President of the Council under the Midwives Acts, 1902 and 1918 (e);

8 Edw. 7, c. 67.

(f) such powers of supervising the administration of Part I. of the Children Act, 1908 (which relates to infant life protection), as have heretofore been exercised by the Secretary of State (f):

Provided that—

1 & 2 Geo. 5, c. 55.

(i) the power conferred on the Insurance Commissioners by the proviso to subsection (2) of section sixteen of the National Insurance Act, 1911, of retaining and applying for the purposes of research such sums as are therein mentioned shall not be transferred to the Minister, but the duties heretofore performed by the Medical Research Committee shall after the date of the commencement of this Act be carried on by or under the direction of a Committee of the Privy Council appointed by His Majesty for that purpose, and any property held for the purposes of the former Committee shall after that date be transferred to and vested in such persons as the body by whom such duties as aforesaid are carried on may appoint, and be held by them for the purposes of that body (g); and

(ii) . . . (h).

(2) It shall be lawful for His Majesty from time to time by Order in Council to transfer to the Minister (i)—

(a) *all or any of the powers and duties of the Minister of Pensions with respect to the health of disabled officers and men after they have left the service;* (k)

(b) all or any of the powers and duties of the Secretary of State under the enactments relating to lunacy and mental deficiency (l);

(c) any other powers and duties in England and Wales of any Government department which appear to His Majesty to relate to matters affecting or incidental to the health of the people.

(3) It shall be lawful for His Majesty from time to time by Order in Council to transfer from the Minister to any other Government department any of the powers and duties of the Minister, whether relating to the relief of the poor or otherwise, which appear to His Majesty not to relate to matters affecting or incidental to the health of the people (m).

And it is hereby declared that it is the intention of this Act that, in the event of provision being made by Act of Parliament passed in the present or in any future session for the revision of the law relating to the relief of the poor and the distribution amongst other authorities of the powers exerciseable by boards of guardians, there shall be transferred from the Minister to other Government departments such of the powers and duties under the enactments relating to the relief of the poor then vested in the Minister (not being powers or duties relating or incidental to the health of the people) as appear to His Majesty to be such as could be more conveniently exercised and performed by such other departments.

(4) His Majesty may by Order in Council make such incidental, consequential, and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to any transfer of powers or duties by or under this section, including provisions for the transfer of any property, rights, and liabilities held, enjoyed, or incurred by any Government department in connection with any powers or duties transferred, and may make such adaptations in the enactments relating to such powers or duties as may be necessary to make exerciseable by the Minister and his officers or by such

other Government department and their officers, as the case may be, the powers and duties so transferred (*n*).

(5) In connection with the transfer of powers and duties to or from the Minister by or under this Act, the provisions set out in the First Schedule to this Act shall have effect (*n*).

(*a*) An Order in Council of June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this part of this sub-section. Except so far as related to powers and duties conferred or imposed upon the L. G. B. by any Act of Parliament passed, or Provisional Order confirmed or other instrument made, on or after July 1st, 1919, but during the then present session of Parliament, in respect of which powers and duties the appointed day was declared to be the day on which such Act, order or instrument came into operation. The L. G. B. was constituted by 34 & 35 Vict. c. 70, the unrepealed sections of which are set out at p. 2327, *ante*. By the Ministry of Transport Act, 1919, *post*, p. 2757, and Orders in Council made thereunder, certain powers of the Ministry of Health in relation to highway and other matters were transferred to the Ministry of Transport.

(*b*) An Order in Council of June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this part of this sub-section. The Insurance Commissioners and the Welsh Insurance Commissioners were constituted by the National Insurance Act, 1911.

(*c*) An Order in Council of September 22nd, 1919, fixed October 1st, 1919, for the coming into operation of this part of this sub-section. On this subject, see the Maternity and Child Welfare Act, 1918, *ante*, p. 1240.

(*d*) This sub-section is repealed by s. 172 and Sched. VII. of the Education Act, 1921. It provided for the transfer to the Minister of the powers and duties of the Board of Education with respect to medical inspection and treatment of school children. See now Part VII. of the Education Act, 1921.

(*e*) An Order in Council of June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this part of this sub-section. See the Acts of 1902, 1918 & 1926 at pp. 1084, 1242, & 1790, *ante*.

(*f*) An Order in Council of September 22nd, 1919, fixed October 1st, 1919, for the coming into operation of this part of this sub-section.

(*g*) An Order in Council dated February 9th, 1920, fixed April 1st, 1920, for the coming into operation of this proviso.

(*h*) This proviso was repealed by s. 133 and Sch. VII. of the National Health Insurance Act, 1924 (14 & 15 Geo. 5, c. 38).

(*i*) An Order in Council dated June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this and the three following sub-sections. See the Ministry of Health (Factories and Workshops Transfer of Powers) Order, 1921, and the Ministry of Health (Transfer of Powers as to Water Undertakings) Order, 1920.

(*k*) This paragraph was repealed by the S. L. R. A., 1927. No Order in Council having been made under the provision.

(*l*) An Order in Council transferred certain of these powers to the Minister as from May 17th, 1920.

(*m*) See note (*i*), *supra*. An Order in Council dated May 17th, 1920, transferred from the Ministry of Health to the Board of Education certain powers and duties in relation to public libraries, museums, and gymnasiums. See also the Ministry of Health (Registration and Elections, Transfer of Power) Order, 1921, the Ministry of Health (Transfer of Powers as to Gas Undertakings) Order, 1920.

(*n*) See note (*g*), *supra*.

Consultative councils.

4.—(1) It shall be lawful for His Majesty by Order in Council to establish consultative councils in England and Wales for giving, in accordance with the provisions of the Order, advice and assistance to the Minister in connection with such matters affecting or incidental to the health of the people as may be referred to in such Order (*a*).

(2) Every such council shall include women as well as men, and shall consist of persons having practical experience of the matters referred to the council.

(*a*) An Order in Council of June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this and the six following sections. Consultative Councils were set up on a number of subjects by Order in Council dated August 18th, 1919. See "Local Government, 1919" (published by Butterworth & Co.), p. 395.) This Order was amended by an Order dated June 26th, 1923 (see "Local Government, 1923," p. 320).

Provisions as to Wales.

5. The Minister shall, subject to the provisions of this Act, appoint such officers as he may think fit to constitute a Board of Health in Wales through

Section 5. whom he may exercise and perform in Wales in such manner as he may think fit any of his powers and duties ; the Board and any officer who is a member thereof shall act under the directions, and comply with the instructions, of the Minister (*a*).

(*a*) See note (*a*) to s. 4, *ante*, p. 2753. As from October 1st, 1920, the Minister of Health transferred to a Welsh Board of Health with offices in the City Hall at Cardiff, the functions of the Minister as regards :—(1) Sanction to appointments of Medical Officer of Health and Sanitary Inspectors, (2) Venereal Diseases, (3) Isolation Hospitals, (4) Infectious Diseases (except as to notifications and returns), (5) Maternity and Child Welfare, (6) The Sale of Food and Drugs Act, Milk Supply, Food Inspection, Slaughter-houses, Markets, etc. (except matters directly affecting consumers and public authorities in England or involving relations with the colonies or foreign countries, *i.e.*, imported foodstuffs, shell fish, and statistics from public analysts' reports), and (7) Appointment of Public Analysts and Officers under Food Acts and Regulations.

Staff and remuneration.

6 (*a*).—(1) The Minister may appoint one parliamentary secretary and such secretaries, officers, and servants as the Minister may, subject to the consent of the Treasury as to number, determine, and in the making of such appointments shall give equal consideration to the suitability of persons of both sexes.

(2) There shall be paid out of moneys provided by Parliament to the Minister an annual salary not exceeding five thousand pounds, and to the secretaries, officers, and servants of the Ministry such salaries or remuneration as the Treasury may from time to time determine.

(3) The expenses of the Ministry, including payments to members of consultative councils and committees thereof, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament:

Provided that no payments shall be made to members of consultative councils and committees thereof other than the repayment of travelling expenses and payment of subsistence allowance and reasonable compensation for loss of remunerative time.

(4) There shall be transferred and attached to the Ministry the persons employed under the Local Government Board, the Insurance Commissioners and the Welsh Insurance Commissioners, and such of the persons employed under any other Government department in or about the execution of the powers and duties transferred by or under this Act to the Minister, as the Minister and Government department, with the sanction of the Treasury, may determine.

(5) The Minister may from time to time distribute the business of the Ministry amongst the several persons transferred or attached thereto in pursuance of this Act in such manner as he may think right, and those persons shall perform such duties in relation to that business as may be directed by the Minister :

Provided that such persons shall be in no worse position as respects the tenure of office, salary or superannuation allowances than they would have been if this Act had not been passed (*a*).

(*a*) See note (*a*) to s. 4, *ante*, p. 2753.

Seal, style, and acts of Minister.

7 (*a*).—(1) The Minister may sue and be sued by the name of the Minister of Health, and may for all purposes be described by that name.

(2) The Minister shall have an official seal, which shall be officially and judicially noticed, and shall be authenticated by the signature of the Minister, or of a secretary, or any person authorised by the Minister to act in that behalf (*b*).

(3) For the purpose of acquiring and holding land, the Minister for the time being shall be a corporation sole by the name of the Minister of Health, and all land vested in the Minister shall be held in trust for His Majesty for the purposes of the Ministry of Health.

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(4) Upon and by virtue of the appointment of any person to be Minister, the benefit of all deeds, contracts, bonds, securities, or things in action vested in his predecessor at the time of his predecessor ceasing to hold office shall be transferred to and vested in and enure for the benefit of the person so appointed, in the same manner as if he had been contracted with instead of his predecessor, and if his name had been inserted in all such deeds, contracts, bonds, or securities instead of the name of his predecessor.

(5) Subsections (2) to (4) of section eleven and section twelve of the New Ministries and Secretaries Act, 1916, shall apply to the Minister and the Ministry of Health, and to the office of the Minister of Health and in like manner as they apply to the Ministers and Ministries mentioned in those sections.

6 & 7 Geo. 5, c. 68.

(a) See note (a) to s. 4, *ante*, p. 2753.

(a) As to the cases in which the signature of a secretary may be used in place of the seal, see L. G. (Emergency Provisions) Act, 1916, s. 12, *ante*, p. 1232.

Provisions as to Orders in Council.

8 (*a*).—(1) Any Order in Council made under this Act may be revoked or varied by a subsequent Order.

(2) Before any Order in Council under this Act (*other than an Order appointing a day for the commencement of this Act or any provision thereof*) (*b*) is made, notice of the proposal to make the Order and of the place where copies of a draft of the Order can be obtained shall be published in the London Gazette, and in such other manner as the Minister thinks best adapted for insuring publicity, and a draft of the Order shall be laid before each House of Parliament for not less than thirty days on which such House is sitting.

(3) In the case of a draft of an Order providing for any transfer of powers or duties to or from the Minister under subsections (2) and (3) of section three of this Act, or for the establishment of any consultative council under section four thereof, the Order shall not be made until both Houses by resolution have approved the draft, nor, if any modifications are agreed to by both Houses, otherwise than as so modified, and in the case of a draft of any other Order which is required to be laid as aforesaid, if either House before the expiration of such thirty days presents an Address to His Majesty against the draft, or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft Order.

(*a*) See note (*a*) to s. 4, *ante*, p. 2753.

(*b*) Words in italics repealed by S. L. R. A., 1927.

Consequential modifications of Insurance Acts.

9 (*a*).

(*a*) See note (*a*) to s. 4, *ante*, p. 2753. Sub-s. (1) deals only with Ireland and is omitted. Sub-s. (2) was repealed by s. 133 and Sch. VII. of the National Health Insurance Act, 1924 (14 & 15 Geo. 5, c. 38).

. . . . . .

10.—[*Application to Ireland.*]

Short title, commencement, and repeal, and interpretation.

11 (*a*).—(1) This Act may be cited as the Ministry of Health Act, 1919, *and shall come into operation upon such day or days as may be appointed by Order in Council, and different days may be appointed for different purposes and provisions of this Act:*

Provided that the latest day for the transfer of powers to the Minister under subsection (1) *of section three of this Act shall not be later than one year after the passing of this Act:*

Provided that the day appointed for the transfer of the powers of the Minister of Pensions shall not be earlier than one year or later than three years after the termination of the present war.

(2) *The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule* (*b*).

(3) For the purposes of this Act, Monmouthshire shall be deemed to form part of Wales(*c*).

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(4) The expression "Government department" includes the Insurance Commissioners, the Welsh Insurance Commissioners, and any other public department and any Minister of the Crown acting as the head of a Government department (*c*).

(*a*) Words in italics repealed by S. L. R. A., 1927.

(*b*) An Order in Council of February 9th, 1920, fixed April 1st, 1920, for the coming into operation of so much of this sub-section and of the Second Schedule as repealed para. (*b*) of and the proviso to sub-s. (2) of s. 16 of the National Insurance Act, 1911.

(*c*) An Order in Council of June 25th, 1919, fixed July 1st, 1919, for the coming into operation of this and the next sub-section.

SCHEDULES.

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FIRST SCHEDULE.

TRANSITORY PROVISIONS.

1. In the construction and for the purposes of any Act of Parliament, judgment, decree, order, award, deed, contract, regulation, byelaw, or other document passed or made before the transfer to or from the Minister from or to any other Government department of any powers or duties by or under this Act, but so far only as may be necessary for the purpose of such transfer, the name of the Minister or of the other Government department shall be substituted for the name of the other Government department or of the Minister, as the case may require.

2. Where anything has been commenced by or under the authority of any other Government department or the Minister before the transfer to the Minister or another Government department of any powers or duties by or under this Act, and such thing is in relation to the powers or duties so transferred, such thing may be carried on and completed by or under the authority of the Minister or the other Government department, as the case may be.

3. Where at the time of the transfer of any powers or duties by or under this Act any legal proceeding is pending to which any Government department or the Minister is a party, and such proceeding has reference to the powers and duties transferred by or under this Act, the Minister or the other Government department shall be substituted in such proceeding for the other Government department or the Minister, as the case may be, and such proceeding shall not abate by reason of the substitution.

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SECOND SCHEDULE (*a*).

REPEALS.

Session and Chapter.	*Short Title.*	*Extent of Repeal.*
34 & 35 *Vict. c.* 70.	*The Local Government Board Act,* 1871.	*Sections three, four, five and six.*
1 & 2 *Geo.* 5, *c.* 55.	*The National Insurance Act,* 1911.	*Paragraph* (*b*) *of and the proviso to subsection* (2) *of section sixteen, subsections* (1), (2), (3) *and* (4) *of section fifty-seven, and section fifty-eight, except so far as those sections are applied to the Scottish Insurance Commissioners and the Irish Insurance Commissioners.* *In paragraph* (1) *of section eighty-one the words "shall be appointed by the Treasury, and"* *Subsection* (1) *of section eighty-two.* *In subsection* (1) *of section eighty-three, the words "as soon as may be after the passing of this Act, in accordance with regulations made by the Treasury," and the words from "of the several bodies of Commissioners" to the end of the subsection.*

(*a*) This schedule was repealed by S. L. R. A., 1927.

MINISTRY OF TRANSPORT ACT, 1919.

(9 & 10 GEO. 5, c. 50.)

An Act to establish a Ministry of Transport and for purposes connected therewith. [15th August, 1919.]

Appointment of Minister of Transport.

1. For the purpose of improving the means of, and the facilities for, locomotion and transport, it shall be lawful for His Majesty to appoint a Minister of Transport (hereinafter referred to as the Minister), who shall hold office during His Majesty's pleasure.

Powers and duties.

2.—(1) It shall be the duty of the Minister in the exercise and performance of any powers and duties transferred to, or conferred or imposed upon, him by or in pursuance of this Act, to take steps to carry out the purposes aforesaid, and there shall, as from such date or dates as His Majesty in Council may by Order determine, be transferred to the Minister all powers and duties of any Government Department in relation to—

(*a*) railways;
(*b*) light railways;
(*c*) tramways;
(*d*) canals, waterways, and inland navigations;
(*e*) roads, bridges and ferries, and vehicles and traffic thereon;
(*f*) harbours, docks and piers;

including any powers and duties of any Government Department in relation to any railway, light railway, tramway, canal, inland navigation, harbour, dock, pier, or other undertaking concerned with any of the matters aforesaid, and any powers of any Government Department with respect to the appointment of members or the procedure of any commissioners, conservancy board or other body having jurisdiction with respect to any such matters as aforesaid, and any powers of any Government Department with respect to the making, confirming, issuing, granting, or giving (as the case may be) of byelaws, regulations, orders, licences, approvals, or consents relating to any of the matters hereinbefore mentioned:

Provided that—

(i) His Majesty in Council may by Order except from such transfer any particular powers or duties, or provide for the exercise or performance of any power or duty so excepted by the Minister concurrently or in consultation with or at the instance of the Government Department concerned, or by the Government Department concerned concurrently or in consultation with the Minister, or provide for the retransfer to any such Department of any powers and duties transferred to the Minister by this section; and

(ii) Nothing in this section shall transfer to the Minister any powers or duties of the Admiralty exerciseable in or in relation to ports declared under the Dockyard Port Regulation Act, 1865, to be dockyard ports, but His Majesty in Council may by Order transfer to the Admiralty, instead of to the Minister, any of the powers of the Board of Trade with respect to dockyard ports, or with respect to the appointment of members of any commissioners, conservancy board, or other body having jurisdiction in the whole or any part of a dockyard port; and

28 & 29 Vict. c. 125.

(iii) Nothing in this section shall transfer to the Minister the powers of the Board of Trade with respect to the appointment of members or the procedure of the Railway and Canal Commission, but His Majesty in Council may by Order transfer those powers to a Secretary of State instead of to the Minister (*a*).

(2) His Majesty in Council may by Order make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to any transfer of powers or duties by or under this section, including provisions for the transfer of any property, rights and liabilities held, enjoyed, or incurred by any Government Department in connexion with any powers or duties transferred, and may make such adaptations in the enactments relating to such powers or duties as may be necessary to make exerciseable by the Minister and his officers or by the Admiralty and their officers, as the case may be, the powers and duties so transferred : Provided always that nothing herein contained shall enable the powers so transferred to be increased.

(2) In connexion with the transfer of powers and duties to the Minister, Admiralty, or Secretary of State, by or under this Act, the provisions set out in the First Schedule to this Act shall have effect.

(4) There shall be attached to the Ministry a separate department charged with dealing in the ordinary course of departmental business with road construction, improvement, maintenance, and development.

(*a*) With certain exceptions, the powers of the Board of Trade in relation to (*a*) railways; (*b*) light railways; (*c*) tramways; (*d*) canals, waterways, inland navigations; (*e*) roads, bridges, ferries, vehicles and traffic thereon; and (*f*) harbours, docks, and piers passed to the Minister of Transport on September 23rd, 1919, by virtue of an Order in Council dated September 22nd, 1919. The exceptions were as follows: (1) All powers and duties under the Lands Clauses Acts; s. 36 of the Railway Companies Act, 1867; ss. 3, 7, 20, 25, and 31 of the Railway and Canal Traffic Act, 1888; and ss. 5 and 13 of the Light Railways Act, 1896; (2) powers and duties so far as they relate to navigation under the Preliminary Enquiries Act, 1851; Harbour Transfer Act, 1862; ss. 7 to 11 of the General Pier and Harbour Acts Amendment Act, 1862, and any local, special, or private Act; and (3) powers and duties under s. 8 (in regard to appointment of commissioners after consultation as therein mentioned) and sub-ss. (1) and (2) of s. 27 of the Port of London Act, 1908.

Further, with certain exceptions, the powers of the Minister of Health in relation to the matters above mentioned passed to the Minister of Transport on September 23rd, 1919, by virtue of an Order in Council dated September 22nd, 1919. The exceptions were: (1) the powers and duties of the Minister of Health in regard to the matters aforesaid of giving sanction to the borrowing of money by local authorities; (2) the powers and duties of the Minister of Health under the Housing Acts, 1890 to 1919; and (3) the powers and duties of the Minister of Health with respect to the confirmation of byelaws made by local authorities other than byelaws made under s. 26 of the Highways and Locomotives (Amendment) Act, 1878, and byelaws made under s. 6 of the Locomotive Act, 1898. There is, however, a proviso in the Order in Council that in the exercise of the powers so excepted so far as they relate to roads, bridges, vehicles, and traffic thereon the Minister of Health shall act in consultation with the Minister of Transport.

By a third Order in Council of the same date the powers and duties of the Roads Board in relation to the matters aforesaid passed to the Minister of Transport on September 23rd, 1919. Under s. 39 (1) of the Electricity (Supply) Act, 1919, and the Ministry of Transport (Electricity Supply) Order, 1920, the powers and duties of the Board of Trade under the Electric Lighting Acts and local Acts relating to the supply of electricity passed to the Minister of Transport on January 23rd, 1920.

Power to control temporarily railways, &c.

3. (*a*)—(1) With a view to affording time for the consideration and formulation of the policy to be pursued as to the future position of undertakings to which this section applies, the following provisions shall, unless Parliament otherwise determines, have effect for a period of two years after the passing of this Act, or where as respects any particular provision a longer period is expressly provided, for such longer period :—

34 & 35 Vict. c. 86.

(*a*) Where at the passing of this Act possession has been taken of any railroad undertaking or part thereof in pursuance of section sixteen of the Regulation of the Forces Act, 1871, or otherwise, possession thereof shall be retained without any renewal of the warrant granted by the Secretary of State in pursuance of that section, upon the same terms as to compensation as those heretofore in force, and the Minister may exercise over all such undertakings all such powers as have hitherto been exercised by the Board of Trade under the said Act or with the consent of the owners of the undertakings or otherwise, and such other powers as may be conferred by this section or agreed to by the railway companies concerned : **Section 3.**

(*b*) The Minister may, after giving not less than one month's notice in writing, take possession, in the name or on behalf of His Majesty, of the whole or any part of any other statutory railway undertaking or of any light railway or tramway undertaking (other than a tramway or a light railway used as a tramway belonging to a local authority), or of any canal or inland navigation undertaking, and, subject as hereinafter, mentioned, of any harbour, dock or pier undertaking, or of any plant belonging to any such undertaking as aforesaid or used thereon (exclusive of privately owned railway wagons), and of any barges, tugs, and other craft owned or held by the undertaking of which possession has been taken : Provided that such notice as aforesaid shall not, in the event of the matter being referred to an advisory committee as hereinafter provided, be given until the committee has reported :

(*c*) The directors and other persons concerned with the management, and officers and servants of any undertaking of the whole or part of which, or of the plant whereof, possession is retained or taken shall obey the directions of the Minister as to the user thereof, and any directions of the Minister in relation to the undertaking or part or plant thereof of which possession is retained or taken—

(i) as to the rates, fares, tolls, dues and charges to be charged ; subject, however, to the provisions hereinafter contained respecting references to the advisory committee established for advising as to directions on the matters aforesaid ;

(ii) as to the salaries, wages, and remuneration and conditions of employment of persons employed on or in connexion with the undertaking ;

(iii) as to the working or discontinuance of the working of the undertaking or any part thereof including directions as to keeping open or closing of any stations ;

(iv) for securing that the permanent way, rolling stock, plant, appliances, or equipment, whether fixed or moveable, are satisfactory in type and design ;

(v) as to the carrying out of alterations, improvements, and additions which the Minister considers necessary for the public safety or for the more efficient and economic working of the undertaking ;

(vi) for securing co-operation between undertakings and for securing the common user of facilities, rolling stock and equipment whether fixed or moveable ;

(vii) for affording running powers over their system, or any part thereof, to the owners of any other undertaking ;

(viii) for securing that manufacturing and repairing facilities and auxiliary and ancillary services shall be used, and the purchase and distribution of stores shall be conducted, in such manner as may be most conducive to economy and efficiency.

Nothing in this section shall be construed as authorising the Minister to compel the owners of any such undertaking either to incur capital expenditure, or to draw upon their reserve funds, for new works or capital improvements to an extent which would

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seriously interfere with their finances, it being the intention that the financing of the undertakings from a capital point of view shall remain as far as possible with the owners.

(*d*) For enabling any directions given by the Minister under the last foregoing paragraph as to alterations, and improvements and additions to be carried into effect, the Minister may, by order, authorise the owners of any undertaking to acquire any land (or easements) and to construct any works, and the order may incorporate the Lands Clauses Acts, subject to such modifications as may be specified in the order, being modifications of those Acts made or authorised to be made by the Development and Road Improvement Funds Act, 1909, or any other enactment, and may incorporate or apply any of the provisions of any enactment relating to the construction, maintenance, or working of railways, light railways, tramways, canals, harbours, docks, and piers, and any such order shall have effect as if enacted in this Act: Provided that nothing herein contained shall be deemed to empower the Minister to authorise the acquisition, otherwise than by agreement, of any land belonging to the owners of another undertaking to which this section applies, or of a local authority, or of a harbour dock or pier undertaking, but the Minister may authorise the acquisition of an easement or right of using such land for the purposes of any works the construction of which he may authorise under this section.

9 Edw. 7, c. 47.

(*e*) In the case of any undertaking of which possession is retained or taken by the Minister as aforesaid any rates, fares, tolls, dues and other charges directed by the Minister shall be deemed to be reasonable, and may, notwithstanding any agreement or statutory provisions limiting the amount of such charges or increases therein, be charged in respect of any undertaking during the period for which the Minister retains possession of such undertaking, and for a further period of eighteen months after the expiration of the said period, or until fresh provision shall be made by Parliament with regard to the amount of any such rates, fares, tolls, dues, and other charges, whichever shall first happen:

(*f*) Notwithstanding anything contained in this Act, the rights of a consignor or consignee of goods or minerals, any trader or class of traders, or any port or harbour authority or dock company to complain to the Railway and Canal Commission under the Railway and Canal Traffic Acts 1854 to 1913 in respect of undue preference or undue disadvantage or allowances or rebates in relation to the provision of station accommodation or terminal services shall not be deemed to be affected, and it shall be no answer to any such complaint that the railway company in respect of which the complaint is made was acting under the directions of the Minister.

(2) Subject as aforesaid, any agreement made between the owners of any undertaking, of the whole or part of which possession has been retained or taken under this section, and any other person shall continue in force in like manner as if such possession had not been so retained or taken, unless the Minister considers that such agreement is contrary to the public interest, and in that case he may suspend or modify the operation of such agreement during the period of such possession and for a period not exceeding eighteen months thereafter, and any party to the agreement who suffers loss or injury by reason of such suspension or modification, and any person who, by virtue of any special statutory provision or agreement, is entitled to the benefit of any special rate, fare, toll, due, or other charge, and whose position relatively

to other persons is prejudiced by any direction of the Minister altering such special charge, shall be entitled to receive such compensation as, in default of agreement, may be determined by the Railway and Canal Commission, regard being had to any change in circumstances.

(3) The exercise by the Minister of any of his powers under this section as respects any tramway or light railway used as a tramway which a local authority, or two or more local authorities, have power to purchase under any Act of Parliament or order having the effect of an Act of Parliament shall not affect such right of the local authority, or authorities, and upon the purchase thereof such tramway or light railway shall cease to be in the possession of the Minister.

(4) Nothing in this section shall be deemed to exempt from any local rate or assessment any undertaking to which this section applies.

(5) For the purposes of this Act, possession so taken or retained as aforesaid shall confer on the Minister such rights of control and direction as may be necessary for the exercise of his powers under this Act, but shall not confer on him any rights of ownership.

(*a*) The operation of this section appears to be now spent, except sub-s. (1) (*c*), in relation to canals (12 & 13 Geo. 5, c. 27; 19 Geo. 5, c. 3).

4. (*a*)—[*Saving for statutory harbour, dock and pier authorities.*]

(*a*) This section was repealed by S. L. R. A., 1927, being of temporary operation only and then spent.

Power to grant through-runnings on tramways.

5. The Minister shall have the power to require through-runnings on adjoining tramways (*a*) belonging to different owners, whether local authorities or not, and in default of agreement between such owners to settle the terms of such through-running, after hearing the said owners, in such manner as he thinks fit.

(*a*) "Tramway" includes a trackless trolly vehicle system. See s. 30 (2), *post*, p. 2773.

Power to retain lands, &c.

6. Where in pursuance of any direction given by the Minister under this Act the owners of any undertaking shall acquire any lands or easement, or construct any works, or carry out any alteration or improvement of or addition to their undertaking, the owners may, after the expiration of the period of possession, continue to hold and use such lands or easement and maintain and use such works, alteration, improvement, or addition for the purposes of their undertaking, and such land, easement, works, alteration, improvement, and addition shall for all purposes be deemed to form part of their undertaking.

Provisions as to officers and servants.

7.—(1) The following provisions shall apply with respect to officers or servants of any undertaking of which, or of any part or plant of which possession has been retained or taken under this Act (all of which officers and servants are in this Act hereinafter referred to as "existing officers and servants"):—

(i) Where the Minister requires the services of any existing officer or servant, that officer or servant may be transferred to the Minister—

(*a*) either permanently with the consent of the officer or servant; or

(*b*) temporarily with the consent (which shall not unreasonably be withheld) of the officer or servant, and of the owners of the undertaking;

(ii) No existing officer or servant so transferred, whether temporarily or permanently, shall without his consent be, by reason of such transfer or anything done under this Act, in any worse position

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in respect to the conditions of his service (including tenure of office, remuneration, gratuities, pension, superannuation, sick fund or any benefits or allowances, whether obtaining legally or by customary practice), as compared with the conditions of service obtaining with respect to him at the passing of this Act, and, if any question arises as to whether the provisions of this paragraph have been complied with, the question shall be referred to a standing arbitrator or board of arbitration appointed by the Lord Chancellor for the purposes of this section, and, if the arbitrator or board consider that those provisions have not been complied with and that the officer or servant has thereby suffered loss or injury, they shall award him such sum as they think sufficient to compensate him for such loss or injury:

(iii) Where an existing officer or servant has been transferred either temporarily or permanently to the Minister under this section, then, so long as the Minister remains in possession of that undertaking or any part or plant thereof, that officer or servant may remain a full member of any pension or superannuation fund established in connexion with the undertaking with all the rights to which he would be entitled had he continued in the service of the owners of the undertaking, and any contributions payable under the rules of the pension or superannuation fund or by customary practice by the owners of the undertaking may be paid by the Treasury out of moneys provided by Parliament, and he shall be entitled to receive such reasonable allowances for temporary disturbance as the Minister with the consent of the Treasury may determine (including direct pecuniary loss sustained in consequence of the transfer):

(iv) Every existing officer or servant not transferred to the Minister in pursuance of this Act shall, notwithstanding the powers conferred upon the Minister by this Act, continue to hold his office or situation under the owners of the undertaking under the same tenure and upon the same terms and conditions (including all conditions regarding gratuities, pension, superannuation, sick fund, or any benefits or allowances), whether obtaining legally or by customary practice, as he held it on the date of the passing of this Act, and while performing the same duties shall receive not less salary, wages, or remuneration than under existing regulations, agreements, or established customs of the service he would have been entitled to if this Act had not been passed:

(v) The Minister may direct that the office or situation of any existing officer or servant which he deems unnecessary shall be abolished: Provided that the Minister shall not require the abolition of any such office which will, in the opinion of the owners of the undertaking, be essential to them in their conduct of the undertaking at the end of the period of possession:

(vi) If by or in consequence of a direction of the Minister any existing officer or servant is, during the period of possession, required to perform duties such as are not analogous or which are an unreasonable addition to those which he has, prior to the date of the passing of this Act, been required to perform, such officer or servant may relinquish his office or service:

(vii) Every such officer or servant who so relinquishes his office or service as aforesaid, and every such officer or servant whose services by or in consequence of any such direction are dispensed with on the ground that his services are not required, or for any reason not being on account of any misconduct or incapacity, or whose salary, wages, or remuneration are reduced on the ground that his duties have been diminished by or in consequence of any such direction, or who otherwise suffers any direct pecuniary loss in consequence of this Act (including any loss of prospective superannuation or other retiring or death allowances, whether obtaining legally or by customary practice), shall be entitled to be paid by the Minister compensation for such pecuniary loss, to be determined by the Treasury, subject to appeal to such standing arbitrator or board of arbitration as aforesaid, in accordance with the provisions contained in section one hundred and twenty of the Local Government Act, 1888 (*a*), relating to compensation to existing officers, and those provisions shall apply accordingly as if they were herein re enacted with the necessary modifications:

51 & 52 Vict. c. 41.

Provided that, in the case of any officer or servant who was appointed to his office as a specially qualified person at an age exceeding that at which public service usually begins, or of any officer or servant who suffers any loss of prospective superannuation or other retiring or death allowances as aforesaid, such addition may be made to the amount of compensation authorised under the said provisions as may seem just, having regard to the particular circumstances of such case: Provided further, that the expression in subsection (1) of section one hundred and twenty of the Local Government Act, 1888, "the Acts and Rules relating to Her Majesty's Civil Service" shall mean the Acts and Rules relating to His Majesty's Civil Service which were in operation at the date of the passing of the Local Government Act, 1888.

(2) Any person formerly in the employment of the owners of an undertaking of which or of any part or plant of which possession is retained or taken under this Act, who on the date of the passing of this Act is, though not legally entitled thereto, in receipt of a pension or other superannuation allowance, shall continue to receive from the owners of such undertaking the same pension or allowance on the same terms and conditions as if this Act had not been passed.

(3) Any person who, at the date of the passing of this Act, was in the employment of the owners of an undertaking of which or of any part or plant of which possession is retained or taken under this Act and who, during the period of such possession, would, though not legally entitled thereto, in accordance with customary practice, be granted a pension or superannuation allowance by the owners of such undertaking, shall not be in any worse position in regard thereto by reason of the passing of this Act.

(4) This section shall apply to persons who are, or have been, members of the staff of the Railway Clearing House, or the Irish Railway Clearing House, or any railway conference, in like manner as if they were, or had been, officers or servants of an undertaking of which possession had been taken and the period of possession thereof had been the same as that of a railway undertaking, and to the Railway Clearing System Superannuation Fund, as if it was a pension or superannuation fund established in connexion with an undertaking of which possession has been taken, and as if payments and contributions heretofore made by railway companies thereto were contributions payable by the owners of the undertaking.

(*a*) See this section set out at p. 1040, *ante*.

Claims against and by the Minister in respect of exercise of powers.

8.—(1) Where at the end of the period of possession by the Government of any undertaking or of any part or plant of an undertaking the value of the undertaking on a revenue-earning basis has been reduced or enhanced

Section 8. as compared with the value at the commencement of such period, or where during that period the income thereof has been reduced or enhanced, after taking into account in either case—

(*a*) any capital expenditure by the owners of the undertaking on any works brought into use in the interval; and

(*b*) the natural growth of traffic on the undertaking,

then, if and so far as such reduction or enhancement is due to the exercise by the Minister during that period upon the undertaking in question of the powers under section three of this Act (including such powers as have been hitherto exercised by the Board of Trade as mentioned in paragraph (1) (*a*) of that section) the owners of the undertaking shall, unless such reduction or enhancement is otherwise provided for by the compensation mentioned in paragraph (1) (*a*) of that section, be entitled to be recouped, or liable to pay, the amount by which that value has been so reduced or enhanced, and if any question arises as to such amount or the liability to pay the same, or otherwise with respect to the financial relations between the Minister and any person affected by the exercise by the Minister of any of his powers under the said section, the question shall be determined by the Railway and Canal Commission having regard to all the circumstances of the case:

Provided that—

(i) no claim in respect of any loss alleged to be due to any direction issued by the Minister shall be entertained if the direction was issued with the concurrence of the owners of the undertaking; and

(ii) if, whilst an undertaking of which or of any part or plant of which possession has been taken remains in the possession of the Government, the State is authorised by Parliament to acquire the undertaking, nothing in this subsection restricting claims for enhancement attributable to the exercise by the Minister of such powers as aforesaid to cases where the value of the undertaking has been enhanced as compared with the value thereof at the commencement of the period of possession shall be held to affect, one way or the other, any question as to the principle on which the price to be paid on such acquisition is to be based.

(2) Without prejudice to any other form of payment or satisfaction, the Treasury, on the recommendation of the Minister, may, as or as part of the consideration for exercising any powers of control under the said section, guarantee the payment of any dividends or interest on any stock or other securities issued by the owners of an undertaking up to such amount as may be agreed, or the payment of any working expenses of the undertaking, and any sums required to fulfil any such guarantee shall be paid out of moneys provided by Parliament.

(3) Wherever the Minister has expended any sum in the capital improvement of any undertaking, the owners of the undertaking shall be liable to pay to the Minister the unexhausted value of such expenditure at the end of the before mentioned period, if and so far as such expenditure is not covered by the payments to be made by the owners under the preceding provisions of this section, and that value shall, in default of agreement, be determined by the Railway and Canal Commission.

(4) The owners of the undertaking may satisfy any payment due from them under this section by creating a charge in favour of the Treasury upon the undertaking to such amount and in such form and with such priority as may be agreed, or, in case of difference, may be settled by the Railway and Canal Commission, who shall have due regard to the rights and interests of all parties concerned, but the charge so created shall in no case take priority to any capital raised by loan or debenture stock issued by the owners of the undertaking,

(5) Any claim by a railway company against the Government for compensation in respect of the exercise by the Board of Trade of any powers over or in respect of the undertaking in pursuance of section sixteen of the Regulation of the Forces Act, 1871, or with the consent of the railway company, or otherwise, may be determined by the Railway and Canal Commission in like manner as if it were a claim arising under this section, and the Minister was the person liable to satisfy the claim.

(6) The Minister shall indemnify, and keep indemnified, the owners of any undertaking of which or of any part of which, or of any plant of which possession has been retained or taken, and the owners of any harbour, dock or pier undertaking, against all actions, claims, and demands made in respect of loss or injury alleged to be caused by the carrying out of any directions given by the Minister under section three of this Act, or, as the case may be, any requirements contained in any order made by the Minister under section four of this Act:

Provided that, where the loss or injury is due to the breach of any contractual obligation, the Minister shall not be liable under this provision unless before carrying out the directions the owners of the undertaking have given written notice to the Minister of the existence of the obligation.

Power to establish transport services.

9.—(1) It shall be lawful for the Minister to establish, and either by himself or through any other person to work, transport services by land or water, and to acquire either by agreement or compulsorily such land or easements, to construct such works, and to do all such other things, as may be necessary for the purpose:

Provided that—

(i) no new transport service shall be established by the Minister until an estimate of the capital expenditure required to complete it, accompanied by details of the scheme for the establishment of the service, has been approved by the Treasury;

(ii) if in the case of any such service such estimate as aforesaid exceeds half a million pounds, or if the establishment of any such service involves the acquisition of land or easements compulsorily, or the breaking up of any roads, the Minister shall not exercise his powers of establishing the service unless authorised to do so by Order in Council a draft whereof has been approved by a resolution passed by both Houses of Parliament, and the Order may incorporate the provisions of the Lands Clauses Acts, subject to such modifications as may be specified in the Order, being modifications of those Acts made or authorised to be made by the Development and Road Improvements Funds Act, 1909, or any other enactment, and the Order may also incorporate or apply any enactments relating to the construction and maintenance of the works in question;

(iii) where it appears to the Minister that the establishment of any such service could properly be undertaken by the owners of any existing undertaking, the Minister shall not himself establish the service without first giving to such owners an opportunity of establishing the service, and, where such an opportunity is given to the owners of an undertaking of which possession has been retained or taken under section three of this Act, and those owners prefer that the establishment of the service should be undertaken by themselves rather than by the Minister, they may require the Minister to give them directions under that section to that effect, but shall not be deemed to have thereby concurred in those directions; and

(iv) the Minister shall not, after two years from the passing of this Act unless Parliament otherwise determines, commence the construction

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of any new works, or provide equipment for any transport service not established before that date.

(2) The Minister or other person working a service established under this section may charge such rates, fares, tolls, and charges in connexion therewith as may be prescribed by the Minister, subject to reference to the Advisory Committee on Rates hereinafter established, and the expenses of working such services shall be paid out of the revenues derived therefrom, and the Minister shall keep or cause to be kept such accounts of the receipts from and expenditure on the services and in such form, and those accounts shall be audited in such manner as the Treasury may prescribe.

Extraordinary traffic. 41 & 42 Vict. c. 77. 41 & 42 Vict. c. 51. 1 & 2 Geo. 5, c. 45.

10. Any transport service on roads established by the Ministry shall be subject to the provisions relating to extraordinary traffic contained in the Highways and Locomotives (Amendment) Act, 1878 (*a*), or in Scotland the Roads and Bridges (Scotland) Act, 1878, or in Ireland the Public Roads (Ireland) Act, 1911 (as amended by any subsequent enactment).

(*a*) For these provisions see s. 23 of the Act of 1878 here referred to, at p. 739, *ante*, and also s. 12 of the Locomotives Act, 1898, at p. 1066, *ante*.

Appeal as to bridges.

11. An appeal shall lie to the Minister in respect of any restriction upon any traffic passing over or seeking to cross any bridge or culvert, and the Minister shall have power, notwithstanding any provision in any other statute, to make such order as he may think fit concerning the strengthening, standard of maintenance, and maintenance of any bridge or culvert, the traffic using it or seeking to use it, and apportionment of any expenditure involved, but no order made by the Minister under this section shall enlarge the pecuniary liability of any railway or canal company or impose any new liability upon any such company (*a*).

(*a*) In addition to the protection given to railway and canal companies by this section, see the protection given to local authorities by s. 24, *post*, p. 2771.

6 & 7 Geo. 5, c. 12.

12 (*a*). [*Provisions as to new routes for omnibuses.*]

(*a*) This section is now spent, and was repealed by S. L. R. A., 1927. But see now the right of appeal from a refusal to grant a licence for an omnibus, or against conditions imposed on such a grant given by s. 14 (3) of the Roads Act, 1920, *ante*, p. 1302. See also the London Traffic Act, 1924, *post*, p. 2850.

Powers as to railway wagons.

13.—(1) It shall be lawful for the Minister to purchase privately-owned railway wagons required for use on any railway on such terms and conditions as may be authorised by or under an Order in Council, a draft whereof has been approved by a Resolution passed by both Houses of Parliament, and to work or lease any such wagons when so purchased, or to apportion them among the several railway undertakings in such manner, on such terms, and subject to such conditions as may be provided by or under the Order:

Provided that the Minister shall not be entitled to purchase in England and Wales, or Scotland, or Ireland, respectively, wagons used for the conveyance of any particular class of traffic unless he purchases all privately-owned wagons so used which belong to or are used by persons carrying on business therein, and which comply with the regulations with respect to such wagons in force at the date of such purchase.

(2) Where, in the case of any wagon which has been in use on or before the fifteenth day of May, nineteen hundred and nineteen, the wagon has since that date been the subject of a purchase agreement, the price paid on such purchase shall not be evidence of the value of the wagon in determining the price to be paid by the Minister.

(3) Where the Minister has, in pursuance of his powers under this section, purchased any wagon, any contract then in force for the repair of the wagon

shall upon the purchase be determined, unless otherwise agreed with the Minister. **Section 13.**

(4) Where the Minister exercises his powers of purchasing wagons under this section, or of prohibiting or restricting the use of privately-owned wagons, or of limiting the number of wagons to be so used, the following provisions shall have effect:—

(*a*) The reasonable facilities which every railway company is required to afford under section two of the Railway and Canal Traffic Act, 1854, as amended or explained by any other Act, shall, where the railway wagons of traders of any class have been purchased, include the provision of suitable railway wagons for the use of traders of that class, and it shall be the duty of the Minister so to exercise his powers of working or disposing of the wagons purchased by him as to enable the railway companies to fulfil their obligations under this provision as fully as may be practicable: 17 & 18 Vict. c. 31.

(*b*) Where the provision of wagons is not included in the authorised maximum rates of conveyance, a railway company may charge for the use of such wagons such sums as may be directed by the Minister under section three of this Act, and, if and so far as no such directions are in force, any sums not exceeding those prescribed for the use of such wagons by any Railway Rates and Charges Order applicable thereto:

(*c*) Notwithstanding the provisions of any other Act or any decision thereunder, in determining what sum may be charged under the provisions of any Railway Rates and Charges Order for the detention of wagons at the premises of any trader, regard shall be had to the requirements and reasonable usages of the trade carried on at those premises in connexion with which such wagons are used.

(5) Notwithstanding any statutory or other provision to the contrary, it shall be lawful for the Minister to make regulations prohibiting or restricting the use on railways of privately-owned wagons or limiting the number of wagons to be so used and prescribing the type and capacity thereof:

Provided that nothing in this Act shall authorise the prohibition of the use on railways of such wagons as comply with regulations for the time being in force made in pursuance of the Railways Clauses Consolidation Act, 1845, the Railways Clauses Consolidation (Scotland) Act, 1845, or any other enactment in force at the date of the passing of this Act, and as are in use, under repair, or in course of construction at that date. 8 & 9 Vict. c. 20. 8 & 9 Vict. c. 33.

Power to discharge capital liabilities by issue of stock.

14.—(1) Any capital sum payable under this Act for reduction in the value of an undertaking, or for the purchase of privately-owned railway wagons, or any interest therein, may be discharged in whole or in part, if the Treasury so direct, by the issue of securities, and the amount of such securities equivalent to such capital sum shall, in default of agreement, be determined by the Railway and Canal Commission.

For that purpose the Treasury may create and issue securities which shall bear interest at such rate and shall be subject to such conditions and regulations as to repayment, redemption, or otherwise as the Treasury may direct or prescribe, and the regulations may apply with the necessary modifications any of the enactments relating to the local loans stock; the interest on any such securities as aforesaid shall—

(*a*) in the case of securities issued for the purchase of railway wagons, be charged on the revenues derived from the wagons so acquired after payment thereout of working expenses, and, if and so far as such revenues are insufficient, on the Consolidated Fund of the United Kingdom or the growing produce thereof; and

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(*b*) in the case of other securities, be charged on the Consolidated Fund of the United Kingdom or the growing produce thereof.

(2) Where the whole or any part of the purchase money for the interest in railway wagons belonging to a wagon finance company is discharged by the issue to the company of such securities as aforesaid, and the company in consequence of the exercise by the Minister of his powers under this Act of purchasing railway wagons is wound up voluntarily, the liquidator may present to the court having jurisdiction to wind up the company a scheme for the discharge in whole or in part of the liabilities of the company to the holders of debentures or debenture stock of the company by means of the transfer to them of an amount of the securities so issued to the company, and, if the court sanctions the scheme, those liabilities may be discharged accordingly.

For the purpose of this subsection, "wagon finance company" means a company whose principal business is the advance of money to colliery companies and other persons for the purpose of the acquisition by them of railway wagons.

Incorporation of certain sections.

15. An order made by the Minister authorising the owners of any railway undertaking to acquire any land (including easements), and to construct any works, or an Order in Council authorising the Minister to acquire land compulsorily for the purpose of a railway, shall incorporate sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, or, in Scotland, sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845 (which relate to the working of mines), subject to any statutory modifications thereof then in force.

5 & 6 Geo. 5, c. 72.

16 (*a*).—[*Amendment of Special Acts* (*Extension of Time*) *Act*, 1915.]

(*a*) This section is now spent and was repealed by S. L. R. A., 1927.

Power to make advances for certain purposes.

17.—(1) The Minister may, subject to the approval of the Treasury, make advances out of the moneys provided by Parliament to any authority, company or person, either by way of grant or by way of loan, or partly in one way and partly in another, and upon such terms and conditions as he thinks fit for any of the following purposes:—

(*a*) The construction, improvement, or maintenance of railways, light railways, or tramways:

(*b*) The construction, improvement or maintenance of roads, bridges, or ferries:

(*c*) The construction, improvement or maintenance of harbours, docks or piers:

(*d*) The construction, improvement or maintenance of canals or inland navigations:

(*e*) The promotion and improvement of transport services by land or water:

And the power of the Treasury on the recommendation of the Development Commissioners to make advances for any of the purposes aforesaid shall cease and determine, except as respects advances for the construction, improvement, or maintenance of harbours in connexion with the improvement and development of fisheries, in which case the Development Commissioners shall consult with the Minister before reporting on any application referred to them:

Provided that the Minister shall not make an advance exceeding one million pounds at any one time for the purpose of any work, unless specially authorised to do so by a Resolution of the House of Commons.

(2) For the purpose of advances for the construction, improvement, or

maintenance of roads, the Minister may, after consultation with the Roads Committee hereinafter referred to and the local authorities affected, classify roads in such manner as he thinks fit (*a*), and may, by agreement with the local authority, defray half the salary and establishment charges of the engineer or surveyor to a local authority responsible for the maintenance of such roads, subject to the condition that the appointment, retention, and dismissal of such engineer or surveyor, and the amount of such establishment charges, shall be subject to the approval of the Minister.

(*a*) It is upon the classification of roads under this provision that the transfer of roads in urban districts under s. 31 of the L. G. A., 1929, *ante*, p. 1888, to county councils depends.

18 (*a*).—[*Accounts, statistics and returns.*]

(*a*) This section is now spent and was repealed by S. L. R. A., 1927.

19. The provisions of the Railway and Canal Traffic Act, 1888, as amended by any subsequent enactment, relating to the procedure for the determination of questions by the Commission under that Act, including the provisions relating to appeals, shall apply to the determination of questions referred to the Commission under this Act, as if they were herein re-enacted and in terms made applicable to this Act:

Provisions as to the Railway and Canal Commission. 51 & 52 Vict. c. 25.

Provided that—

(*a*) the Commission may, in any case in which they think it expedient to do so, call in the aid of one or more assessors, specially qualified, and hear the case wholly or partially with the assistance of such assessors;

(*b*) the Commission may hold a local inquiry for the purposes of this section by any one of their members, or by any officer of the Commission or other person whom they may direct to hold the same, and the said provisions of the Railway and Canal Traffic Act, 1888, except the provisions relating to appeals, shall, so far as applicable, apply to such inquiries, and any officer or person directed to hold an inquiry shall have power to administer oaths and shall report the result of the inquiry to the Commission:

(*c*) the discretion of the Commission with respect to costs shall not be limited in the manner provided by section two of the Railway and Canal Traffic Act, 1894.

20.—(1) The Minister may hold such inquiries as he considers necessary or desirable for the purposes of this Act, and the Minister, and, if authorised by the Minister, the person appointed to hold any such inquiry, may by order require any person, subject to the payment or tender of the reasonable expenses of his attendance, to attend as a witness and give evidence or to produce any documents in his possession or power which relate to any matter in question at the inquiry, and are such as would be subject to production in a court of law, and, if any person fails without reasonable excuse to comply with any of the provisions of any such order, he shall be liable, on summary conviction, to a fine not exceeding five pounds, and the person holding the inquiry shall have power to take evidence on oath and for that purpose to administer oaths.

Power to hold inquiries.

(2) Notices of inquiries may be given and published in accordance with such general or special directions as the Minister may give.

(3) The powers of the Minister under this section shall be in addition to and not in derogation of any powers of holding inquiries transferred to him from any other Government Department under this Act.

21.—(1) For the purpose of giving advice and assistance to the Minister with respect to and for safeguarding any interests affected by any directions

Rates advisory committee.

Section 21. as to rates, fares, tolls, dues, and other charges or special services, a committee shall be appointed consisting of five persons, one being a person of experience in the law (who shall be chairman) nominated by the Lord Chancellor, two being representatives of the trading and agricultural interests nominated by the Board of Trade, after consultation with the Associated Chambers of Commerce, the Central Chamber of Agriculture, and other interests concerned, one being a representative of transportation interests nominated by the Minister, one being a representative of labour interests nominated by the Minister of Labour, after consultation with the Parliamentary Committee of the Trades Union Congress and other interests concerned, together with, if deemed advisable, one additional member who may at the discretion of the Minister be nominated from time to time by him.

(2) Before directing any revision of any rates, fares, tolls, dues, or other charges, or of any special services, the Minister shall refer the matter to the committee for their advice, and they shall report thereon to him, and, where such revision is for the purpose of an increase in the net revenue of any undertakings which the Minister determines to be necessary, the committee shall also advise as to the best methods of obtaining such increase from the different classes of traffic, having due regard to existing contracts and the fairness and adequacy of the methods proposed to be adopted. Before prescribing the limits of rates, tolls, or charges in connexion with a new transport service established under section nine of this Act, the Minister shall refer the matter to the Committee for their advice.

(3) The committee, before reporting or advising on any matters referred to them under this section, shall, unless in their discretion they consider it unnecessary or undesirable to do so, give such public notice as they think best adapted for informing persons affected of the date when and the place where they will inquire into the matter, and any persons affected may make representations to the committee, and, unless in their discretion the committee consider it unnecessary, shall be heard at such inquiry, and, if the committee in their discretion think fit, the whole or any part of the proceedings at such inquiry may be open to the public:

Provided that, for the purpose of this provision, the council of any city, borough, burgh, county, or district shall be deemed to be persons affected in any case where such council or any persons represented by them may be affected by any such proposed revision as aforesaid.

(4) The committee shall hear such witnesses and call for such documents and accounts as they think fit, and shall have power to take evidence on oath, and for that purpose any member of the committee may administer oaths.

(5) There shall be paid out of moneys provided by Parliament to all or any of the members of the committee such salaries or other remuneration as the Minister, with the consent of the Treasury, may determine.

(6) For the purposes of this section, "special services" means the services mentioned in section five of the schedule to the orders relating to railway rates and charges, and in the corresponding sections of the schedules to the orders relating to canal tolls, rates and charges, confirmed by various Acts passed in the years eighteen hundred and ninety-one to eighteen hundred and ninety-four.

Roads advisory committee.

22.—(1) For the purpose of giving advice and assistance to the Minister with respect to and for safeguarding any interests affected by the exercise of the powers and the performance of his duties under this Act in relation to roads, bridges and vehicles and traffic thereon, a committee (hereinafter referred to as the Roads Committee) shall be appointed.

(2) The Roads Committee shall consist of not less than eleven members, of whom five shall be representative of highway authorities, appointed after

consultation with such authorities, and five shall be representative of the users of horse and mechanical road traffic, appointed after consultation with the interests concerned, and one shall be a representative of labour appointed after consultation with the interests concerned.

(3) The chairman shall be elected by the members of the Committee from among their own number and the secretary of the Roads Committee shall be appointed by the Minister.

(4) The Roads Committee may make regulations as to their procedure and method of voting, and may at their discretion consider and report to the Minister upon any matters affecting the construction, improvement, or maintenance of roads or bridges or the regulation of traffic thereon.

Advisory committees.

23.—(1) For the purpose of giving advice and assistance to the Minister in connexion with the exercise and performance of his powers and duties, the Minister shall set up a panel of experts, and of impartial persons of wide commercial and trading experience, appointed from nominees, after consultation with the various undertakings and interests concerned, of the various classes of undertakings affected by this Act, and of labour, trading interests, local authorities, and such other interests as he may deem desirable.

(2) Before exercising any of the powers under subsection (1) (*b*) of section three of this Act, to the exercise of which the owners of the undertaking concerned object, or establishing new transport services by land or water the Minister shall refer the matter to a committee selected by him from the said panel.

(3) The advisory panel or any committee to whom any matter is referred under this section shall, before reporting or advising, if they see fit, give public notice and permit any person affected or likely to be affected to place his views before them either orally or in writing.

(4) Any member of the advisory panel, or any committee thereof, or of any other committee established under this Act, for giving advice and assistance to the Minister, shall be considered to be acting entirely in a confidential capacity.

Consent of local authority.

24. Nothing in this Act shall be construed as giving power to the Minister to impose any conditions upon a local authority which shall entail expenditure without consent of such local authority, or of the Minister of Health, or in Scotland the Secretary for Scotland, or in Ireland the Local Government Board for Ireland.

Staff and remuneration.

25.—(1) The Minister may appoint such secretaries, officers, and servants of the Ministry as the Minister may, subject to the consent of the Treasury as to number, determine:

Provided that there shall not be more than one paid parliamentary secretary of the Ministry.

(2) There shall be paid out of moneys provided by Parliament to the Minister an annual salary not exceeding five thousand pounds, and to the parliamentary secretary of the Ministry an annual salary not exceeding fifteen hundred pounds, and to the other secretaries, officers, and servants of the Ministry such salaries or remuneration as the Treasury may from time to time determine.

(3) The expenses of the Ministry, to such amount as may be sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

(4) There shall be transferred and attached to the Ministry such of the persons employed under any other Government Department in or about the execution of the powers and duties transferred by or under this Act to the Minister, as the Minister and the other Government Department, with the sanction of the Treasury, may determine.

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(5) The Minister may from time to time distribute the business of the Ministry amongst the several persons transferred or attached thereto in pursuance of the foregoing provisions of this section in such manner as he may think right, and those officers shall perform such duties in relation to that business as may be directed by the Minister :

Provided that such persons shall be in no worse position as respects the tenure of office, salary or superannuation allowances than they would have been if this Act had not been passed.

Seal, style and acts of Minister.

26.—(1) The Minister may sue and be sued in respect of matters, whether relating to contract tort or otherwise arising in connexion with his office, by the name of the Minister of Transport, and may for all purposes be described by that name and shall be responsible for the acts and defaults of the officers and servants and agents of the Ministry in like manner and to the like extent as if they were his servants, and costs may be awarded to or against the Minister.

(2) The Minister shall have an official seal, which shall be officially and judicially noticed, and shall be authenticated by the signature of the Minister, or of a secretary, or any person authorised by the Minister to act in that behalf.

(3) For the purpose of acquiring and holding land, the Minister for the time being shall be a corporation sole by name of the Minister of Transport, and all land vested in the Minister shall be held in trust for His Majesty for the purposes of the Ministry of Transport.

(4) Upon and by virtue of the appointment of any person to be Minister, the benefit of all deeds, contracts, bonds, securities or things in action vested in his predecessor at the time of his predecessor ceasing to hold office, shall be transferred to and vested in and enure for the benefit of the person so appointed, in the same manner as if he had been contracted with instead of his predecessor, and if his name had been inserted in all such deeds, contracts, bonds or securities instead of the name of his predecessor.

(5) Subsections (2) to (4) of section eleven, and subsections (2) and (3) of section twelve of the New Ministries and Secretaries Act, 1916, shall apply to the Minister and the Ministry of Transport and to the office of Minister of Transport in like manner as they apply to the Ministers and Ministries mentioned in those sections.

6 & 7 Geo. 5, c. 68.

Ability of Minister and secretaries to sit in Parliament.

27.—(1) The Office of Minister of Transport, or of secretary in the Ministry of Transport, shall not render the holder thereof incapable of being elected to or sitting or voting as a member of the Commons House of Parliament.

(2) *The person who is first appointed to be Minister shall not by reason of such appointment, if a member of the Commons House of Parliament, vacate his seat as such member* (*a*).

(*a*) This subsection was repealed by S. L. R. A., 1927.

Provisions as to Orders in Council.

28.—(1) Before any Order in Council under this Act is made, notice of the proposal to make the Order and of the place where copies of a draft of the Order can be obtained shall be published in the London, Edinburgh, and Dublin Gazette, as the case may require, and in such other manner as the Minister thinks best adapted for ensuring publicity.

(2) An Order in Council under this Act may be altered or revoked by a subsequent order.

Provision as to orders and Orders in Council re-

29.—(1) The Minister may make rules in relation to matters preliminary to the making of Orders and Orders in Council under this Act which authorise the acquisition of land or easements, or the breaking up of road and the construction of works, including the publication of notices and advertisements, and the deposit of plans and sections and books of reference to those plans, and the manner in which and the time within which representations or objections are to be made, and to the holding of local enquiries.

lating to the acquisition of land and the construction of works.

Any rules so made shall be laid before Parliament as soon as they are made and shall have the same effect as if enacted in this Act: Provided that, if an Address is presented to His Majesty by either House of Parliament within twenty-one days on which that House has sat next after any such rules are so laid praying that any such rule may be annulled, His Majesty may annul the rule, and it shall thenceforth be void, but without prejudice to the validity of anything done thereunder.

(2) The rules of procedure set out in the Second Schedule to this Act shall apply to the making of any Order under paragraph (*d*) of subsection (1) of section three of this Act and of any draft of an Order in Council to be submitted to Parliament under section nine of this Act.

(3) (*a*) The Minister on publication of notice of a proposal to make an order under paragraph (*d*) of subsection (1) of section three of this Act, shall, *except as hereinafter provided*, send to the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons a copy of the draft Order, and if within fourteen days of the receipt of the copy, if Parliament is then sitting, or within one month thereof if Parliament is not then sitting, either such Chairman reports to the Minister that he is of opinion that the proposals of the draft Order are of such a character or magnitude that they ought not to be proceeded with without the authority of Parliament, the Minister shall not make the Order unless or until the draft Order has been approved by a Resolution passed by both Houses of Parliament, and, if the Resolution of either House directs that the proposals shall be dealt with by Private Bill and not by such Order as aforesaid, notices published and served and deposits made for the purpose of the proposed Order shall, subject to standing order, be held to have been published, served and made for a Private Bill applying for similar powers:

Provided that this subsection shall not apply to any Order with respect to which the Minister certifies that the acquisition of the land or easements authorised to be acquired thereunder and the works authorised to be constructed thereunder do not involve an estimated expenditure exceeding one million pounds, nor to any Order of any class which may be exempted from the provisions of this subsection by rules made by the said chairmen.

(*a*) Words in italics in this subsection repealed by S. L. R. A., 1927.

Short title and interpretation.

30.—(1) This Act may be cited as the Ministry of Transport Act, 1919.

(2) In this Act, unless the context otherwise requires—

The expression "Government Department" includes any Government Department and any Minister of the Crown acting as the head of a Government Department, and for the purposes of this Act the Road Board and the Lord Lieutenant and the Privy Council of Ireland, the Commissioners of Public Works in Ireland, and the Congested Districts Board for Ireland and the Commissioners of the Caledonian Canal and the Commissioners of the Conservancy of the River Mersey shall be deemed to be Government Departments;

The expression "tramway" includes a trackless trolley vehicle system;

The expression "easement" includes any right in or over land;

The expression "undertaking" includes any services carried on as ancillary to the principal business of the undertaking;

The expression "transport services by water" shall not include any

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transport service by sea other than such as is, or could under their existing statutory powers, or any extension thereof which may hereafter be authorised by Parliament, be established by the owners of any undertaking of which the Minister is for the time being in possession under this Act.

Where an undertaking is leased to or worked by a company or person other than the owners, the expression "the owners of an undertaking" shall include that company or person, except where such an interpretation is inconsistent with the terms of the lease or working agreement, and except for the purposes of the provisions of this Act relating to payments to be made to or by the owners of an undertaking in respect of any reduction or enhancement of the value of the undertaking.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

TRANSITORY PROVISIONS.

1. In the construction and for the purposes of any Act of Parliament, any judgment, decree, order, award, deed, contract, regulation, byelaw, or other document passed or made before the transfer to the Minister, or Admiralty or Secretary of State from any other Government Department of any powers or duties by or under this Act, but so far only as may be necessary for the purpose of such transfer, the name of the Minister or Admiralty or Secretary of State shall be substituted for the name of the other Government Department.

2. Where anything has been commenced by or under the authority of any other Government Department before the transfer to the Minister or Admiralty or Secretary of State of any powers or duties by or under this Act, and such thing is in relation to the powers or duties so transferred, such thing may be carried on and completed by or under the authority of the Minister or Admiralty or Secretary of State.

3. Where at the time of the transfer of any powers or duties by or under this Act any legal proceeding is pending to which any Government Department is a party, and such proceeding has reference to the powers and duties transferred by or under this Act, the Minister or Admiralty or Secretary of State shall be substituted in such proceeding for the other Government Department, and such proceeding shall not abate by reason of the substitution.

Sections 9 and 29.

SECOND SCHEDULE.

1.—(1) Before any Order under section 3 (1) (*d*) of this Act is made, or any draft Order in Council under section 9 of this Act is submitted to Parliament, notice shall be published in such manner as the Minister may think best adapted for informing persons affected of the proposal to make the Order or Order in Council, and of the place or places where copies of the draft Order or Order in Council may be obtained, and of the place or places where plans of any lands (including easements) proposed to be compulsorily acquired, and plans and sections of any works proposed to be constructed and books of reference to those plans may be inspected and of the time (which shall not be less than twenty-one days) within which any objection made with respect to the draft by or on behalf of persons affected must be sent to the Minister.

(2) Every objection must be in writing, and state—

(a) the specific grounds of objection; and

(b) the omissions, additions, or modifications asked for.

(3) The Minister shall consider any objection made by or on behalf of any person, being in the case of a draft Order a person affected, and in the case of a draft Order in Council a person whose property will be injuriously affected by reason of the acquisition of the land or the construction of the proposed works, if the objection is sent to the Minister within the required time, and may, if thought fit, amend the draft, and shall then cause the amended draft to be dealt with in like manner as an original draft.

(4) Where the Minister does not amend or withdraw a draft to which any objection

has been made, then (unless the objection either is withdrawn or appears to him to be frivolous) he shall before making the Order or submitting the draft Order in Council to Parliament direct an inquiry to be held in the manner hereinafter provided, and may, after considering the report of the person who held the inquiry, make the Order or submit the draft Order in Council to Parliament either without modification or subject to such modification as he may think fit, or may refuse to make the Order or submit the draft Order in Council to Parliament.

2.—(1) The Minister may appoint a competent and impartial person to hold an inquiry with regard to any draft and to report to him thereon.

(2) The inquiry shall be held in public, and any person who being entitled to do so has duly made an objection, may appear at the inquiry either in person or by counsel, solicitor, or agent.

(3) The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

(4) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the Minister.

(5) The fee to be paid to the person holding the inquiry shall be such as the Minister may direct.

THE FERRIES (ACQUISITION BY LOCAL AUTHORITIES) ACT, 1919.

(9 & 10 GEO. 5, c. 75.)

An Act to enable Local Authorities to acquire existing Ferries by Agreement.
[23rd December, 1919.]

Power of local authority to acquire, etc. existing ferries.

1.—(1) A local authority (*a*) may, with the consent of the Minister of Transport, purchase or accept the transfer of, and the owner of any existing ferry (*b*) may sell or transfer to a local authority, upon such terms as may be agreed on between the owner and the local authority, any existing ferry which is within the area of that local authority or which serves the inhabitants of that area (*c*).

(2) Subject to the provisions of any Act of Parliament under which the ferry was established, and to the rights of any other persons, the local authority may work, maintain and improve the ferry and charge such tolls as were legally chargeable in respect of the ferry before the sale or transfer thereof to the local authority, or such other tolls as the local authority, with the approval of the Minister of Transport, may determine, or, with the approval of the Minister of Transport, the local authority may, if they think fit, free the ferry from tolls, and shall have the rights and powers which the owner of the ferry possessed and shall be subject to the obligations and liabilities to which he was subject.

(3) A local authority may join with any other local authority for the purchase or acceptance, working, maintenance, or improvement of a ferry under this Act, or may contribute towards the expenses of the purchase or acceptance, working, maintenance, or improvement of a ferry by another local authority, and any difference which may arise between any local authorities who are acting jointly or jointly bearing any expenses under this subsection shall be determined by the Minister of Transport, or by an arbitrator appointed by him, and such determination shall be final and binding.

(4) In this Act the expression "existing ferry" means any ferry legally established by Act of Parliament or otherwise (*d*) at the date of the purchase or transfer, and includes all boats and other vessels, landing stages, approaches, apparatus, plant and other property used in connection with the ferry.

Section 1.

51 & 52 Vict. c. 41.

(5) The Minister of Transport shall have the like powers with respect to the holding of local inquiries for the purposes of this Act as are conferred by section eighty-seven of the Local Government Act, 1888, upon the Minister of Health for the purposes of that Act (*e*).

(6) In this Act the expression "local authority" means and includes a county council, the mayor, aldermen and burgesses of a county or other borough, and the council of any urban or rural district.

(7) Any expenses incurred by a local authority under this Act may be defrayed, in the case of a county council out of the county fund, and in the case of the council of a borough or urban or rural district as part of the general expenses incurred in the execution of the Public Health Acts, 1875 to 1908 (*f*).

(8) A local authority, if a county council, may borrow for the purposes of this Act under section sixty-nine of the Local Government Act, 1888, as if those purposes were mentioned in that section, and if a council of a county, or other borough, or a district council, shall have the same power of borrowing for the purposes of this Act as they have under the Public Health Acts, 1875 to 1908, for the purpose of defraying any expenses incurred by them in the execution of those Acts (*g*).

(*a*) See the definition of a local authority in sub-s. (6).

(*b*) See the definition of an existing ferry in sub-s. (4).

(*c*) This is a wide expression. A ferry may serve the inhabitants of an area though it does not adjoin that area.

(*d*) A ferry is created by Royal grant, or in modern days by Act of Parliament, or exists by prescription which implies a Royal grant. See as to the creation of a ferry and generally as to the law relating to ferries, Halsbury's Laws of England, Vol. XIV., p. 555. Reference may also be made to *Layzell* v. *Thompson* (1927), 91 J. P. 129.

(*e*) This section is set out in full at p. 818, *ante*.

(*f*) As to expenses of an urban district council, see the P. H. A., 1875, s. 207, *ante*, p. 495; and as to the expenses of a rural district council, see s. 229 of the same Act, *ante*, p. 514, as amended by the R. & V. Act, 1925, *ante*, p. 1633.

(*g*) See the P. H. A., 1875, s. 233, *ante*, p. 519.

Protection of general public.

2. In the case of every ferry acquired under this Act, regulations with regard to the working shall be made by the local authority for the protection from injury of passengers and the general public: Provided that no such regulation shall have any force or validity until the same have been confirmed by the Minister of Transport with or without amendment. Offenders against such regulations shall be liable on summary conviction to such penalties, not exceeding forty shillings, as may be thereby prescribed.

Crown rights.

3. Nothing in this Act affects prejudicially any estate, right, power, privilege, or exemption of the Crown and in particular nothing herein contained authorises any local authority to take, use, or in any manner interfere with any portion of the shore or bed of the sea or of any river, channel, creek, bay, or estuary or any land, hereditaments, subjects, or rights of whatsoever description belonging to His Majesty in right of His Crown and under the management of the Commissioners of [Crown Lands] (*a*) or of the Board of Trade respectively without the consent in writing of the Commissioners of [Crown Lands] (*a*) or the Board of Trade, as the case may be, on behalf of His Majesty first had and obtained for that purpose (which consent the said Commissioners and Board are hereby respectively authorised to give).

(*a*) Words in brackets substituted for "Woods" in consequence of the Forestry (Title of Commissioners of Woods) Order, 1924. See Crown Lands Act, 1927, s. 1 (4).

Exemption from tolls in case of persons in service of Crown, &c.

4. Without prejudice to any existing right of His Majesty, and save as provided by the Army Act, nothing in this Act shall extend to authorise any tolls to be demanded or received from any person when on duty in the service of the Crown, or for any animal, vehicle, or goods the property of, or

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when being used in the service of, the Crown, or returning after being so used, or from any police officer acting in the execution of his duty, or for any mail bag as defined by the Post Office Act, 1908 (*a*). If any person wilfully and with intent to defraud claims or takes the benefit of any such exemption as aforesaid without being entitled thereto, he shall for every such offence be liable, on summary conviction to a fine not exceeding ten pounds. 8 Edw. 7. c 48.

(*a*) The Act referred to is 8 Edw. 7, c. 48, s. 89. See Halsbury's Laws of England, Vol. XXII., p. 651. As to the exemption of servants of the Crown such as postmen, see *A.-G.* v. *Londonderry Bridge Commissioners* (1903), 1 I. R. 389, and as to exemptions under the Army Act, see *A.-G.* v. *Selby Bridge Proprietors*, [1921] 3 K. B. 31.

5. [*Application to Ireland.*]

6. (1) [*Scotland.*]

(2) This Act may be cited as the Ferries (Acquisition by Local Authorities) Act, 1919. Extent and short title.

THE PUBLIC LIBRARIES ACT, 1919.

(9 & 10 Geo. 5, c. 93.)

An Act to amend the Public Libraries Acts, 1892 *to* 1901 (*a*), *and to repeal so much of the Museums and Gymnasiums Act,* 1891 (*b*), *as authorises the provision of Museums in England and Wales.* [23rd December, 1919.]

1.—(1) The council of any county in England or Wales shall have power by resolution specifying the area to which the resolution extends to adopt the Public Libraries Acts for the whole or any part of their county, exclusive of any part of the county which is an existing library area within the meaning of this Act, as if the area specified in the resolution were a library district for the purposes of those Acts (*c*). Powers of county councils to adopt the Public Libraries Acts.

(2) Where any resolution is passed by the council of a county under this section, the Public Libraries Acts shall, as respects the area specified in the resolution, be carried into execution by the council as the library authority of the area, and, subject to the provisions of this Act, the power to adopt those Acts for any district comprised in that area, being a library district within the meaning of the Public Libraries Act, 1892, shall cease (*d*). 55 & 56 Vict. c. 53.

(3) Where the Public Libraries Acts have been adopted by the council of a county, the council may borrow for the purposes of those Acts as for the purposes of the Local Government Act, 1888 (*e*): 51 & 52 Vict. c. 41.

Provided that *money borrowed for the purposes of those Acts shall not be reckoned as part of the total debt of the county for the purposes of subsection* (2) *of section sixty-nine of the Local Government Act,* 1888, *and that* sixty years shall be substituted for thirty years in subsection (5) of the said section sixty-nine as the maximum period within which money borrowed for the purposes of those Acts is to be repaid (*f*).

(*a*) The Acts referred to are the Public Libraries Act, 1892, the Public Libraries (Amendment) Act, 1893, and the Public Libraries Act, 1901. All these Acts are set out *in extenso*, *ante*, pp. 2542, 2552, 2616.

(*b*) See this Act *in extenso*, *ante*, p. 2528.

(*c*) The power of adopting these Acts is extended by the text to a County Council. For the definition of an existing library area, see s. 10, *post*, p. 2781. And for the definition of a library district, see the Act of 1892, s. 1 (2), *ante*, p. 2542.

(*d*) The power to adopt the Public Libraries Acts is that conferred by the Act of 1892, s. 1 (2), on urban districts and parishes not within urban districts. Where the County

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Council adopt the Acts for any area under sub-s. (1), the power to adopt by urban districts and parishes will cease.

(*e*) The power to borrow here referred to is that conferred by the L. G. A., 1888, s. 69.

(*f*) The L. G. A., 1888, s. 69, authorises a county council to borrow for any purpose for which a county council are authorised by any Act to borrow. But it provided by sub-s. (2) that where the total debt of the county exceeded one-tenth of the rateable value of the county, the amount should not be borrowed save pursuant to a provisional order made by the L. G. B. (now the Ministry of Health), and confirmed by Act of Parliament. This restriction having been removed by s. 74 of the L. G. A., 1929, *ante*, p. 1940, the words in italics were repealed by Sch. XII, Pt. V., *ibid*. By sub-s. (5) of s. 69 the loan had to be repaid within thirty years; this is extended to sixty years by the provision in the text in case of loans for the purposes of the Public Libraries Acts.

Arrangements between existing library authorities and county councils.

2.—(1) Any library authority, being the library authority of an existing library area (*a*) and not being the council of a county borough, may, on such terms as may be agreed upon between the authority and the council of the county and approved by the Board (*b*), relinquish in favour of the council of the county any of their powers and duties under the Public Libraries Acts, and in that case the powers and duties so relinquished shall cease and the provisions of this Act shall have effect as if the council of the county had passed a resolution under this Act (*c*) adopting the Public Libraries Acts as respects that area.

(2) Where under the provisions of this Act any existing library authority relinquishes its powers and duties in favour of the council of a county, any property or rights acquired for the purpose of the performance of those powers and duties shall by virtue of this Act be transferred to and become vested in the county council and any liabilities incurred for that purpose shall by virtue of this Act become liabilities of the county council.

(*a*) See the definition of this expression in s. 10, *post*, p. 2781.

(*b*) *I.e.* the Board of Education. See s. 10, *post*, p. 2781.

(*c*) See s. 1, *ante*, p. 2777.

Reference and delegation of library powers to education committees.
2 Edw. 7, c. 42.

3.—(1) Where after the commencement of this Act the Public Libraries Acts are adopted by an authority which is not the library authority of an existing library area (*a*) and which is the local education authority for the purpose of Part II. of the Education Act, 1902 (*b*), all matters relating to the exercise by the authority of their powers under the Public Libraries Acts, except the power of raising a rate or borrowing money, shall stand referred to the education committee established under the Education Acts, 1870 to 1918 (*c*), and the authority before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the education committee with respect to the matter in question.

(2) A library authority, being the local education authority for the purpose of Part II. of the Education Act, 1902, may refer any matters relating to the exercise by them of their powers under the Public Libraries Acts to the education committee established under the Education Acts, 1870 to 1918 (*c*), and may delegate to that committee any of those powers other than the power of raising a rate or borrowing money, and any education committee to which any powers are delegated under this section may, subject to any directions of the council, delegate all or any of those powers to a sub-committee consisting either in whole, or in part, of members of the education committee.

(3) Where any powers stand referred or are delegated to an education committee in pursuance of this section, those powers shall not, by reason of being so delegated, be deemed for any purposes whatsoever to be powers conferred by the Education Acts, 1870 to 1918.

(*a*) See the definition of this expression in s. 10, *post*, p. 2781.

(*b*) Part II. of the Education Act, 1902, related to Higher Education, and the local education authority for that purpose was the council of a county or county borough.

(c) The education committee was established under the Education Act, 1902, 2 Ed. 7, c. 42, s. 17. See now s. 4 of the Education Act, 1921, which repealed the Act of 1902.

Note to Section 3.

Provision as to expenses and audit. 55 & 56 Vict. c. 53.

4.—(1) *Section two of the Public Libraries Act*, 1892 (*which imposes limitations on the amount of the rate which may be levied for the purposes of that Act*) *shall cease to have effect, and, where the expenses incurred by any library authority for the purposes of the Public Libraries Acts during the financial year current at the commencement of this Act exceed the amount produced by the maximum rate which the authority have power to levy for the purposes of those Acts, no part of those expenses shall be open to objection on the audit of the accounts of the authority on the ground that the statutory limitation on expenditure has been exceeded, if and in so far as the expenses were in the opinion of the Ministry of Health reasonably incurred* (*a*) *:*

Provided that, if the library authority of any library district, either at the time when the Public Libraries Acts are adopted for the district or at any subsequent time, by resolution declare that the rate to be levied for the purposes of those Acts in the district or any specified portion of the district in any one financial year shall not exceed such sum in the pound as may be specified, the power to raise a rate for the purpose of those Acts in that district shall be limited accordingly, and any such resolution shall not be rescinded until the expiration of twelve months from the date on which it was passed.

(2) Any expenses incurred by the council of a county under the Public Libraries Acts shall be defrayed out of the county fund (*b*), and the council may, if they think fit, after giving reasonable notice to the overseers of the parish or parishes (*c*) concerned, and in the case of an area situate within a borough including a metropolitan borough or urban district after consultation with the council of the borough or urban district, charge any expenses incurred by them under those Acts on any parish or parishes which in the opinion of the council of the county are served by any institution which has been provided or is being maintained by that council under those Acts :

Provided that the council of a county shall not charge any expenses so incurred on any parish or parishes within an existing library district without the concurrence of the library authority of that district (*d*).

(3) The accounts of the receipts and expenditure under the Public Libraries Acts of the council of a county shall be audited in manner provided by section seventy-one of the Local Government Act, 1888 (*e*).

(*a*) Words in italics repealed by S. L. R. A., 1927. No statutory limit is now imposed, but the library authority may themselves limit the expenditure in connection with these Acts by resolution.

(*b*) For the provisions in force as to the county fund, see the L. G. A., 1888, s. 68. The expenses will therefore fall on the county at large, except in cases within the latter part of the section.

(*c*) Overseers were abolished by s. 62 of the R. & V. Act, 1925, *ante*, p. 1741. Art. 14 of the Overseers Order, 1927, in App. II., *post*, p. 3684, provides that notice must now be given in the case of an urban parish to the clerk to the rating authority and in a rural parish to the chairman of the parish council or parish meeting.

(*d*) See the Act of 1892, s. 1, *ante*, p. 2542.

(*e*) That is to say, by the district auditor.

Power to rescind resolutions of county councils adopting the Public Libraries Acts

5.—(1) The council of a county by whom a resolution has been passed under this Act adopting the Public Libraries Acts may, if they think it advisable so to do with a view to the better carrying into effect of those Acts in any district (*a*), apply to the Board (*b*) for an order rescinding the resolution as respects that district, and the Board may on any such application, if they think fit, make an order accordingly, and thereupon the Public Libraries Acts shall, as respects that district, have effect as from the date

Section 5. specified in that behalf in the order as though the resolution had not been passed.

(2) Any order made under this section may contain such consequential and supplemental provisions with respect to the transfer of any property or rights acquired or liabilities incurred under the Public Libraries Acts from the council of the county to the library authority of the district concerned as the Board think fit, but no such liabilities shall be transferred to such last-mentioned library authority without their consent.

(3) In this section the expression "district" means, as the case requires, either a library district or a district which would have been a library district if a resolution adopting the Public Libraries Acts had not been passed under this Act by the council of the county (*c*).

(*a*) See sub-s. 3.

(*b*) That is, the Board of Education. See s. 10, *post*, p. 2781.

(*c*) For the definition of library district see s. 1 (2) of the 1892 Act, *ante*, p. 2542. And see s. 1 (2) of this Act, *ante*, p. 2777, as to the excluding effect of a resolution of the county council.

Power of certain library authorities to purchase land compulsorily.

6. A library authority, being the local education authority for the purpose of Part II. of the Education Act, 1902 (*a*), may be authorised to purchase land compulsorily for the purpose of any of their powers or duties under the Public Libraries Acts in the same manner as they are authorised to purchase land compulsorily for the purpose of their powers or duties under the Education Acts, 1870 to 1918, and subsection (1) of section thirty-four of the Education Act, 1918, shall apply accordingly with the substitution of a reference to the Public Libraries Acts for references therein to the Education Acts, and with the omission of proviso (*b*) thereof (*b*).

8 & 9 Geo. 5, c. 39.

(*a*) See note (*c*) to s. 3, *ante*, p. 2779.

(*b*) Under s. 34 (1) of the Act of 1918 land might be compulsorily acquired by an order submitted to the Board of Education and confirmed by them. The Act of 1918 was repealed by the Education Act, 1921. See the provisions of ss. 109 *et seq.* of that Act and the Order of 1925 in App. II., *post*, p. 3442, as to the acquisition of land.

Repeal of s. 3 of 56 & 57 Vict. c. 11.

7. *Section three of the Public Libraries Act*, 1893, *shall cease to have effect and* accordingly any resolution passed in accordance with the ordinary procedure of the council concerned shall have full effect for the purposes of that Act (*a*).

(*a*) Sect. 3 of the Act of 1893 provided for the manner in which the Libraries Acts might be adopted. It is now superseded by the provision in the text. Words in italics repealed by S. L. R. A., 1927.

Power of providing schools of science and of art under s. 11 of 55 & 56 Vict. c. 53 to cease.

8. As from the date of the commencement of this Act, the power of providing schools for science and schools for art conferred by section eleven of the Public Libraries Act, 1892, shall cease, without prejudice, however, to the power of maintaining under the Public Libraries Acts any such school established under that section before that date (*a*).

(*a*) See the section referred to, *ante*, p. 2544.

Power of providing museum under 54 & 55 Vict. c. 22 to cease.

9. As from the date of the commencement of this Act, so much of section four of the Museums and Gymnasiums Act, 1891, as authorises the provision of museums in England and Wales shall cease to have effect, without prejudice however, subject as hereinafter provided, to the power of maintaining under that Act any museum established thereunder before the said date (*a*):

Provided that, where the district for which a museum has been provided under the said Act at the said date is, or is part of, or at any time after the said date becomes, or becomes part of, a district which is a library district (*b*) within the meaning of the Public Libraries Acts, the museum shall

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be transferred to the library authority of the district, and be maintained by that authority as though it had been provided under those Acts (*c*).

(*a*) See the section of the Act of 1891 referred to in the text, *ante*, p. 2529. Under s. 11 of the 1892 Act, *ante*, p. 2544, a library authority had power to provide not only public libraries, but also public museums, schools for science, art galleries, and schools of art. See now, however, as to schools for science and art, s. 8, *ante*, p. 2780.

(*b*) See the Act of 1892, s. 1, *ante*, p. 2542.

(*c*) *I.e.*, under s. 11 of the 1892 Act, *ante*, p. 2544.

Interpretation.

10. For the purposes of this Act—

The expression "the Public Libraries Acts" means the Public Libraries Acts, 1892 to 1901 and this Act (*a*);

The expression "the Board" means the Board of Education;

The expression "existing library area" means a district as respects which the Public Libraries Acts are in force and in which expenses have, within the last preceding financial year, been incurred for the purposes of those Acts, or in which a public library has been established and is being maintained under or by virtue of any local Act;

The expression "financial year" means the year ending on the thirty-first day of March.

(*a*) The Public Libraries Acts are now 55 & 56 Vict. c. 53; 56 & 57 Vict. c. 11; 61 & 62 Vict. c. 53; 1 Edw. 7, c. 19, and this Act.

Short title and repeal.

11.—(1) This Act may be cited as the Public Libraries Act, 1919, and shall be construed as one with the Public Libraries Acts, 1892 to 1901, and those Acts and this Act may be cited together as the Public Libraries Acts, 1892 to 1919 (*a*).

(2) *The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule* (*b*).

(*a*) See note (*a*) to s. 10, *supra*.

(*b*) This subsection and the Schedule referred to therein were repealed by S. L. R. A., 1927.

SCHEDULE.

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Session and Chapter.	*Short Title.*	*Extent of Repeal.*
55 & 56 Vict. c. 53.	*The Public Libraries Act*, 1892.	*Section two; in section three the words "or with respect to any limitation of the rate other than the limitations specified in this Act"; subsection (4) of section twenty-one.*
56 & 57 Vict. c. 11.	*The Public Libraries (Amendment) Act*, 1893.	*In section two the words "subject to the conditions contained in the second section of that Act" and the words "and the limitation of the maximum rate to be levied for the purposes of that Act may within the limits fixed by that Act be fixed, raised or removed"; section three.*
1 *Edw.* 7, *c.* 19 .	*The Public Libraries Act*, 1901.	*Section ten.*

ELECTRICITY (SUPPLY) ACT, 1919 (*a*).

(9 & 10 GEO. 5, c. 100.)

An Act to amend the Law with respect to the supply of electricity.
[23rd December, 1919.]

Electricity Commissioners.

Appointment Electricity Commissioners.

1.—(1) For promoting, regulating, and supervising the supply of electricity there shall be established as soon as may be after the passing of this Act, a body to be called the Electricity Commissioners, who shall have such powers and duties as are conferred on them by or under this Act, and, subject thereto, shall act under the general directions of the Board of Trade (*b*).

(2) The Commissioners, not exceeding five in number, of whom one shall be chairman, shall be appointed by the Board of Trade: in the case of two of the Commissioners the term of office shall be such as may be fixed by the Board of Trade at the time when the appointment is made; the other Commissioners shall hold office during His Majesty's pleasure.

(3) Three of the Commissioners shall be whole-time officers.

(4) Three of the Commissioners shall be selected for practical, commercial, and scientific knowledge and wide business experience, including that of electrical supply.

(5) A person shall be disqualified for being appointed or being a Commissioner if he has, directly or indirectly, any share or interest in any undertaking for the supply of electricity, otherwise than as a ratepayer in the case of an undertaking of a local authority.

(6) The Commissioners may act by two of their number and notwithstanding a vacancy in their number.

(7) The Electricity Commissioners may appoint a secretary and such inspectors, officers and servants as the Commissioners may determine, and there shall be paid out of the fund hereinafter established to the Commissioners, and to the secretary, inspectors, officers and servants of the Commissioners, such salaries and remuneration, and on retirement [or death] (*c*) such pensions or gratuities as the Board of Trade (*d*) may determine, and any expenses incurred by the Commissioners in the exercise and performance of their powers and duties under this Act, shall be defrayed out of the said fund.

(8) Every document or instrument purporting to be an order or instrument issued by the Commissioners, and to be signed by the secretary to the Commissioners, or any person authorised to act on behalf of the secretary, shall be received in evidence, and be deemed to be such order or instrument without further proof unless the contrary is shown.

(*a*) This Act is one of the Electricity (Supply) Acts, 1882–1928, which include the Electric Lighting Acts, 1882, 1888 and 1909, *ante*, pp. 2437, 2495, and 2695, and the Electricity (Supply) Acts, 1922, 1926 and 1928, *post*, pp. 2835, 2909, and 3019.

(*b*) The powers and duties of the Board of Trade under this Act and the Electric Lighting Acts have been transferred to the Minister of Transport by Order in Council made under s. 39 (1) of this Act, but by a proviso to that sub-section it is enacted that the power of appointing Electricity Commissioners shall be exercised by the Minister of Transport with the concurrence of the Board of Trade.

(*c*) The words in brackets were added by s. 50 and Sch. VI. Electricity (Supply) Act, 1926, *post*.

(*d*) For Board of Trade now read Minister of Transport. See note (*b*), *supra*.

Exercise of powers through Electricity Commissioners.

2. The Board of Trade (*a*) may exercise through the Electricity Commissioners any of their powers and duties under the Electric Lighting Acts (*b*) or the orders or regulations made thereunder or under any local Acts relating to the supply of electricity or under any enactment relating to matters incidental to such supply.

(*a*) See note (*b*) to s. 1, *ante*, p. 2782.

(*b*) This expression is defined to mean the Electric Lighting Acts, 1882 to 1909 (s. 36).

Power to conduct experiments.

3. The Electricity Commissioners may, either by themselves or through any joint electricity authority established under this Act, or any authorised undertakers (*a*), or other competent body, conduct experiments or trials for the improvement of the methods of electric supply or of the utilisation of fuel or water-power, and, subject to the approval of the Board of Trade (*b*), incur such expenditure as may be necessary for the purpose.

(*a*) This expression includes authorised distributors and power companies (s. 36, *post*, p. 2802). As to who are authorised distributors and power companies, see the same section.

(*b*) See note (*b*) to s. 1, *ante*, p. 2782.

Advisory Committee.

4. The Electricity Commissioners may appoint a committee or committees consisting of chairmen or other members of joint electricity authorities established under this Act, or representatives of authorised undertakers or other specially qualified persons for the purpose of giving to the Commissioners advice and assistance on such matters connected with the general improvement and development of the supply of electricity as may be referred to the committee by the Commissioners, and the Commissioners shall take into consideration any representations which have been made to them by any such committee.

Reorganisation of Supply of Electricity.

Electricity districts.

5 (*a*).—(1) *The Electricity Commissioners may provisionally determine that any district in the United Kingdom shall be constituted a separate electricity district for the purposes of this Act, and, in considering what areas are to be included in a district, areas shall be grouped in such manner as may seem to the Commissioners most conducive to the efficiency and economy of the supply of electricity and to convenience of administration. Before finally determining the area of any such district, the Electricity Commissioners shall publish notice of their intention so to do and of the area proposed to be included in such district, and shall also give notice thereof to all county councils, local authorities, and authorised undertakers any part of whose county district or area of supply is proposed to be included in the electricity district, and, if any objection or representation be made on account of the inclusion in or the exclusion from the proposed district of any area, the Electricity Commissioners shall hold a local inquiry with reference to the area to be included in the proposed district:*

Provided that, where a local inquiry is held as hereinafter provided regarding the improvement of the organisation of the supply of electricity in any district, the area of that district shall not be finally determined until after that inquiry has been held.

(2) *Where it appears to the Electricity Commissioners with respect to any electricity district so provisionally determined that the existing organisation for the supply of electricity therein should be improved, the Commissioners shall give notice of their intention to hold a local inquiry into the matter, and shall give to authorised undertakers, county councils, local authorities, railway companies using or proposing to use electricity for traction purposes, large consumers of electricity, and other associations or bodies within the district which appear to*

Section 5. *the Commissioners to be interested, an opportunity to submit, within such time as the Commissioners may allow, a scheme or schemes for effecting such improvement, including proposals for altering or adjusting the boundaries of the district and, where necessary, the formation of a joint electricity authority* [*or other body*] (*b*) *for the district.*

(3) *If no such scheme is submitted within the time so allowed, or if no scheme submitted is approved by the Commissioners, the Commissioners may themselves formulate such a scheme.*

(4) *The Electricity Commissioners shall publish, in such manner as they think best adapted for ensuring publicity, any scheme which they have approved, with or without modifications, or which they have themselves formulated, and shall hold a local inquiry thereon.*

(*a*) See now the substituted section in s. 36, Electricity (Supply) Act, 1926, at p. 2930, *post.*

(*b*) These words were added by s. 19 of the Electricity (Supply) Act, 1922.

Joint electricity authorities.

6 (*a*).—(1) A scheme under the last-foregoing section may provide for the establishment and (where desirable) the incorporation with power to hold land without licence in mortmain, of a joint electricity authority representative of authorised undertakers (*b*) within the electricity district, either with or without the addition of representatives of the council of any county situate wholly or partly within the electricity district, local authorities, large consumers of electricity, and other interests [(including the persons employed in connection with the supply of electricity)] (*c*) within the electricity district, and, subject as hereinafter in this Act provided, for the exercise by that authority of all or any of the powers of the authorised undertakers within the electricity district, and for the transfer to the authority of the whole or any part of the undertakings of any of those undertakers, upon such terms as may be provided by the scheme, and the scheme may contain any consequential, incidental, and supplemental provisions which appear to be expedient or proper for the purpose of the scheme (*d*), including provisions determining the area included in the electricity district : [and the conditions of employment of persons employed by the joint electricity authority] (*e*).

Provided that no such scheme shall provide for the transfer to the authority of any part of an undertaking except with the consent of the owners thereof.

(2) The scheme may provide for enabling the joint electricity authority to delegate, with or without restrictions, to committees of the authority any of the powers or duties of the authority, and for the payment out of the revenues of the authority of travelling and subsistence expenses of members of the authority, and reasonable compensation for loss of remunerative time.

(*a*) The construction of this section was considered in *R.* v. *Electricity Commissioners* (*Ex parte London Joint Committee*), [1924] 1 K. B. 171 ; 88 J. P. 13. A scheme which compelled the joint electricity authority to appoint two committees and assigned to each of the committees separate portions of the district and delegated separate powers and duties to each committee was in that case held to be *ultra vires.*

A joint electricity authority, although authorised by a scheme under this Act to promote " any " bill " for the purposes of this scheme," cannot promote a bill to enlarge the limits of their area as defined by the scheme or to obtain additional powers which might have been but were not conferred by the scheme (*Att.-Gen.* v. *London and Home Counties Joint Electricity Authority,* [1929] 1 Ch. 513 ; 93 J. P. 115).

(*b*) See definition in s. 36, *post,* p. 2802.

(*c*) The parenthesis in brackets was added by s. 20 of the Electricity (Supply) Act, 1922, *post,* p. 2844.

(*d*) The scheme may also contain provisions (*a*) for the carrying out by the joint elec-

Note to Section 6.

tricity authority for the development of the supply of electricity within the district; and (b) for the subsequent alteration of the constitution of the joint electricity authority (see s. 37, Electricity (Supply) Act, 1926, *post*, p. 2931).

(e) These words were added by s. 20 of the Electricity (Supply) Act, 1922, *post*, p. 2844.

Confirmation of schemes.

7.—(1) The Electricity Commissioners may make an order giving effect to the schemes embodying decisions they arrive at as the result of such inquiry as aforesaid, and present the order for confirmation by the Board of Trade (*a*), who may confirm the order either without modification or subject to such modifications as they think fit (*b*).

(2) Any such order shall be laid, as soon as may be after it is confirmed before each House of Parliament, but shall not come into operation unless and until it has been approved either with or without modification by a resolution passed by each such House, and when so approved shall have effect as if enacted in this Act (*c*).

(3) An order made under this section may be altered by a subsequent order made, confirmed, and approved in like manner as the original order (*d*).

(*a*) Now M. of T. See note (*b*) to s. 1, *ante*, p. 2782.

(*b*) A writ of prohibition issued to prohibit the commissioners from holding a local inquiry and proceeding further with the consideration of an *ultra vires* scheme notwithstanding the provisions of this section (*R.* v. *Electricity Commissioners, Ex parte London Joint Committee*, [1924] 1 K. B. 171; 88 J. P. 13).

(*c*) As to the effect of this provision, see *Ex parte Ringer* and the cases cited therewith at p. 630, *ante*.

(*d*) This provision includes power by a subsequent order to constitute a joint electricity authority where the original order did not provide for the constitution of such an authority, and such an order shall apply s. 16 of this Act as amended to the officers and servants of the body displaced by the joint electricity authority (s. 38, Electricity (Supply) Act, 1926, *post*, p. 2931).

General powers and duties of joint electricity authorities.

8.—(1) It shall be the duty of every joint electricity authority constituted under this Act to provide or secure the provision of a cheap and abundant supply of electricity within their district, and for that purpose every such authority shall have such powers and duties as are conferred or imposed upon them by the scheme under which they are constituted or by this Act with respect to—

(*a*) the supply of electricity within their district (including the construction of generating stations (*a*), main transmission lines (*a*), and other works required for the purpose);

(*b*) the acquisition of the undertakings or parts of the undertakings of authorised undertakers (*a*);

and such powers incidental thereto, as are in the scheme or in this Act mentioned, and every such authority shall comply with any general directions given to them by the Electricity Commissioners as to the exercise and performance of their powers and duties (*b*).

(2) A joint electricity authority may, with the approval of the Electricity Commissioners, establish or join with any other such authority in establishing a scheme for the payment of superannuation allowances and gratuities to any of their officers and servants who become incapable of discharging their duties by reason of permanent infirmity of body and mind or old age upon their resigning or otherwise ceasing to hold office, and the expenses incurred under any such scheme shall be treated as part of the expenses of the authority in carrying out their powers and duties under this Act (*c*).

(*a*) See the definitions in s. 36, *post*, p. 2802.

(*b*) See the power given to discharge purchase price by the issue of stock by s. 4 of the Electricity (Supply) Act, 1922, *post*, p. 2837, and see s. 8 of the same Act. See also the power to lease undertakings to joint electricity authorities given by s. 6 of the same Act.

(*c*) Section 33, Electricity (Supply) Act, 1926, *post*, p. 2928, gives specific power to a joint electricity authority to adopt the provisions of the Local Government and Other Officers Superannuation Act, 1922, *ante*, p. 1335, without prejudice to the provisions of this section, so that apparently the approval of the Electricity Commissioners will be required to such adoption.

Generating Stations.

Power to acquire generating stations, &c.

9. A joint electricity authority may, with the consent of the Electricity Commissioners, by agreement with the owners thereof acquire any generating station or any main transmission line from any such station on such terms as may be agreed (*a*).

(*a*) See s. 12 of the Electricity (Supply) Act, 1922, *post*, p. 2841, for a power to make agreements as to working of generating stations. For meanings of "generating station" and "main transmission line," see s. 36, *post*, p. 2802.

Right to use for generating stations land acquired for that purpose.

10. Where a joint electricity authority or any authorised undertakers (*a*) are authorised by order made after the passing of this Act to acquire or use any land for the purpose of a generating station (*a*), no person shall be entitled to restrain the use of the land for that purpose.

(*a*) See definitions in s. 36, *post*, p. 2802.

Restrictions on the establishment of new generating stations (*a*).

11. Notwithstanding anything in any special Act or order in force at the passing of this Act, it shall not be lawful for any authority, company, or person to establish a new or extend (*a*) an existing generating station (*b*) or main transmission line (*b*) without the consent of the Electricity Commissioners (*c*) (which consent shall not be refused or made subject to compliance with conditions to which the authority, company, or person object, unless a local inquiry (*d*) has been held), but this restriction shall not apply to the establishment or extension of a private generating station: provided that, in the case of the establishment of a new private generating station, the owner thereof shall comply with any regulations made by the Electricity Commissioners as to the type of current, frequency, and pressure to be used; but such regulations shall be so framed as not to interfere with the economical and efficient working of the business for which the supply is generated:

Provided that, in the case of a railway company using or proposing to use electricity for traction, and in the case of the owners of a dock undertaking regulated by Act of Parliament using or proposing to use electricity for the purposes of their undertaking, consent shall not be refused unless it is proved to the satisfaction of the Electricity Commissioners that a joint electricity authority or authorised undertakers are or will be willing and in a position to give the railway company or owners a supply of electricity, adequate in quantity and regularity to meet the present and prospective demand of the railway company or owners, at a cost not greater than would have been incurred by the railway company or owners in supplying themselves:

Provided also that—

(*a*) where a group of persons carrying on or intending to carry on businesses in which large quantities of electricity are used for purposes other than for provision of mechanical power or light propose to establish a generating station for the purposes of such businesses; or

(*b*) where a manufacturer, having a business in which electricity can be generated from energy derived from a process of manufacture carried on in his premises, proposes to establish a generating station for the purpose of supplying electricity not only for his own business but also to other manufacturers whose businesses are associated therewith:

the Electricity Commissioners may authorise the establishment, by or on behalf of those consumers or that manufacturer, of a generating station, subject to the condition that any surplus electricity generated beyond that required by those consumers or, as the case may be, by the business of that manufacturer or the associated businesses shall (if required by the Electricity Commissioners) be supplied to the joint electricity authority, or any authorised undertakers, at such prices as the Electricity Commissioners may think fit and proper, and may by order authorise the exercise of such other powers (including the breaking up of roads, railways, and tramways) as may be necessary for the purpose of such supply, and the generating station shall be treated for the purposes of this Act as though it were a private generating station.

(*a*) The substitution for existing plant of smaller but more efficient plant in a generating station is an extension of a "generating station" within s. 36 and requires the consent of the commissioners under this section (*Att.-Gen.* v. *Ealing Corpn.*, [1924] 2 Ch. 545 88 J. P. 153).

(*b*) See definition in s. 36, *post*, p. 2802.

(*c*) See s. 13 of the Electricity (Supply) Act, 1922, *post*, p. 2841, for conditions under which the restriction on generating stations and obligations to take supplies from same are not to apply. See also s. 25 of the Act of 1922, *post*, p. 2846, as to the power of persons not being undertakers to supply electricity. In giving consent under this section regard must be had to the provisions of the Electricity (Supply) Act, 1926, and the effect of any scheme or proposed scheme thereunder (see s. 18 (2) of that Act, *post*, p. 2922).

(*d*) As to local inquiries, see s. 33, *post*, p. 2801.

Powers of Joint Electricity Authorities (*a*).

Powers of joint electricity authorities in respect of the supply of electricity.

12.—(1) A joint electricity authority shall have power to supply electricity within their district subject to the following limitations, that is to say, the authority shall not supply electricity—

(*a*) in any area which for the time being forms part of the area of supply of any authorised distributors without the consent of those distributors, except to railway, canal, or inland navigation companies or authorities for the purposes of traction or haulage, or for lighting vehicles and vessels for the haulage or traction of which electricity is supplied, or for the purpose of charging or re-charging electric vehicles not running on rails; or

(*b*) in any part of the area of supply of a power company for any purpose for which the company are therein authorised to supply electricity, without the consent of the company, *except to the previous owner of a generating station which has been transferred to the joint electricity authority or for the purpose of charging or re-charging electric vehicles not running on rails* (*b*):

Provided that, where the authorised distributors *or power company* refuse or withhold their consent, the joint electricity authority may appeal to the Electricity Commissioners as to whether the consent is unreasonably refused or withheld, and the Board of Trade (*c*) on the recommendation of the Electricity Commissioners may dispense with such consent if in their opinion it is unreasonably refused or withheld, and the consent shall be deemed to be unreasonably refused or withheld if the authorised distributors *or power company* are not willing and in a position to give the requisite supply upon reasonable terms and within a reasonable time, and in considering what are reasonable terms and what is a reasonable time the Board of Trade (*c*) shall amongst other things have regard to the terms upon which and the time within which the joint electricity authority and the authorised distributors *or power company* are respectively willing and able to give the supply, and, where the authorised distributors *or power company* are themselves supplied by the joint electricity authority, the terms upon which they are so supplied, including the period of time for which such terms are to be binding (*d*).

(2) This Act shall, in relation to every joint electricity authority, be deemed to be a special Act for the purposes of the Electric Lighting Acts (*e*),

Section 12. and every joint electricity authority shall be deemed to be undertakers within the meaning of those Acts, and for the purposes of this section there shall be incorporated with this Act the provisions of the Schedule to the Electric Lighting (Clauses) Act, 1899 (*f*), subject to such exceptions and modifications as may be prescribed by the order constituting the joint electricity authority:

63 & 64 Vict. c. 19.

51 & 52 Vict. c. 12.

Provided that sections two and three of the Electric Lighting Act, 1888 (which relate to the purchase of undertakings by local authorities), shall not apply to the undertakings of joint electricity authorities.

(3) Subject to the limitations hereinbefore contained on the powers of a joint electricity authority to supply electricity, the Electricity Commissioners may by order, after such inquiry as they think fit, impose on any joint electricity authority an obligation to supply electricity in such circumstances within such areas, and on such terms and conditions as to price and otherwise as may be specified in the order (*g*).

(*a*) See the provision as to the mode of exercising their powers by joint electricity authorities contained in s. 15 of the Electricity (Supply) Act, 1922, *post*, p. 2842.

(*b*) The words in italics were deleted by s. 16 (1) of the Electricity (Supply) Act, 1922.

(*c*) Now the M. of T. See note (*b*) to s. 1, *ante*, p. 2782.

(*d*) The words in italics were deleted by s. 16 (1) of the Electricity (Supply) Act, 1922, and by the same sub-section the following proviso was inserted at the end of the sub-section in the text: Provided that, if in any particular part of the area of supply of a power company, the power company are not willing and in a position to supply electricity to any local authority, company or person who is prepared to enter into a binding contract with that power company to continue to receive and pay for a supply of electricity upon such terms and conditions (including the payment of a minimum annual sum) as will, in the opinion of the Electricity Commissioners, afford an adequate return to the power company, and is also (in the case of a company or person) prepared to give to the power company (if required by them so to do) security for the payment of all sums which may become due to the power company under the contract, then and in such case the Electricity Commissioners may, by special order under s. 26 of the principal Act, authorise a joint electricity authority to supply electricity in that particular part of the area of supply of the power company without the consent of the power company. In determining what terms and conditions will afford an adequate return to the power company, the Commissioners shall have regard to the following amongst other considerations: (i) The period for which the authority, company or person requiring the supply guarantees to take the supply; (ii) The amount of electricity and the maximum power required; (iii) The hours during which the power company can be called upon to give the supply; (iv) The capital expenditure in connection with the supply; and (v) To what extent capital expended in connection with the supply may become unproductive to the power company upon the discontinuance of the supply.

(*e*) These are the Electric Lighting Acts, 1882 to 1909 (s. 36). See these Acts at pp. 2437, 2495, 2695, *ante*.

(*f*) See this Act at p. 2569, *ante*.

(*g*) See the provision contained in s. 18 of the Electricity (Supply) Act, 1922, *post*, p. 2844, as to the limitation on the prices to be charged.

Transfer of undertakings to joint electricity authorities.

13.—(1) Any local authority being authorised distributors (*a*) may, with the consent of the Electricity Commissioners, agree with the joint electricity authority of the district in which the area of supply (*b*) of the local authority or any part thereof is situated for the transfer to the joint electricity authority of the whole or any part of the undertaking of the local authority within that district:

Provided that, where part of the area of supply of the local authority is situated in a locality which is not included in an electricity district, the powers of purchasing that part may, if the Electricity Commissioners consent, be exercised by a joint electricity authority within whose district any part of the area of supply is situated (*c*).

(2) Where under the Electric Lighting Acts, or under any order made thereunder or under any special or local Act, any right to purchase the whole or any part of the undertaking of any authorised distributors is vested

in any local authority (including a county council), the right may, by any order under this Act constituting a joint electricity authority for the district comprising the area of the local authority, [or by any amending order under section seven of this Act] (*d*), be transferred to and vested in the joint electricity authority, subject to the order providing for adequate representation on the joint electricity authority of the local authority from whom the right is transferred, and, on any such right being so transferred, the order or Act conferring the right shall be construed accordingly, and any question as to the adequacy of such representation shall be determined by the Electricity Commissioners (*e*):

Provided that, if the area of the local authority is situate partly in the district of one joint electricity authority and partly in that of another, the right shall be transferable to such one of those joint electricity authorities or divisible between them as the Electricity Commissioners may determine, and where part of such area is situate in a locality which is not included in an electricity district the right of purchasing that part may, if the Electricity Commissioners consent, be transferable to a joint electricity authority within whose district any part of such area is situate.

(3) Where any such right as aforesaid becomes exerciseable before the date of the constitution of a joint electricity authority, the right shall not be exercised by the local authority without the consent of the Electricity Commissioners, and such consent may be given subject to such conditions as the Commissioners may think fit, and it shall be lawful for the local authority to comply with any conditions so imposed.

(4) A joint electricity authority with the consent of the Electricity Commissioners may at any time acquire the whole or any part of the undertaking of any authorised undertakers not being a local authority, by agreement, and it shall be lawful for any such undertakers to sell their undertaking or any part thereof to a joint electricity authority.

(*a*) See definition in s. 36, *post*, p. 2802.

(*b*) This expression has the same meaning as in the Electric Lighting Act, 1909 (s. 36). See s. 25 of the Act of 1909, *ante*, p. 2702.

(*c*) See with reference to the provisions of this sub-section, note (*b*) to s. 8, *ante*, p. 2785.

(*d*) The words in brackets were added by s. 50 and Sch. VI. Electricity (Supply) Act, 1926, *post*.

(*e*) See with reference to this sub-section s. 7 of the Electric Lighting Act, 1909, *ante*, p. 2698, and see also s. 14 of the Electricity (Supply) Act, 1922, *post*, p. 2842.

14. [*Special provisions as to power companies*] (*a*).

(*a*) This section was repealed by s. 17 (3) of the Electricity (Supply) Act, 1922. See the substituted provisions in s. 17 (1), (2) of that Act, *post*, p. 2843.

Subsidiary powers of joint electricity authorities.

15.—(1) The Board of Trade (*a*) on the representation of the Electricity Commissioners, may by order authorise any joint electricity authority or any authorised undertakers (*b*) to abstract water from any river, stream, canal, inland navigation or other source, and to do all such acts as may be necessary for the purpose of enabling the joint electricity authority or authorised undertakers to utilise and return the water so abstracted, subject to such conditions as may be specified in the order, but the Board shall not in any case make such an order until notice of their intention to make the order has been given by advertisement or otherwise as the Board may direct and an opportunity has been given to any person who appears to the Board to be affected of stating any objections he may have thereto, and such order may provide for the recovery in a summary manner of penalties for infringement of the order:

Provided that—

(*a*) where the source from which the water is to be abstracted is a canal, inland navigation, or harbour regulated by Act of

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Parliament, or where any existing rights of riparian owners will be affected by the abstraction of the water, the order authorising the abstraction shall be a special order, and shall provide that the water not consumed shall, subject to any agreement to the contrary, be returned at a level not lower than that at which it was abstracted ; and

(*b*) the order shall require that all water not consumed (and in no case less than ninety-five per centum of the water abstracted) shall be returned in a condition not less pure than when it was abstracted and at a temperature not higher than such as may be specified in the order (which temperature shall be fixed at such a degree as appears to the Board necessary to avoid injury to public health or to fisheries, if any, or in the case of a canal or inland navigation to the works thereof, or to vessels using the same, or to the trade or business carried on by any person using the same for the purposes of or in connection with his trade or business) ; and

(*c*) no order shall be made authorising the abstraction of water from any dock regulated by Act of Parliament except with the consent of the owners thereof and subject to such terms and conditions as may be agreed.

[(*cc*) No order authorising the abstraction of water from any reservoir or other works used by any statutory water undertaker for the purposes of the undertaking shall be made without the consent of such undertaker (which consent shall not be unreasonably refused) and if any question arises as to the reasonableness of any refusal or of the terms sought to be imposed as a condition of giving consent the question shall be referred to a single arbitrator nominated by the Lord Chief Justice, or in Scotland by the Lord President of the Court of Session, and in any such order there shall be inserted such provisions as the Minister of Health (or in the case of Scotland, the Scottish Board of Health) may consider proper for safeguarding the interests of the water consumers] (*c*) ; and

(*d*) in any order authorising the abstraction of water from the Manchester Ship Canal there shall be inserted such provisions as the Board of Trade may consider adequate for preventing interference with the navigation of the canal.

(2) A joint electricity authority and any local authority, company, or person may, with the consent of the Electricity Commissioners, enter into arrangements for the utilisation, for the purposes of the joint electricity authority, of water power, waste heat, or other form of energy which the local authority, company, or person may be able to dispose of, or for the supply by the joint electricity authority of any form of energy other than electricity, and, where such an arrangement has been made, the joint electricity authority may be authorised by order (*d*) to exercise such powers (including the power to break up roads, railways, and tramways) as may be necessary for the purpose of conveying such energy :

Provided always that such joint electricity authority, local authority, company, or person shall in no case have the power to enter into arrangements for the supply by the joint electric authority of any form of energy, other than electricity, in any area or district within which any undertakers may be authorised by Parliament to supply such form of energy unless and until such undertakers consent thereto, and then only upon such terms and conditions as may be agreed upon with such undertakers.

(3) The purposes for which a joint electricity authority may be authorised to acquire compulsorily or use land under section one (*e*) of the Electric 9 Edw. 7, c. 34.

Lighting Act, 1909, shall include the development of water-power for the generation of electricity.

(4) A joint electricity authority may, with the consent of the Electricity Commissioners, erect, maintain, alter, improve, and renew by-product plant with all necessary machinery and apparatus, and do all such acts as may be proper for working up and converting the residual products arising directly or indirectly from the generation of electricity:

Provided that, where it appears to the Electricity Commissioners that the establishment of any such by-product plant could properly be undertaken by any existing company, authority, or person, a joint electricity authority shall not establish such plant without first giving to such company, authority, or person an opportunity for so doing.

(*a*) By s. 39 (1), *post*, p. 2803, and an Order in Council made thereunder, the powers of the Board of Trade under this Act have passed to the Minister of Transport.

(*b*) See definition in s. 36, *post*, p. 2802.

(*c*) The words in brackets were added by s. 50 and Sch. VI., Electricity (Supply) Act, 1926, to meet the decision in *Metropolitan Water Board* v. *Minister of Transport* (1925), 90 J. P. 52. In that case it was held that an order of the Minister of Transport under this section might authorise the abstraction of water from a reservoir of the Board against the wishes of the Board. The amendment requires the consent of a statutory water undertaker to the making of an order authorising the abstraction of water from a reservoir, etc., of such an undertaker.

(*d*) See s. 32 (3), *post*, p. 2801, as amended by the Electricity (Supply) Act, 1926, which provides that an order empowering the breaking up of streets, railways, and tramways, other than such as can be broken up under any order or special Act relating to the particular joint electricity authority or undertakers, shall apply or incorporate the provisions of the Electric Lighting (Clauses) Act, 1899, relating to the breaking up of streets, railways, and tramways. The amending provision dispenses with the necessity for a special order and a departmental order only will now be necessary.

(*e*) See this section at p. 2695, *ante*.

Compensation for deprivation of employment.

16. If after the eighth of May nineteen hundred and nineteen, and within five years from the date when *under this Act* (*a*) a transfer of the whole or any part of an undertaking has been effected, or a scheme for the improvement of the supply of electricity in any district has come into operation, or an agreement or arrangement between various authorised undertakers for the rendering of mutual assistance to one another has been entered into, any officer or servant who has, *before the said eighth day of May* (*b*), been regularly employed in or about the undertaking or any authorised undertaking proves to the satisfaction of a referee or a board of referees appointed by the Minister of Labour that *in consequence of this Act* (*c*) he—

(i) has suffered loss of employment, or diminution of salary, wages or emoluments, otherwise than on grounds of misconduct, incapacity, or superannuation; or

(ii) has relinquished his employment in consequence of being required to perform duties such as were not analogous or were an unreasonable addition to those which *before the said eighth day of May* (*b*) he had been required to perform; or

(iii) has been placed in any worse position in respect to the conditions of his service (including tenure of office, remuneration, gratuities, pension, superannuation, sick or other fund, or any benefits or allowances, whether obtaining legally or by customary practice),

and the body to which the undertaking or part thereof was transferred, or, as the case may be, the authorised undertakers who are affected by the scheme or are parties to the agreement or arrangement, do not show to the satisfaction of the referee or board of referees that equivalent employment on the like conditions as those obtaining with respect to him, at the date when the scheme comes into operation, or the agreement or arrangement is entered into, was available, there shall be paid to him by that body or those undertakers, or such of them as the referee or board of referees may think just, such compensation as the referee or board of referees may award, including any expenses which the officer or servant necessarily incurs in removing to another locality:

51 & 52 Vict. c. 41.

Provided that such compensation shall, in the case of an officer employed on an annual salary, be based on but not exceed the amount which would have been payable to a person on abolition of office under the Acts and rules relating to His Majesty's Civil Service in force at the date of the passing of the Local Government Act, 1888 (*d*), but, in computing the period of service of any officer, service under any authorised undertakers shall be reckoned as service under the authorised undertaker in whose employment he is at the time that he suffers such loss or diminution as is mentioned in this section; and, where any such officer or servant was temporarily absent from his employment whilst serving in or with His Majesty's Forces or the forces of the Allied or Associated Powers, or in any other employment of national importance during the present war, such service shall be reckoned as service under the authorised undertakers in whose employment he was immediately before and after such temporary absence.

(*a*) Sect. 21 (1) of the Electricity (Supply) Act, 1922, substituted the words "under or in consequence of this Act" for the words "under this Act." See the full terms of s. 21 (1) at p. 2845, *post*.

(*b*) Words in italics repealed by the Electricity (Supply) Act, 1928, s. 1.

(*c*) Sect. 21 (1) of the Electricity (Supply) Act, 1922, substituted the words "in consequence of any such transfer, scheme, agreement, or arrangement," for the words "in consequence of this Act." See the full terms of s. 21 (1) at p. 2845, *post*. In a claim under this section as amended it was held that the referee appointed by the Minister of Labour is in the position of an arbitrator and has power to determine whether the transfer giving rise to the claim has been effected "under" this Act. If the claimant fails to satisfy the referee that the transfer was "under" this Act, the question whether it was "in consequence of" this Act must be determined by the Commissioners under the proviso to s. 21, Electricity (Supply) Act, 1922 (*R.* v. *Minister of Labour* (*Ex parte Torquay Corporation*), [1924] 2 K. B. 210; 88 J. P. 131). This defect is now avoided by the amendment of the proviso to s. 21 of the 1922 Act by s. 50 and Sch. VI. of the Electricity (Supply) Act, 1926. The proviso as amended (*q.v.* at p. 2845, *post*) provides that any question as to whether a transfer scheme agreement or arrangement was made under or in consequence of this Act is to be determined by the Commissioners.

(*d*) See the reference to these Acts and rules at p. 1040, *ante*.

Submission of plans, &c., with respect to capital expenditure.

17. A joint electricity authority before incurring any capital expenditure above such amount as the Electricity Commissioners may prescribe shall submit for approval to the Electricity Commissioners such details, plans, and estimates with respect to the proposed expenditure as the Electricity Commissioners may require.

Transitory Provisions.

Power of Board of Trade (*a*) to construct interim works.

18.—(1) It shall be lawful for the Board of Trade (*a*), after consultation with the Electricity Commissioners, at any time after an electricity district has been provisionally determined and before the establishment of a joint electricity authority for the district, and for two years after the establishment of any such authority, with the consent of such authority, to construct any generating station, main transmission line, or other works, and exercise any other powers which a joint electricity authority can or can be authorised to exercise under this Act;

Provided that, where the Board of Trade (*a*) propose to construct a generating station before the establishment of a joint electricity authority for any district, the Electricity Commissioners shall consult with the county councils, local authorities, and authorised undertakers any part of whose county, district, or area of supply is within the electricity district as provisionally determined as to the site of the proposed station.

(2) The Treasury may issue to the Board of Trade (*a*) out of the Consolidated Fund of the United Kingdom, or the growing produce thereof, any sums not exceeding in the aggregate twenty million pounds, required for the construction of any such works or the acquisition of land for that purpose, or required for providing working capital for such works, on such terms and conditions as to interest, repayment, and otherwise as the Treasury may think fit.

The Treasury may, if they think fit, at any time for the purpose of providing for the issue of sums out of the Consolidated Fund under this section or for the repayment to that fund of all or any part of the sums so issued, or for the paying off of any security so issued under this subsection so far as that payment is not otherwise provided for, borrow money by means of the issue of Exchequer Bonds, and all sums so borrowed shall be paid into the Exchequer.

Any sums received on account of the payment of principal or interest on the advances made to the Board of Trade (*a*) shall be paid into the Exchequer, but any part of sums so paid which represents the repayment of principal shall be transferred to the National Debt Commissioners and applied by them as and when they think fit in purchasing or paying off as occasion requires any securities issued under this subsection, and sums so applied shall be invested and accumulated by the said Commissioners.

The principal of and interest on any Exchequer Bonds issued under this subsection shall be charged on and payable out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

(3) At the expiration of two years after the establishment of a joint electricity authority for any district, or at any earlier time which may be agreed on between the Board of Trade (*a*) and the joint electricity authority, any generating station, main transmission lines and other works, and any land acquired for the purpose thereof for the Board of Trade (*a*) under this section which are situate within the electricity district, shall vest in that authority, subject to the payment by the joint electricity authority to the Board of Trade (*a*) of such sum as may be certified by the Treasury to be sufficient to repay the advances made by them to the Board of Trade (*a*) (including the cost of redeeming any of the securities issued under the preceding subsection) in respect of the construction of and provision of working capital for such works, and the acquisition of such lands, and any interest thereon which may be outstanding, after deducting the amount applied or applicable towards the repayment of the sums issued to the Board of Trade (*a*) for defraying that cost.

(4) The prices, fixed by the Board of Trade (*a*) for electricity supplied by them from generating stations established under this section, shall be such that their receipts therefrom will be sufficient to cover their expenditure on income account (including interest and sinking fund charges in respect of such advances as aforesaid) with such margin as the Board may think fit.

(*a*) By s. 39 (1), *post*, p. 2803, and an Order in Council made thereunder the powers of the Board of Trade under this Act have passed to the Minister of Transport.

Power of authorised undertakers to render mutual assistance to one another.

19.—(1) During the period between the passing of this Act and the establishment of a joint electricity authority for a district, any two or more of the authorised undertakers (*a*) within the locality may, with the approval of the Electricity Commissioners (*b*), and if so required by the Electricity Commissioners shall, enter into and carry into effect arrangements for mutual assistance of the one by the other, with regard to all or any of the following purposes :—

(*a*) The giving and taking of a supply of electricity and the distribution and supply of the electricity so taken :

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(*b*) The management and working of the generating stations or any part of the several undertakings of the undertakers who are parties to any such arrangement:

(*c*) The provision of capital required for carrying into effect, and the appropriation and division of receipts arising under, any such arrangement:

(*d*) Any matters or things incidental or connected with any of the purposes aforesaid :

and the arrangement shall be made on such terms and conditions as may be agreed, or, if the arrangement is made in pursuance of a requirement by the Electricity Commissioners, on such terms and conditions as in default of agreement may be settled by those Commissioners :

Provided that the authorised undertakers entering into any such arrangement shall remain and be subject to all and the same obligations and liabilities to all persons not being parties to the arrangement as they would have been subject to if no such arrangement had been entered into.

(2) Where such an arrangement has been made, any authorised undertakers who are parties to the arrangement may be authorised by order to exercise such powers (including the power to break up roads, railways, and tramways) as may be necessary for the purpose of carrying the arrangement into effect (*c*).

(3) The provision of capital required for giving effect to any such arrangement, and the payment of interest on any such capital raised for the purpose of effecting intercommunication or development of supply in bulk, whilst the expenditure remains unremunerative, shall be purposes for which a local authority may borrow under the Electric Lighting Acts.

(*a*) See definition in s. 36, *post*, p. 2802.

(*b*) The Commissioners have jurisdiction to refuse to approve an agreement for mutual assistance between authorised undertakers, if the policy embodied in such agreement cuts across the line of policy which the Commissioners propose to adopt under the Act as to the consolidation of areas (*R.* v. *Electricity Commissioners* (1922), 86 J. P. 191). In determining whether or not to approve an agreement under this section the Commissioners must have regard to the provisions of the Electricity (Supply) Act, 1926, and the effect of any scheme or proposed scheme thereunder (s. 18 (2) Electricity (Supply) Act, 1926, *post*, p. 2922).

(*c*) See note (*d*) under s. 15 (2), *ante*, p. 2791.

Amendments of Electric Lighting Acts.

Transfer of powers of certain departments.

20. There shall be transferred to the Electricity Commissioners the powers of the Minister of Health and the Secretary for Scotland and the London County Council with respect to the sanctioning of borrowing by local authorities under the Electric Lighting Acts, or under any special Act or order relating to the supply of electricity, but in exercising the powers so transferred the Electricity Commissioners shall act in consultation with the Department or Council from which the powers were transferred (*a*).

(*a*) As to the sanctions hitherto required for borrowing, see s. 8 of the Electric Lighting Act, 1882, *ante*, p. 2443, and the notes thereto. In March, 1924, the Commissioners issued a memorandum of procedure under this section. The memorandum is set out in App. II. at p. 3246, *post*.

Overhead wires.

21. Where the consent of the Board of Trade (*a*) is obtained to the placing of any electric line above ground in any case, the consent of the local authority [(including a county council)] (*b*) shall not be required, anything in the Electric Lighting Acts, or in any order or special Act relating to the undertaking to the contrary notwithstanding, but the Board of Trade (*a*) before giving their consent shall give the local authority [and (where it is proposed to place the line along or across any county bridge or any [county road] vested in a county council) the county council] (*a*) an opportunity of being heard (*c*).

(*a*) See note (*a*) to s. 1, *ante*, p. 2793.

(*b*) The words in brackets were inserted by s. 50 and Sch. VI, Electricity (Supply) Act, 1926. The amendment obviates the necessity for obtaining the consent of the county council where such consent would have been necessary, but gives the county council in the circumstances prescribed a right to be heard in objection.

The words "county road" are substituted for "main road" in consequence of L. G. A., 1929, s. 29 (1), *ante*, p. 1884.

(*c*) See as to consent of local authority, s. 14 of the Electric Lighting Act, 1882, *ante*, p. 2447, and clause 10 (*b*) of the Schedule to the Electric Lighting (Clauses) Act, 1899, *ante*, p. 2574. The Minister in determining whether to give or withhold consent must have regard to the provisions of the Electricity (Supply) Act, 1926, and the effect of any scheme or proposed scheme thereunder (s. 18 (2), Electricity (Supply) Act, 1926, *post*, p. 2922). An undertaker may now proceed under this and the following section simultaneously without waiting to obtain the consent of the Minister first (s. 44 (1), Electricity (Supply) Act, 1926, *post*, p. 2934).

Wayleaves.

22.—(1) A joint electricity authority or any authorised undertakers (*a*) may place any electric line below ground across any land, and above ground across any land other than land covered by buildings or used as a garden or pleasure ground in cases where the placing of such lines above ground is otherwise lawful, and where any line has been so placed across any land the joint electricity authority or undertakers may enter on the land for the purpose of repairing or altering the line (*b*):

Provided that, before placing any such line across any land, the joint electricity authority or undertakers shall serve on the owner and occupier of the land notice of their intention, together with a description of the nature and position of the lines proposed to be so placed; and if, within twenty-one days after the service of the notice, the owner and occupier fail to give their consent or attach to their consent any terms or conditions or stipulations to which the joint electricity authority or the undertakers object, it shall not be lawful to place the line across that land without the consent of the Board of Trade (*c*); and the Board of Trade (*c*) may, if after giving all parties concerned an opportunity of being heard they think it just, give their consent (*d*) either unconditionally or subject to such terms, conditions, and stipulations as they think just; and in deciding whether to give or withhold their consent, or to impose any terms, conditions, or stipulations (including the carrying of any portion of the line underground) the Board shall, among other considerations, have regard to the effect, if any, on the amenities or value of the land of the placing of the line in the manner proposed.

(2) The power of placing lines across land conferred by this section shall include the power of placing a line across or along any railway, canal, inland navigation, dock or harbour, subject to the rights of the owners thereof and to the following conditions:—

(*a*) In respect of any electric lines placed or proposed to be placed across any line of railway from side to side thereof sections fifteen, sixteen, nineteen, twenty, and seventy-seven of the schedule to the Electric Lighting (Clauses) Act, 1899, shall, without prejudice to any protection given to the railway company by the Electric Lighting Acts and this Act, apply as though the said electric lines were placed or proposed to be placed in accordance with powers contained in a special order as defined in the Electric Lighting (Clauses) Act, 1899 (*e*):

(*b*) In respect of any electric lines placed or proposed to be placed across any canal or inland navigation from side to side thereof, whether by being carried above or below ground, sections fifteen, nineteen, and seventy-seven of the schedule to the Electric Lighting (Clauses)

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Act, 1899, shall, without prejudice to any protection given to the owners of the canal by the Electric Lighting Acts and this Act, apply as though the said electric lines were placed in accordance with powers contained in a special order, as defined in the Electric Lighting (Clauses) Act, 1899 (*e*):

(*c*) In respect of any electric lines placed or proposed to be placed over or upon or under any line of railway along its course, the provisions contained in the proviso to subsection (1) of this section shall not apply, and in lieu thereof the following conditions shall apply:—

(i) Failing agreement between the joint electricity authority or authorised undertakers proposing to place such electric lines and the railway company, the joint electricity authority or authorised undertakers may apply to the Board of Trade (*f*) who may decide either that the lines shall not be so placed or may refer the question to the Railway and Canal Commission, and that Commission may, after an inquiry, make an order for the placing of the electric lines, subject to such pecuniary terms as the Commission think just, or refusing to allow such lines to be placed, and any such inquiry may be held by any one or more of the members of the Commission or by an officer appointed by the Commission for the purpose, and Parts I. and IV. of the Railway and Canal Traffic Act, 1888 (*g*) (except the sections relating to appeals), shall apply as far as applicable to any such inquiry, and any officer appointed to hold the inquiry shall have power to administer an oath;

51 & 52 Vict. c. 25.

(ii) The joint electricity authority or authorised undertakers shall, upon receiving notice in writing from the railway company, remove or alter within a reasonable time, and to the reasonable satisfaction of the railway company, any such electric lines which shall interfere with the existing or any proposed works of the railway company or the traffic thereon: Provided that, if within twenty-one days after receipt of such notice the joint electricity authority or authorised undertakers object to the removal or alteration required by such notice, a difference shall be deemed to have arisen, which shall be referred to and determined by the Railway and Canal Commission;

(iii) Save as herein provided, sections fifteen, sixteen, nineteen, twenty, and seventy-seven of the schedule to the Electric Lighting (Clauses) Act, 1899, shall, without prejudice to any protection given to the railway company by the Electric Lighting Acts and by this Act, apply as though the said electric lines were placed in accordance with powers contained in a special order as defined in the Electric Lighting (Clauses) Act, 1899 (*e*):

(*d*) In respect of any electric lines placed or proposed to be placed over or upon or under any canal or inland navigation along its course, the provisions contained in the proviso to subsection (1) of this section shall not apply, and in lieu thereof the following conditions shall apply:—

(i) The provisions of paragraph (*c*) (i) and (*c*) (ii) of this subsection shall apply as in the case of railways and for that purpose the expression "railway company" shall mean the owners of the canal or inland navigation:

(ii) Save as herein provided, sections fifteen, sixteen, nineteen, and seventy-seven of the schedule to the Electric Lighting (Clauses) Act, 1899, shall, without prejudice to any protection given to the owners of canals by the Electric Lighting Acts and this Act, apply as though the said electric lines were placed in accordance with powers contained in a special order as defined in the Electric Lighting (Clauses) Act, 1899 (*h*):

(*e*) No electric line shall be placed in the tunnels of any tube railway within the Metropolitan Police area, except with the consent of the company owning such railway:

(*f*) In respect of any electric lines placed or proposed to be placed across any lands or works forming part of any dock or harbour undertaking regulated by Act of Parliament, whether by being carried above ground or below ground, sections fifteen, sixteen, seventeen, nineteen, and seventy-seven of the schedule to the Electric Lighting (Clauses) Act, 1899, shall, without prejudice to any protection given to the authority owning or managing the undertaking by the Electric Lighting Acts and this Act, apply as though the said electric lines were placed in accordance with powers contained in a special order as defined in the Electric Lighting (Clauses) Act, 1899 (*h*):

(*g*) The sections of the schedule to the Electric Lighting (Clauses) Act, 1899, by this subsection applied to canals, inland navigations, docks and harbours, and lands or works forming part thereof, shall apply thereto as if references in those sections to streets and persons liable to repair streets and to canals and canal companies included, respectively, canals, inland navigations, docks and harbours, and lands and works forming part of a dock or harbour, and the authority owning or managing the same.

(3) For the purposes of this section, any company or body or person entitled by virtue of any Act of Parliament to receive tolls or dues in respect of the navigation on or use of any canal, inland navigation, dock or harbour shall be deemed to be owners of such canal, inland navigation, dock or harbour.

(4) Section fourteen of the schedule to the Electric Lighting (Clauses) Act, 1899 (*i*), so far as it relates to the Postmaster-General, shall be incorporated with this section, and shall apply to the execution of any works which will involve the placing of lines across or along any land, whether below ground or above ground, under this section in like manner as it applies to the execution of works which will involve the placing of lines in, under, along, or across any street or public bridge.

(5) Nothing in this section shall prejudice or affect the rights of the Postmaster-General in relation to railways, canals, docks, and harbours under the Telegraph Acts, 1863 to 1916, or any agreement or award made thereunder, or shall operate in such a manner as to interfere with or involve additional expense in the exercise of any such rights.

(6) A notice under this section may be served on the owner or occupier of any land by delivering it to him, or by leaving it or forwarding it by post addressed to him at his usual or last known place of abode, and may be addressed by the description of the owner or occupier of the lands (naming them) without further name or description.

(*a*) See definition in s. 36, *post*, p. 2802.

(*b*) Sub-sect. 1 in the text is an enabling section, and does not affect the powers which the undertakers have under the Electric Lighting Act, 1882 (incorporating ss. 6 and 7 of the Gasworks Clauses Act, 1847), to do necessary works in a street without the consent of the owner of the subsoil (*Porter* v. *Ipswich Corpn.*, [1922] 2 K. B. 145). See s. 11 of the Electricity (Supply) Act, 1922, *post*, p. 2841, for a power to continue wayleaves, which could have been obtained under the provisions of the section in the text. See also s. 34, Electricity (Supply) Act, 1926, *post*, p. 2928, which enables authorised undertakers to lop trees and hedges obstructing electric lines. Proceedings may now be taken concurrently under this and the preceding section (s. 44 (1), Electricity (Supply) Act, 1926), *post*, p. 2934.

Note to Section 22.

(*c*) See note (*a*) to s. 18, *ante*, p. 2793.

(*d*) In determining whether to give or withhold consent, the Minister must have regard to the provisions of the Electricity (Supply) Act, 1926, and the effect of any scheme or proposed scheme thereunder (s. 18 (2) Electricity (Supply) Act, 1926, *post*, p. 2922). He must also take into consideration recommendations of the Commissioners of Works as to ancient monuments which might be prejudicially affected by the overhead lines (s. 44 (3), Electricity (Supply) Act, 1926, *post*, p. 2934).

Where supports have been erected under this section, the undertakers are to be deemed persons having an interest in the land on which the supports are erected for the purposes of s. 8, Mines (Working Facilities and Support) Act, 1923 (s. 44 (2), Electricity (Supply) Act, 1926, *post*, p. 2934).

(*e*) See the definition in Electric Lighting (Clauses) Act, 1899, Sched., r. 1, *ante*, p. 2569.

(*f*) See note (*a*) to s. 18, *ante*, p. 2793.

(*g*) See this Act at p. 2499, *ante*.

(*h*) See the definition in Electric Lighting (Clauses) Act, 1899, Sched., r. 1, *ante*, p. 2569.

(*i*) See this section, *ante*, p. 2576.

Supply of apparatus.

23.—(1) A joint electricity authority and any local authority authorised by special Act or by order to supply electricity may provide, let for hire, and in respect thereof may connect, repair, maintain and remove (but shall not, unless expressly authorised to do so by the special Act or order, manufacture or sell) electric lines, fittings, apparatus and appliances for lighting, heating and motive power and for all other purposes for which electricity can or may be used, and with respect thereto may demand and take such remuneration or rents and charges, and make such terms and conditions, as may be agreed upon (*a*).

(2) Any electric lines, fittings, apparatus, and appliances provided by or on behalf of any authorised distributors (*b*) on consumers' premises either before or after the passing of this Act, and any lands, buildings, or works held by them in connection therewith shall be deemed to form part of the undertaking authorised by the special Act or order relating to such authorised distributors.

(*a*) As to the construction of this sub-section, see *Att.-Gen.* v. *Liverpool Corporation*, [1922] 1 Ch. 211. See also s. 48, Electricity (Supply) Act, 1926, *post*, p. 2935, which authorises joint electricity and local authorities to sell electrical fittings, appliances, etc. As to including in a fixed or service charge for electricity, rent or hire-purchase instalments on fittings, etc., leased or sold, see s. 42, Electricity (Supply) Act, 1926, *post*, p. 2933.

(*b*) See definition in s. 36, *post*, p. 2802.

Alteration of type of current, &c.

24. The Electricity Commissioners may require any authorised undertakers to amend or alter the type of current, frequency or pressure employed by them in their undertaking, and the execution of the works necessary to comply with such an order shall be a purpose for which a local authority may borrow under the Electric Lighting Acts: Provided that this section shall not apply to electricity generated at a railway generating station existing at the passing of this Act, and that, if on appeal by any authorised undertakers, the Board of Trade (*a*) are satisfied that compliance with the order would entail unreasonable expense, the Board of Trade (*a*) may direct that the order shall not apply to those undertakers, or apply only subject to such conditions as the Board of Trade (*a*) may prescribe (*b*).

(*a*) See note (*a*) to s. 18, *ante*, p. 2793.

(*b*) The powers of the Commissioners under this section will cease to be exercisable in any area in respect of which a scheme under the Electricity (Supply) Act, 1926, has come into force (s. 9 (6), Electricity (Supply) Act, 1926, *post*, p. 2917).

Amendment of s. 26 of Act of 1882.
45 & 46 Vict. c. 56.

25. Section twenty-six of the Electric Lighting Act, 1882 (*a*) (which contains provisions for the protection of the Postmaster-General), shall have effect as if the words "or the laying of connections with mains where the direction of the electric lines so laid down crosses the line of the Postmaster-General at right angles at the point of shortest distance, and continues the same for a distance of six feet on each side of such point" were omitted.

and as if for the words "not more than twenty-eight nor less than seven clear days" there were substituted the words "one month, or, in the case of the laying of service lines to consumers' premises, seven clear days."

(*a*) See this section at p. 2451, *ante*.

Substitution of special for provisional orders.

26. Anything which under the Electric Lighting Acts may be effected by a provisional order confirmed by Parliament may be effected by a special order (*a*) made by the Electricity Commissioners and confirmed by the Board of Trade (*b*) under and in accordance with the provisions of this Act, or by an order establishing a joint electricity authority under this Act (*c*), and references in those Acts and the Electric Lighting (Clauses) Act, 1899, to provisional orders shall be construed as including references to such special orders and orders as aforesaid, except that the paragraphs numbered (1) to (4) of section four of the Electric Lighting Act, 1882 (*d*), shall not apply to such special orders as aforesaid, and any provisional order made under the Electric Lighting Acts and confirmed by Parliament may be amended or revoked by any such special order or order as aforesaid:

Provided that a special order made in pursuance of the powers conferred by this section shall be laid before each House of Parliament, and shall not come into force unless and until approved, either with or without modifications, by a resolution passed by each such House.

(*a*) As to special orders, see s. 35 (1), (2), *post*, p. 2801.
(*b*) See note (*a*) to s. 18, *ante*, p. 2793.
(*c*) See hereon ss. 6 and 7, *ante*, pp. 2784, 2785.
(*d*) These relate to notice of application for a provisional order and its confirmation by Parliament. See the section set out at p. 2440, *ante*.

Power to require accounts, statistics, and returns.

27. It shall be the duty of joint electricity authorities and authorised undertakers to furnish to the Electricity Commissioners at such times and in such form and manner as the Commissioners may direct such accounts, statistics, and returns as they may require for the purposes of their powers and duties under this Act.

Financial Provisions (*a*).

Revenue and expenditure of joint electricity authorities.

28.—(1) Every joint electricity authority shall establish a fund to which all receipts by the authority shall be carried, and out of which all payments by the authority shall be made.

(2) Every joint electricity authority shall annually, at such time as the Electricity Commissioners may fix, submit to the Electricity Commissioners such a statement of income and expenditure on revenue account as the Electricity Commissioners may require.

(3) The accounts of every joint electricity authority and their officers shall be audited by the auditors appointed by the Electricity Commissioners, and the audit shall be conducted in accordance with such regulations as may be prescribed by the Electricity Commissioners, and the regulations may apply with the necessary modifications the provisions relating to the accounts and audit of accounts of county councils and their officers.

(4) Every joint electricity authority shall, annually at such date and in such form as the Electricity Commissioners may prescribe, make to the Electricity Commissioners a report of their proceedings during the preceding year.

(*a*) See the borrowing powers conferred upon joint electricity authorities by s. 1 and the following sections of the Electricity (Supply) Act, 1922, *post*, pp. 2835 *et seq*.

Expenses of Electricity Commissioners.

29.—(1) The Electricity Commissioners shall, at the beginning of each financial year, prepare an estimate of their receipts and expenditure during the year, and submit it for approval by the Board of Trade (*a*).

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(2) The Electricity Commissioners shall apportion the amount by which the estimated expenses so approved exceed the estimated receipts so approved amongst the several joint electricity authorities and authorised undertakers within the United Kingdom in proportion to the number of units of electricity generated by or on behalf of those authorities and undertakers respectively in the preceding year; and every such authority or undertaker shall, on demand from the Electricity Commissioners, pay to them as a contribution towards their expenses the sum so apportioned:

Provided that, during the first two years after the passing of this Act, the amount of such excess shall be paid out of moneys provided by Parliament, but such payments shall be treated as advances and shall be repaid, with interest at such rate as the Treasury may fix, by the Commissioners by equal annual instalments in the next three succeeding years.

(3) All sums received by the Commissioners shall be paid into a separate fund, and out of that fund the salaries, remuneration, pensions and gratuities of the Commissioners, their secretary, officers, and servants and all expenses incurred by the Commissioners shall be paid, and the Treasury may determine that that fund shall be a public fund within the meaning of the Superannuation Act, 1892.

(*a*) See note (*a*) to s. 18, *ante*, p. 2793.

Subscription to associations.

30. Subject to the consent of the Electricity Commissioners, joint electricity authorities or any authorised undertakers may, out of the revenue of their undertakings, pay reasonable subscriptions, whether annual or otherwise, to the funds of any association formed for the purpose of consultation as to their common interests and the discussion of matters relating to the supply of electricity, and to the funds of any recognised association conducted on a non-profit earning basis for developing the use of electricity, and may purchase reports of the proceedings of any conferences or meetings, and may pay the reasonable expenses of attendance of any members or officers of the joint electricity authority or undertaker at conferences or meetings of the said association or any of them.

General.

Application to electricity of 38 & 39 Vict. c. 86, s. 4.

31. Section four of the Conspiracy and Protection of Property Act, 1875 (*a*) (which relates to breaches of contract by persons employed in the supply of gas or water), shall extend to persons employed by a joint electricity authority or by any authorised undertakers in like manner as it applies to persons mentioned in that section, with the substitution of references to electricity for the references to gas or water.

(*a*) See this section at p. 2356, *ante*. See also the provisions of the Emergency Powers Act, 1920.

Provisions as to agreements and arrangements under this Act.

32.—(1) Where under this Act a joint electricity authority are authorised to enter into an agreement or arrangement with any authorised undertakers or any other authority, company, or person for any purpose, it shall be lawful for those undertakers, authority, company, or person to enter into and carry into effect such an agreement or arrangement.

(2) Where a local authority, as authorised undertakers, enter into an agreement or arrangement with a joint electricity authority or any other authorised undertakers in pursuance of this Act, any expenses incurred by the local authority in carrying the agreement or arrangement into effect shall be deemed to be expenses incurred by them under or in pursuance of the Electric Lighting Acts and the provisions of section seven and section eight of the Electric Lighting Act, 1882 (*a*), shall apply accordingly

and any moneys received by any such local authority under any such agreement or arrangement shall be deemed to be moneys received by the local authority in respect of their undertaking.

(3) Where by this Act an order may be made conferring on a joint electricity authority or authorised undertakers or other persons such powers as may be necessary for carrying into effect an agreement or arrangement entered into by them under this Act or for doing anything which under this Act they are authorised to do, and amongst the powers to be conferred by the order are included powers of breaking up streets, railways and tramways other than such as can be broken up under any order or special Act relating to the joint electricity authority or undertakers, the order, *unless it is an order made under section seven of this Act, shall be a special order* (*b*), and shall apply or incorporate the provisions of the Electric Lighting Acts and the Electric Lighting (Clauses) Act, 1899, relating to breaking up of streets, railways, and tramways.

(*a*) See these sections at pp. 2442, 2443, *ante*.

(*b*) The words in italics were repealed by s. 50 and Sch. VI., Electricity (Supply) Act, 1926. The effect of the amendment is to do away with the necessity for special orders authorising agreements involving the breaking up of streets, etc. The authorisation will in future be by departmental order.

Power to hold inquiries.

33.—(1) The Electricity Commissioners may hold, or cause to be held, such inquiries as they consider necessary or desirable for the purposes of this Act, and the Commissioners, and, if authorised by the Commissioners, the person appointed to hold any such inquiry may by order require any person, subject to the payment or tender of the reasonable expenses of his attendance, to attend as a witness and give evidence or to produce documents at the inquiry, and, if any person fails without reasonable excuse to comply with any of the provisions of any such order, he shall be liable on summary conviction to a fine not exceeding five pounds, and the Commissioners or person holding the inquiry shall have power to take evidence on oath and for that purpose to administer oaths.

(2) Notices of inquiries may be given and published in accordance with such general or special directions as the Commissioners may give.

Power to make rules.

34.—(1) The Board of Trade (*a*) and the Electricity Commissioners may respectively make rules (*b*) in relation to applications and other proceedings before them under this Act, and to the payments to be made in respect thereof, and to the publication of notices and advertisements and the manner in which and the time within which representations or objections with reference to any application or other proceeding are to be made, and to the holding of inquiries in such cases as they may think it advisable, and to the costs of such inquiries, and to any other matters arising in relation to their powers and duties under this Act.

(2) Any rules made in pursuance of this section shall be laid before Parliament as soon as may be after they are made, and shall have the same effect as if enacted in this Act (*c*).

(*a*) See note (*a*) to s. 18, *ante*, p. 2793.

(*b*) See the Rules in App. II. at p. 3251 *et seq.*, *post.*

(*c*) As to the effect of this provision, see *Ex parte Ringer* and the cases cited therewith at p. 630, *ante*.

Procedure for making special orders.

35.—(1) A special order made under this Act by the Electricity Commissioners shall not have any effect unless and until confirmed by the Board of Trade (*a*).

1 Edw. 7, c. 22.

(2) Sections eighty and eighty-one of the Factory and Workshop Act, 1901, relating to the making of regulations under that Act, as set out and adapted

in the Schedule to this Act, shall apply to the confirmation of special orders made under this Act.

(3) Before any special order, other than a special order which is not valid unless approved by a resolution passed by each House of Parliament, comes into force it shall be laid before each House of Parliament for a period not less than thirty days during which that House is sitting, and, if either of those Houses before the expiration of those thirty days presents an Address to His Majesty against the order or any part thereof, no further proceedings shall be taken thereon without prejudice to the making of any new order.

(4) A special order so made and confirmed as aforesaid shall have effect as if enacted in this Act (*b*).

(*a*) See note (*a*) to s. 18, *ante*, p. 2237.

(*b*) See note (*c*) to s. 34, p. 2801.

Definitions.

36. In this Act, unless the context otherwise requires—

The expression "Electric Lighting Acts," means the Electric Lighting Acts, 1882 to 1909 (*a*):

The expression "authorised undertakers" includes authorised distributors and power companies:

The expression "authorised distributors" means any local authority, company or person, authorised to supply electricity within any area of supply, but does not include a power company except in relation to any supply given by the company under an order made under the Electric Lighting Acts:

The expression "power company" means any company or person (other than a railway company being the owners or lessees of a railway generating station) authorised by special Act to supply electricity to authorised distributors and lighting authorities or to other persons for power purposes, whether with or without a subsidiary power to supply electricity for lighting purposes:

The expression "lighting authority" means any authority, company or person, authorised by any public general or special Act, to undertake or contract for the lighting of streets, bridges or public places:

The expression "generating station" means any station for generating electricity, including any buildings and plant used for the purpose, and the site thereof, and a site intended to be used for a generating station, but does not include any station for transforming, converting, or distributing electricity:

The expression "railway generating station" means a station for generating electricity for use solely or mainly by a railway company for the purposes of their undertaking:

The expression "private generating station" means a generating station for the generation of electricity for use solely or mainly on the owner's or joint owners' premises or for the purposes of his or their undertaking or undertakings, or, where the owner is a subsidiary company, solely or mainly on the premises or for the purposes of the undertaking of the principal company, in any case where the undertaking of the owner or the principal company is not an undertaking belonging to authorised undertakers or to a railway, tramway, canal, inland navigation, harbour or other undertaking providing facilities for or incidental to the transport of goods or passengers:

The expression "subsidiary company" means a company under the control of some other company or companies, whether by reason of the majority of the voting power being vested in the other company or companies, or their nominees or shareholders, or otherwise, and such other company, or companies, are in relation to the subsidiary company, referred to as the principal company:

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The expression "main transmission lines" means all extra high-pressure cables and overhead lines (not being an essential part of an authorised undertaker's distribution system or the distribution system of a railway company or the owners of a dock undertaking) transmitting electricity from a generating station to any other generating station, or to a sub-station, together with any step-up and step-down transformers and switch-gear necessary to, and used for, the control of such cables or overhead lines, and the buildings or such part thereof as may be required to accommodate such transformers and switch-gear:

The expressions "railway company" and "railway" have the same meaning as in the Regulation of Railways Act, 1873: 36 & 37 Vict. c. 48.

The expression "sinking fund charges" includes any charges for the repayment of loans whether by means of a sinking fund or otherwise.

Other expressions have the same meaning as in the Electric Lighting Act, 1909.

References to orders under the Electric Lighting Acts shall include references to deeds of transfer executed in pursuance of powers conferred by those orders.

(*a*) *I.e.* the Electric Lighting Act, 1882, *ante*, p. 2437, the Electric Lighting Act, 1888, *ante*, p. 2495, and the Electric Lighting Act, 1909, *ante*, p. 2695.

37 (*a*). . . .

(*a*) Section 37 relates to Scotland.

38 (*a*). . . .

(*a*) Section 38 relates to Ireland.

Transfer of powers of Board of Trade to Minister of Transport.

39.—(1) All the powers and duties of the Board of Trade under this Act or the Electric Lighting Acts, or the orders and regulations made thereunder, or any local Act relating to the supply of electricity, or any enactment relating to matters incidental to such supply shall, as from such date as His Majesty in Council may fix, be transferred to the Minister of Transport, and accordingly references to the Board of Trade in any such Acts, orders, regulations, or enactments shall be construed as references to the Minister of Transport:

Provided that the power of appointing Electricity Commissioners under this Act shall be exercised by the Minister of Transport with the concurrence of the Board of Trade (*a*).

(2) The Electricity Commissioners shall be solely responsible to the Minister of Transport and, under his direction, shall carry into effect the powers and duties conferred upon them by this Act, and the Minister of Transport shall refer to the Electricity Commissioners for their advice all matters connected with the exercise and performance of the powers and duties transferred to him under this section, except the appointment of the Commissioners and except where any act of, or order by, the Commissioners is by this Act expressly made subject to the approval of or an appeal to the Minister.

(*a*) The transfer of the powers of the Board of Trade was effected on January 23rd, 1920, by the Ministry of Transport (Electricity Supply) Order, 1920.

Short title and construction.

40.—(1) This Act may be cited as the Electricity (Supply) Act, 1919, and the Electric Lighting Acts, 1882 to 1909, and this Act may be cited together as the Electricity (Supply) Acts, 1882 to 1919.

(2) This Act shall be construed as one with the Electric Lighting Acts (*a*).

(*a*) As to the effect of this provision, see the note under s. 1 of the Private Street Works Act, 1892, at p. 918, *ante*.

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SCHEDULE.

PROVISIONS OF THE FACTORY AND WORKSHOP ACT, 1901, APPLIED TO SPECIAL ORDERS MADE UNDER THIS ACT.

80.—(1) Before the Board of Trade (*a*) confirm any special order under this Act, they shall publish, in such manner as they may think best adapted for informing persons affected, notice of the proposal to confirm the order, and of the place where copies of the order may be obtained, and of the time (which shall be not less than twenty-one days) within which any objection made with respect to the order by or on behalf of persons affected must be sent to the Board of Trade.

(2) Every objection must be in writing and state—

(*a*) the order or portions of order objected to;

(*b*) the specific grounds of objection; and

(*c*) the omissions, additions, or modifications asked for.

(3) The Board of Trade (*a*) shall consider any objection made by or on behalf of any persons appearing to them to be affected which is sent to them within the required time, and they may, if they think fit, amend the order, and shall then cause the amended order to be dealt with in like manner as an original order.

(4) Where the Board of Trade (*a*) do not amend or withdraw any order to which any objection has been made, then (unless the objection either is withdrawn or appears to them to be frivolous) they shall, before confirming the order, direct an inquiry to be held in the manner hereinafter provided, and may, after considering the report of the person who held the inquiry, confirm the order either without modification or subject to such modification as they think fit, or may refuse to confirm the order.

81.—(1) The Board of Trade (*a*) may appoint a competent and impartial person to hold an inquiry with regard to any order, and to report to them thereon.

(2) The inquiry shall be held in public, and any objector and any other person who, in the opinion of the person holding the inquiry, is affected by the draft order, may appear at the inquiry either in person or by counsel, solicitor, or agent.

(3) The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

(4) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the Board of Trade (*l*).

(5) The fee to be paid to the person holding the inquiry shall be such as the Board of Trade (*a*) may direct.

(*a*) See note (*a*) to s. 18, *ante*, p. 2793.

THE TRAMWAYS (TEMPORARY INCREASE OF CHARGES) ACT, 1920.

(10 & 11 GEO. 5, C. 14.)

An Act to make further provision for the temporary modification of the charges which may be made in respect of and the obligations affecting Tramway Undertakings (*a*). [20th May, 1920.]

Amendment of s. 1 of 8 & 9 Geo. 5, c. 34, in its application to tramways.

1.—(1) The limitations contained in the proviso to subsection (1) of section one of the Statutory Undertakings (Temporary Increase of Charges) Act, 1918, (hereinafter referred to as the Principal Act) shall not apply in the case of orders made after the passing of this Act by the Minister of Transport in relation to tramway undertakings, but in lieu thereof the following limitations shall apply (*b*):—

(*a*) Where the undertakers are a local authority (*c*), no modification in the statutory provisions regulating the charges to be made by the undertakers shall be authorised which is more than sufficient, so far as can be estimated, to enable the undertaking to be carried on without loss; and

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(*b*) In any other case, no such modification shall be authorised which is more than sufficient to provide, with due care and management, for interest on loan capital and for a reasonable return on share capital, regard being had to the pre-war financial condition of the company, and its prospective development.

(2) An order authorising any increase in the statutory maximum charges (*d*) applicable to a tramway undertaking (*e*) may attach such conditions thereto as the Minister may think proper, and may modify any statutory provisions (*f*), and the provisions of any agreement, whether or not confirmed by an Act or order having the force of an Act, which impose obligations on the undertakers as to the frequency of any tramway service.

(3) Before making an order in pursuance of the powers conferred by the principal Act as amended by this Act the Minister shall refer the matter to the advisory committee hereinafter constituted for their consideration and report (*g*):

Provided that, if in the case of any tramway undertaking it appears to the Minister that there is ground for making an order and that the case is one of urgency, he may, without any such reference and without any such notices as are required by the principal Act (*h*), make an interim order increasing the statutory maximum charges by such amount, not exceeding one hundred per cent., and subject to such conditions, as he thinks proper; but an interim order shall not remain in force more than six months, and, where any interim order is made, the Minister shall forthwith refer the matter to the advisory committee (*i*).

(4) The charges authorised by any order made under the principal Act as amended by this Act may be charged notwithstanding any statutory provisions (*k*) or any agreement whether or not confirmed by an Act or order having the force of an Act.

(5) If at any time it appears to the Minister of Transport that, owing to changes in the cost of labour (*l*) or materials or other circumstances affecting a tramway undertaking with respect to which an order has been made, the powers of charging effected by the order are insufficient or excessive for the purposes aforesaid, the Minister may, and, if representations to that effect are made to him by the undertakers or by the local authority (*m*) of any district served by the tramway, or in case where the local authority are the undertakers by twenty ratepayers in the district, he shall refer the matter to the advisory committee hereinafter constituted (*i*), and may, after considering any report of the committee, making an order revising the powers of charging so authorised as aforesaid; so, however, that revised maximum charges shall not in any case be less than the statutory maximum charges (*n*) applicable to the undertaking.

(*a*) This Act amends, so far as regards tramway undertakings, the Statutory Undertakings (Temporary Increase of Charges) Act, 1918, 8 & 9 Geo. 5, c. 34, *ante*, p. 2749. That Act was a temporary one, and was to expire at the end of two years after the termination of the war. Its operation with regard to tramways was, however, extended by the Act, s. 4 (*infra*), to February 15th, 1923. And it has been still further extended by the Expiring Laws Act, 1928 (19 Geo. 5 c. 3), until December 31st, 1931.

(*b*) These limitations should be compared with those in the Act of 1918, at p. 2749, *ante*, for which they are substituted.

(*c*) For the definition of a local authority, see the Act of 1918, s. 1 (4), *ante*, p. 2749.

(*d*) See s. 3 (4), *post*, p. 2806, as to these charges.

(*e*) See s. 3 (5), *post*, p. 2806,

(*f*) See the definition of statutory provisions in the Act of 1918, s. 1 (4), *ante*, p. 2749.

(*g*) For the constitution, etc., of the advisory committee, see the next section.

(*h*) The notices referred to are those mentioned in the Act of 1918, s. 1 (2), *ante*, p. 2749.

(*i*) As to the advisory committee, see s. 2, *post*, p. 2806.

(*k*) See the definition of "statutory provisions" in s. 1 (4) of the 1918 Act, *ante*, p. 2749.

Note to Section 1.

(*l*) As to the determination of the cost of labour, see s. 3 (3), *infra*.

(*m*) For the definition of "local authority," see s. 1 (4) of the 1918 Act, *ante*, p. 2749.

(*n*) As to these charges, see s. 3 (4), *infra*.

Advisory committee.

2.—(1) For the purpose of giving advice and assistance to the Minister of Transport with respect to the making of orders in relation to tramway undertakings and for safeguarding the interests of users of tramways, a committee shall be constituted consisting of the Light Railway Commissioners and such members of the panel set up under section twenty-three of the Ministry of Transport Act, 1919 (*a*), as the Minister may appoint for the purpose, and such member as the Minister may appoint shall be chairman of the committee, and the committee, if so authorised by the Minister of Transport, may delegate to sub-committees thereof any of its powers and duties under this Act.

9 & 10 Geo. 5, c. 50.

(2) The committee, before reporting or advising on any matters referred to them under this Act shall, unless in their discretion they consider it unnecessary or undesirable to do so, give such public notice as they think best adapted for informing persons affected of the date when and the place where they will enquire into the matter, and any person affected may make representations to the committee, and, unless in their discretion the committee consider it unnecessary, shall be heard at such inquiry, and, if the committee in their discretion think fit, the whole or any part of the proceedings at such inquiry may be open to the public:

Provided that, for the purpose of this provision, the council of any city borough, burgh, county, or district shall be deemed to be persons affected in any case where such council or any person represented by them may be affected by any proposed order.

(3) The committee shall hear such witnesses and call for such documents and accounts as they think fit, and shall have power to take evidence on oath, and for that purpose any member of the committee may administer oaths.

(*a*) Under the section referred to the Minister is to set up a panel of experts and of impartial persons of wide commercial and trading experience appointed from nominees of the various classes of undertakings affected by the Act, and of labour, trading interests, local authorities and such other interests as he may deem desirable.

Supplemental provisions.

3.—(1) The Minister of Transport may, for the purposes of this Act, employ such accountants as he may think fit, and it shall be the duty of tramway undertakers to furnish to any such accountant such information and to produce to him such accounts and books as he may require for the purpose of reporting to the Minister or the Advisory Committee as to the financial position of the undertaking.

(2) The costs incurred by the Minister in connection with any application for an order under this Act, including the remuneration of any such accountant, shall be paid by the undertakers, and the Minister of Transport may certify the amount of the costs incurred, and any sum so certified and directed by the Minister to be paid by the undertakers shall be a debt to the Crown from those undertakers.

(3) For determining the cost of labour for the purposes of this Act, the Minister of Labour shall, at the request of the Minister of Transport, certify what are the rates of wages which have been fixed either by the National Joint Industrial Council for the tramway industry or by an award under the Industrial Courts Act, 1919.

9 & 10 Geo. 5, c. 69.

(4) For the purposes of this Act, statutory maximum charges shall not include any charges authorised by an order under the principal Act or this Act.

(5) For the purposes of this Act, the word "tramway" shall include light railways constructed wholly or mainly on public roads, and, where a tram-

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way undertaking is leased to or worked by a company or person other than the owners thereof, "undertakers" shall, for the purposes of the principal Act and this Act, include that company or person, *and, where a tramway undertaking is leased to or worked by a company or person other than the owners thereof, "undertakers" shall, for the purposes of the principal Act and this Act, include that company or person* (*a*).

(*a*) Words in italics repealed by S. L. R. A., 1927.

Short title, construction and duration.

4.—(1) This Act may be cited as the Tramways (Temporary Increase of Charges) Act, 1920, and shall be construed as one with the principal Act.

(2) *Notwithstanding anything in the principal Act, that Act as amended by this Act shall, in relation to tramway undertakings, have effect until the fifteenth day of February nineteen hundred and twenty-three* (*a*).

(*a*) This subsection was repealed by S. L. R. A. See, however, note (*a*) to s. 1, *ante*, p. 2805, as to the temporary character of this Act.

THE GAS REGULATION ACT, 1920.

(10 & 11 Geo. 5, c. 28.)

An Act to amend the Law with respect to the supply of Gas (*a*).

[4th August, 1920.]

Price and Quality of Gas.

Power to substitute new basis of charges.

1 (*b*).—(1) The Board of Trade may, on the application of any gas undertakers (*c*), by order, provide for the repeal of any enactments or other provisions requiring the undertakers to supply gas of any particular illuminating or calorific value (*d*), and for substituting power to charge for thermal units supplied in the form of gas (*e*).

(2) An order under this section may provide for modifying the statutory or other provisions affecting the charges which may be made by the undertakers, by substituting for the standard or maximum price authorised under those provisions a standard or maximum price for each hundred thousand British thermal units (in this Act referred to as "a therm").

(3) The standard or maximum price per therm fixed by the order shall be a price corresponding as nearly as may be to that fixed by those provisions for each thousand cubic feet, but with such addition as appears to the Board reasonably required in order to meet the increases (if any) due to circumstances beyond the control of, or which could not reasonably have been avoided by, the undertakers, which have occurred since the thirtieth day of June nineteen hundred and fourteen in the costs and charges of and incidental to the production and supply of gas by the undertakers: and the order may make such modifications of any provisions whereby the rate of dividend payable by the undertakers or any other payment is dependent on the price of gas supplied as appear to the Board to be necessary:

Provided that, if at any time it is shown to the satisfaction of the Board of Trade that the costs and charges of and incidental to the production and supply of gas have substantially altered from circumstances beyond the control of, or which could not reasonably have been avoided by the undertakers, the Board may, if they think fit, on the application of the undertakers or of the local authority, or, where the local authority are the undertakers, of twenty consumers, make an amending order correspondingly revising the powers of charging authorised by the original order.

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[If at any time it appears to the Board of Trade, in relation to any undertakers, that there has since the thirtieth day of June, nineteen hundred and fourteen, been any increase or decrease in—

(*a*) the rate of interest which the undertakers are obliged to pay on capital raised or money borrowed for the purposes of their gas undertaking; or

(*b*) the cost to the undertakers of providing works, plant or apparatus for the supply of gas; or

(*c*) the annual output of their gas undertaking; or

(*d*) the efficiency with which that undertaking has been carried on;

the Board may make an amending order under this section revising the powers of charging authorised by the original order with respect to the undertakers, in such manner as to secure that they are not prejudiced by any such increase or benefited by any such decrease.] (*f*).

(4) An order under this section—

(*a*) shall prescribe the time when and the manner in which the undertakers are to give notice of the calorific value of the gas which they intend to supply (in this Act referred to as the declared calorific value), and shall require that such notice shall at the same time be published in the London, or Edinburgh, or Dublin Gazette; and

(*b*) shall require the undertakers, in the case of alteration in the declared calorific value, to take at their own expense such steps as may be necessary to alter, adjust, or replace the burners in consumers' appliances in such manner as to secure that the gas can be burned with safety and efficiency, except in the case of any consumer who objects to such alteration, adjustment, or replacement by the undertakers; and

(*c*) may prescribe, subject to such conditions as the Board may think necessary, the additional charge per therm which the undertakers may make in respect of gas supplied by means of prepayment meters; and

(*d*) may make such supplemental and consequential provisions as appear necessary to give full effect to the order; and

(*e*) shall come into operation on such date as may be fixed by the order; and

(*f*) shall have effect as if enacted in this Act (*g*).

(5) If within two years after the passing of this Act any undertakers have not applied to the Board of Trade for an order under this section, the Board of Trade may, after giving not less than three months' notice to the undertakers, make an order applying to those undertakings, which shall have the same effect as an order made on the application of the undertakers.

(6) Before making any order under this section, the Board of Trade shall, where the order is made on the application of undertakers, require the undertakers to give, and in any other case shall themselves give public notice in the London or Edinburgh or Dublin Gazette as the case may be and in such other manner as the Board may consider best adapted for informing persons affected, of the application for or proposal to make an order, and of the maximum or standard price per therm proposed, and as to the manner in which and time within which objections may be made, and shall consider any objection which may be duly made, and shall, where they think it expedient to do so, cause an inquiry to be held. The notice to be given under this section shall include notice to the local authority (*h*).

(7) The calorific value of gas means, for the purposes of this Act, the number of British thermal units (gross) produced by the combustion of one cubic foot of the gas measured at sixty degrees Fahrenheit under a pressure

of thirty inches of mercury and [(except as otherwise prescribed by the gas referees)] (*i*) saturated with water vapour.

(*a*) This Act, which is amended by and to be construed as one with the Gas Undertakings Act, 1929, *post*, p. 3025, affects those local authorities who are gas undertakers, and also those local authorities who are consumers of gas.

(*b*) See the power to make rules relating to (*inter alia*) applications for orders under this section contained in s. 16, *post*. The Rules are set out in App. II., *post*, p. 3334. The Board of Trade are required to make orders in relation to charges in respect of all undertakers who have supplied in any year since 1927 more than twenty million cubic feet of gas (Gas Undertakings Act, 1929, s. 6, *post*, p. 3027). Such orders may contain the provisions authorised or required by sub-s. (4) of this section.

(*c*) See the definition in s. 18, *post*, p. 2817. The term includes local authorities who supply gas under power conferred by the Public Health Act, 1875, s. 161, or by a private Act or by provisional (now special) order under the Gas and Waterworks Acts, 1870 and 1873.

(*d*) See this term defined in sub-s. (7) and see the Gas (Standard of Calorific Power) Act, 1916, *ante*, p. 2737, which enabled a standard of calorific power to be substituted for a standard of illuminating power.

(*e*) After the lapse of two years from the passing of the Act (*i.e.* after August 4th, 1922) the Board of Trade is empowered to make an order under this section in respect of any undertaking the undertakers of which have not applied for an order within the two years. See sub-s. (5).

(*f*) Words in square brackets added by s. 8 and Sch. of the Gas Undertakings Act, 1929.

(*g*) As to the effect of this provision, see *Institute of Patent Agents* v. *Lockwood*, [1894] A. C. 347, and comments thereon in *Waterford* v. *Murphy*, [1920] 2 I. R. 165. See also *per* Younger, L.J., in *R.* v. *Electricity Commissioners*, [1924] 1 K. B. 13 at p. 212, and *cf.* the Small Holdings and Allotments Act, 1908, s. 39 (3), at p. 1172, *ante*.

(*h*) See the definition of "local authority" in s. 18 at p. 2817, *post*. It will be observed that a rural district council is not a local authority to whom notice must be given.

(*i*) Words in square brackets added by s. 8 and Sch. of the Gas Undertakings Act, 1929.

Composition and pressure of gas to be supplied.

2.—(1) Where an order under this Act (*a*) has been made affecting any undertakers, the gas supplied by those undertakers, in addition to conforming to the conditions prescribed in the order, shall comply with the following conditions, that is to say:—

(i) it shall not contain any trace of sulphuretted hydrogen when tested in accordance with this Act;

(ii) it shall be supplied at not less than the minimum permissible pressure (*b*):

Provided that the foregoing requirements shall not apply as respects a separate supply of gas by any undertakers for industrial purposes only, but an order may impose such other conditions with regard to gas supplied by those undertakers for those purposes as appear necessary to the Board of Trade.

(2) The minimum permissible pressure shall be such pressure in any main, or in any pipe laid between the main and the meter having an internal diameter of two inches and upwards, as to balance a column of water not less than two inches in height, except as may be otherwise provided by the order relating to any undertaking, and different minima may be specified for different parts of an undertaking, or for gas of different calorific values.

(3) Where any undertakers are, at the time when an order is made with respect to them under this Act, under a statutory obligation to comply with conditions in relation to pressure which are in excess of the provisions as to pressure contained in this section, the order shall make such provisions as appear necessary to the Board of Trade for preserving these conditions, and this Act shall, in its application to those undertakers, have effect as though such last-mentioned provisions were substituted for the provisions of this section as to pressure.

(4) The Board of Trade shall, as soon as may be after the passing of this Act, cause inquiries to be held into the question whether it is necessary or

Section 2. desirable to prescribe any limitations of the proportion of carbon monoxide which may be supplied in gas used for domestic purposes, and into the question whether it is necessary or desirable to prescribe any limitations of the proportion of incombustible constituents which may be supplied in gas and may, if on any such inquiry it appears desirable, make one or more special orders (*c*) under this Act prescribing the permissible proportion in either case, and any such special order may have effect either generally or as regards particular classes of undertakings, and the provisions of the special order shall have effect as if they were enacted in this section (*d*).

(*a*) Or under s. 6 of the Gas Undertakings Act, 1929 (s. 6 (3), *ibid.*, *post*, p. 3027).

(*b*) As to this, see the next sub-section, but see also sub-s. (3) for a preservation of statutory obligations as to pressure which are in excess of that specified in sub-s. (2).

(*c*) The making of special orders is regulated by s. 10, *post*, p. 2814. See the Gas (Carbon Monoxide) Order, 1922 (S. R. & O., 1922, No. 142).

(*d*) As to the effect of this provision, see note (*g*) to s. 1, p. 2809, *ante*.

Restriction on power to charge for thermal units.

3. It shall not be lawful for any person to charge for the supply of gas according to the number of British thermal units supplied unless authorised to do so under this Act or by special Act of Parliament.

Testing of Gas (*a*).

Appointment of gas referees and examiners

4.—(1) The Board of Trade shall appoint three persons, at least one of whom shall be a person having practical knowledge and experience in the manufacture and supply of gas, to act as gas referees.

The Board of Trade shall also appoint a competent and impartial person to be chief gas examiner.

The gas referees and the chief gas examiner shall hold office for such time and on such conditions as the Board of Trade may direct, and may, with the consent of the Board of Trade, appoint such assistants as may be necessary for the proper discharge of their duties.

(2) Two of the gas referees shall be a quorum and at least two of the gas referees shall concur in every act or determination of the gas referees.

(3) The local authority (*b*) may, unless they are themselves the undertakers, appoint a competent and impartial person to be a gas examiner, and subject to the prescription of the gas referees to test the gas and the pressure at which the gas is supplied:

Provided that—

(*a*) for the purposes of this section, a gas examiner may be appointed to act on behalf of any number of local authorities, and the local authorities may enter into such arrangements as they think fit in regard to the joint appointment and employment of such gas examiner; and

(*b*) any county council may, if they think fit, with the consent of any other local authority within the county [who are not themselves the undertakers] (*c*), appoint a gas examiner, who shall have the same powers as if he were appointed by [the] (*c*) local authority.

(4) Where no gas examiner is appointed by the local authority, or where the testing of gas is imperfectly attended to, quarter sessions, on the application of not less than five consumers, may appoint a competent and impartial person to act as gas examiner, who shall have the same powers and perform the same duties as if he were appointed by the local authority, and the remuneration and expenses of the gas examiner up to the amount approved by quarter sessions, shall be paid by the local authority (*d*).

(*a*) The earlier provisions as to the testing of gas are contained in ss. 28—34 of the Gasworks Clauses Act, 1871 (see the Act at p. 2315, *ante*). Section 19 of the Act in the text provides that any of the provisions of the Act or any order made thereunder shall have effect in lieu of provisions to the same effect or inconsistent therewith in any Act relating to the testing of gas-measuring instruments, or in any Act or order relating to an undertaking with respect to which an order is made under this Act.

(*b*) See the definition in s. 18 at p. 2817, *post*.

(*c*) Words in square brackets added by s. 8 and Sch. of the Gas Undertakings Act, 1929. The word " the " was substituted for " that " by the same provisions.

(*d*) This sub-section provides machinery whereby a gas examiner may be appointed in a place wherein such an examiner cannot be appointed by a local authority under sub-section (3) because they are themselves the gas undertakers.

Note to Section 4.

Power to prescribe tests.

5 (*a*).—(1) The gas referees shall prescribe—

(*a*) the places and times at which and the apparatus and methods by which tests, whether continuous or intermittent, shall be made to ascertain whether any undertakers with respect to whom an order has been made under this Act are supplying gas in accordance with their obligations ; and

(*b*) the method by which any such apparatus shall be verified ; and

(*c*) the time and form of the reports to be made by the gas examiner to the gas referees and the local authority or quarter sessions by whom he is appointed, and to the undertakers, and the means by which the results of the tests shall be made available to the public :

Provided that, unless otherwise agreed between the undertakers and the authority by whom the gas examiner is appointed, any testing place provided by the undertakers in pursuance of any special or other Act of Parliament relating to the undertaking shall be deemed to be a prescribed testing place under this section, but the gas referees may, if they think fit, prescribe any additional testing place in respect of that undertaking.

(2) The prescribed apparatus shall, in the case of any undertakers who have sold in the preceding year more than one hundred million cubic feet of gas, and in any other case in which it appears necessary to the gas referees, include a calorimeter for the production of a continuous record of the calorific value of the gas which is being supplied.

(3) Any undertakers with respect to whom an order has been made under this Act shall provide and maintain to the satisfaction of the referees the prescribed testing places and apparatus, and shall give any gas examiner access to any testing place for the proper execution of his duty.

(4) A representative of the undertakers may be present on any occasion on which the gas examiner inspects, or alters, adjusts or replaces the testing apparatus or tests the gas, but shall not interfere with the inspection, alteration, adjustment of replacement, or test.

For the purposes of this subsection, the gas examiner shall, in cases where the testing place is situated elsewhere than on the works of the undertakers, give to the undertakers reasonable notice of the time at which he will attend at the testing place.

(5) The gas referees may, at any time where it appears to them necessary for the proper execution of their duties, enter upon and inspect any of the works of the undertakers, and the undertakers shall afford them and their assistants full facilities for this purpose, and shall furnish the referees with such information with regard to the position of the mains and pipes of the undertakers, and with regard to any other matter as the referees may reasonably require.

(*a*) This section and sections 6, 7 and 9 will apply to undertakers in respect of whom an order is made under s. 6 of the Gas Undertakings Act, 1929, *post*, p. 3027.

Appeals to chief gas examiner.

6 (*a*).—(1) If the undertakers or the local authority (*b*) think themselves aggrieved by any prescription of the gas referees, they may, within one month from the making of such prescription, appeal to the chief gas examiner, who, Section 6. after hearing the parties and any other body or person appearing to him to be interested, may confirm, with or without amendment, or annul the prescription, and the decision of the chief gas examiner shall be final and conclusive.

(2) If the undertakers think themselves aggrieved by any report of a gas examiner, they may, within [twenty-one days] (*c*), appeal to the chief gas examiner, who may confirm, with or without amendment, or annûl the report, and whose decision, after hearing the parties, shall be final and conclusive.

(3) The report of a gas examiner (including any such report as amended by the chief gas examiner) showing any failure to comply with the provisions of this Act or any order thereunder as to the calorific value, purity, pressure, or composition of gas, shall be conclusive evidence of the liability of the undertakers to a forfeiture in respect thereof.

(4) Any decision of the chief gas examiner purporting to have been signed by him shall, for all purposes and to all intents, be primâ facie evidence of the due making and signing thereof without proof of such signature.

(*a*) See note (*a*) to s. 5, p. 2811, *ante*.
(*b*) See the definition in s. 18, at p. 2817, *post*.
(*c*) " Twenty-one days " was substituted for " seven days " by s. 8 and Sch. of the Gas Undertakings Act, 1929.

Remuneration and expenses of gas referees.

7 (*a*).—(1) The salaries, remuneration, pensions, and gratuities of the chief gas examiner and the gas referees and their assistants shall be such as the Board of Trade with the consent of the Treasury may fix.

(2) (*a*) Any such salaries, remuneration, pensions, or gratuities; and
(*b*) any expenses of the chief gas examiner and the gas referees in the execution of their duties or powers under this Act; and
(*c*) any expenses of the Board of Trade which in the opinion of the Treasury are directly attributable to the execution of their powers and duties under this Act;

shall be paid out of the fund established under this section:

Provided that during the first two years after the passing of this Act the expenditure for the purposes aforesaid shall to the extent that may be necessary be paid out of moneys provided by Parliament, but such payments shall be treated as advances, and shall be repaid out of that fund, with interest at such rate and by such instalments, as the Treasury may fix, in the next three succeeding years (*b*).

(3) Any undertakers with respect to whom an order under this Act has been made, shall, on or before the first day of April in each year, pay to a fund (to be called the gas fund) a contribution not being at the rate of more than three shillings for each million cubic feet of gas sold by them in the preceding year and the Treasury may determine that that fund shall be a public fund within the meaning of the Superannuation Act, 1892.

55 & 56 Vict. c. 40.

(4) The Board of Trade shall, not later than the fifteenth day of January in each year, prescribe the rate at which such contribution shall be payable for that year (which shall not exceed the rate reasonably required to meet the estimated expenditure for the year), and the manner in which and the account to which the contribution shall be paid, and the amount payable by the undertakers shall be a debt due by the undertakers to the Crown, and shall be recoverable accordingly with costs.

(5) The Board of Trade shall, as soon as may be after the thirty-first day of March in every year, cause the accounts of the gas fund for the preceding year to be laid before Parliament.

(*a*) See note (*a*) to s. 5, p. 2811, *ante*.
(*b*) Words in italics repealed by S. L. R. A., 1927.

Forfeiture and Penalties.

Penalties for failure to comply with prescription of gas referees.

8. If the undertakers fail to comply with any lawful prescription of the gas referees, or to provide or maintain any testing place, apparatus or materials, or any other matter or thing prescribed therein, or to afford the gas examiner or gas referees access to any testing place or works in accordance with the requirements of this Act, or to afford or furnish any facilities or information in accordance with the requirements of this Act, the undertakers shall be liable on summary conviction to a fine not exceeding twenty-five pounds, or in the case of a continuing offence twenty-five pounds for each day after such conviction during which such offence continues:

Provided that no proceedings under this section shall be taken—

(*a*) unless the Board of Trade, after giving the undertakers an opportunity of being heard, consent thereto; and

(*b*) in the case of the failure to comply with any lawful prescription, until after the expiration of the period within which the undertakers may under this Act appeal against the prescription; or

(*c*) if the undertakers have appealed as aforesaid, unless or until either such appeal is withdrawn or the chief gas examiner has given a decision thereon.

Forfeiture for deficient calorific value, etc.

9 (*a*).—(1) If *on any day* (*b*) for a period of two hours or upwards the calorific value of gas supplied by any undertakers, ascertained in accordance with the provisions of this Act, is more than five per cent. below the declared calorific value, the undertakers shall be liable on summary conviction to a forfeiture not exceeding five pounds for every complete one per cent. by which the calorific value is deficient in excess of such five per cent.:

Provided that, where there is no continuous record of the calorific value of the gas supplied by any undertakers, if on any occasion of testing the calorific value at any testing-place is found to be more than five per cent. below the declared calorific value a second testing shall be made *on the same day* (*b*) after an interval of not less than one hour and the mean of the two testings shall be deemed, for the purposes of this subsection, to be the calorific value of the gas supplied by the undertakers at that testing-place for a period of two hours ascertained as aforesaid.

(2) If on any occasion the gas does not conform to the provisions of this Act or any order made thereunder as to purity or pressure, the undertakers shall be liable on summary conviction to a forfeiture not exceeding ten pounds.

(3) The undertakers shall not be liable to any forfeiture under this section in any case where they show that the deficiency or failure was due to circumstances not within their control, nor shall the undertakers be liable for more than one forfeiture in respect of any one day for any deficiency in calorific value, composition, or pressure of gas supplied from any one works.

(4) If in any quarter the average calorific value of the gas supplied by any undertakers, ascertained in manner prescribed by the gas referees, is less than the declared calorific value, a sum which the chief gas examiner shall determine to be as nearly as may be the amount by which the revenue of the undertakers has been improperly increased shall,—

(*a*) if the undertakers are a local authority, be applied towards a reduction in the price of gas in the next or some succeeding quarter; and

(*b*) in any other case, be deducted from the amount applicable to payment of dividend on the ordinary capital of the undertakers for the year or half year in which such quarter occurs, and carried forward to the credit of the revenue account for the next following year or half-year in addition to any other amount which would otherwise have been so carried forward, and the dividend which the undertakers may pay on their ordinary capital in respect of such first-mentioned year or half-year shall be correspondingly reduced; and

(*c*) in every case the amount so ascertained shall be shown in the accounts of the undertakers as a separate item until the undertakers have shown to the satisfaction of the Board of Trade that it has been applied to a reduction in the price of gas.

For the purposes of this provision, the expression "quarter" means the three months commencing on the first day of January, the first day of April, the first day of July, and the first day of October in any year.

(5) Proceedings against the undertakers in respect of any forfeiture incurred under this Act may be commenced at any time within three months after the date of the report of the gas examiner, or after the date of the report of the chief gas examiner on appeal, or, in the event of the undertakers duly appealing to the chief gas examiner and withdrawing the appeal, within three months after the date of the receipt of notice of such withdrawal.

(6) If, on an appeal to the chief gas examiner, he certifies that the default of the undertakers is not substantial or not due to the careless conduct of the undertakers or of their servants, no summary proceedings shall be taken in respect of the default, but the chief gas examiner may by order determine the amount (not exceeding the amount prescribed by subsection (1) or subsection (2) of this section as the forfeiture for the default) for the forfeiture to be paid by the undertakers, and any such order shall have effect as if it were an order of a court of summary jurisdiction.

(*a*) See note (*a*) to s. 5, *ante*, p. 2811.

(*b*) Words in italics repealed by s. 8 and Sch. of Gas Undertakings Act, 1929.

Power to make Special Orders (*a*).

Power to make special orders. 33 & 34 Vict. c. 70.

10.—(1) Anything which under the Gas and Water Works Facilities Act, 1870, or any Act amending the same (*b*), may be effected by a provisional order confirmed by Parliament may, so far as those enactments relate to gas, be effected by a special order made on the application of any local authority (*c*), company, or person by the Board of Trade under and in accordance with the provisions of this section, and for the purposes of the powers conferred by this section the Gas and Waterworks Facilities Act, 1870, shall have effect as though section fifteen thereof, which excludes the Metropolis from the operation of the Act, were omitted therefrom.

(2) Without prejudice to the generality of the powers conferred by this section, the Board of Trade may, by any such special order—

(*a*) empower any undertakers to obtain a supply of gas in bulk from any source whether situated within or without their authorised limits of supply:

(*b*) empower any undertakers to give a separate supply of gas for industrial purposes within their authorised limits of supply:

(*c*) authorise any local authority which may be authorised to supply gas within their district to supply gas outside the district in any area which is not supplied with gas by any other undertakers or which is within the area of supply of any undertakers whose undertaking has been acquired by such local authority;

(*d*) authorise arrangements for the purchase by agreement, joint working or amalgamation of undertakings, including necessary provisions with regard to the capital of the combined undertaking, the vesting of the property and rights of the purchased or amalgamated undertakings, and other necessary incidents and consequences of purchase, amalgamation or joint working:

(*e*) authorise the establishment of superannuation, pension and other like funds:

(*f*) authorise the raising of capital or the borrowing of money for any of the purposes aforesaid:

(*g*) make provision for the purchase or redemption (out of revenue or otherwise) and cancellation of debentures, debenture stock, mortgages or bonds, or of obsolete or unproductive capital, or capital not represented by available assets:

(*h*) modify or amend the provisions of any special Act or other provision relating to the undertaking affected by the special order as may be necessary to provide for the proper and efficient conduct of the undertaking:

(*i*) make such supplemental and consequential provisions as appear necessary to give full effect to the order.

(3) Sections eighty and eighty-one of the Factory and Workshop Act, 1901, which relate to the making of regulations under that Act, as set out and adapted in the Schedule to this Act, shall apply to the making of special orders under this Act. 1 Edw. 7, c. 22.

(4) Before any special order under this Act is made, it shall be laid in draft before both Houses of Parliament, and such order shall not be made unless both Houses, by resolution, approve the draft, either without modification or addition or with modifications or additions to which both Houses agree, but upon such approval being given the Board of Trade may make the order in the form in which it has been approved, and the order on being so made shall be of full force and effect.

(5) For the purposes of any Act of Parliament, whether passed before or after this Act, which refers directly or indirectly to a special Act conferring powers on gas undertakers, a special order under this Act shall be deemed to be a special Act.

(*a*) See the Gas (Special Orders) Rules, 1922, in App. II., *post*, p. 3334, as to applications for special orders.

(*b*) Under s. 161 of the P. H. A., 1875, an urban district council might obtain from the Local Government Board (afterwards the Minister of Health) under the Gas and Water Works Facilities Acts, 1870 and 1873, a provisional order authorising a gas undertaking. The power of the Minister of Health in this behalf passed to the Board of Trade under the Ministry of Health (Transfer of Powers as to Gas Undertakings) Order, 1920. But by the section in the text the special order therein mentioned is now substituted for a provisional order. It will be seen on reference to sub-s. (2) that such a special order may have a very wide scope and a far-reaching effect. And the scope of these orders is further extended by s. 7 of the Gas Undertakings Act, 1929, *post*, p. 3028.

(*c*) See the definition in s. 18, *post*, p. 2817.

General.

11. The fees for the examination, comparison and testing, with or without stamping, of meters, shall be such as may be determined from time to time by the Board of Trade, *and section nineteen of the Sale of Gas Act*, 1859, *is hereby repealed:* Fees for examination of meters. 22 & 23 Vict. c. 66.

Provided that the fees fixed by the said section shall, notwithstanding such repeal, continue to be chargeable unless and until altered by the Board of Trade under the powers conferred by this section (*a*).

(*a*) Words in italics repealed by S. L. R. A., 1927. See the Gas Meter (Fees) Order, 1922 (S. R. & O., 1922, No. 625), and the Standards Dept. Fees Order, 1923 (S. R. & O., 1923, No. 317).

12 The powers and duties of the Board of Trade under sections five and six of the Weights and Measures Act, 1904, in relation to regulations with respect to measuring instruments and certificates of suitability for use of certain appliances, shall extend to instruments for measuring gas and patterns thereof, and those sections shall have effect accordingly (*a*): Application of ss. 5 & 6 of 4 Edw. 7, c. 28.

Provided that, for the purposes of the said section six as applied by this section, the expression "inspector" shall mean an inspector of gas meters under the Sale of Gas Act, 1859.

(*a*) See the Gas Meter Regulations, 1920 (S. R. & O., 1920, No. 2354).

Meters to be stamped.

13. All meters by means of which gas is supplied by any undertakers to any consumer shall be stamped in accordance with regulations made by the Board of Trade (*a*) under their powers in that behalf, and if any undertakers supply gas by means of any meter which is not so stamped, they shall be liable on summary conviction to a fine not exceeding ten pounds.

(*a*) See the Gas Meter Regulations, 1920 (S. R. & O., 1920, No. 2354).

Qualification for appointment as inspector of meters.

14.—(1) The Board of Trade shall provide for the holding of examinations for the purpose of ascertaining whether applicants for the post of inspector of meters under section four of the Sale of Gas Act, 1859, nominated by the appointing authority, possess sufficient practical knowledge for the proper performance of the duties of that post, and for the grant of certificates to persons who satisfactorily pass such examination.

(2) A person shall not, after the passing of this Act, be appointed to act as an inspector of meters as aforesaid unless he has obtained such certificate as aforesaid.

(3) If any person, not being an inspector duly appointed under the Sale of Gas Act, 1859, acts as such inspector, he shall be liable to a fine not exceeding ten pounds, or, in the case of a second or subsequent offence, twenty pounds.

(4) There shall be charged in respect of the examinations under this section such fees as the Board of Trade, with the concurrence of the Treasury, from time to time fix, and all such fees shall be dealt with in such manner as the Treasury from time to time direct.

Accounts and returns.

15.—(1) All gas undertakers shall furnish to the Board of Trade at such times and in such form and manner as the Board may direct an annual account, and such statistics and returns as the Board may require.

(2) Within seven days of the date on which the annual account is sent to the Board of Trade the undertakers shall furnish a copy thereof to the local authority, and shall place copies on sale at their principal office at a price not exceeding one shilling per copy.

(3) If any undertakers fail to comply with the provisions of this section, they shall be liable on summary conviction to a fine not exceeding forty shillings for each day during which the default continues.

(4) The provisions of this section shall be substituted for the provisions of section thirty-eight of the Gasworks Clauses Act, 1847, and of section thirty-five of the Gasworks Clauses Act, 1871, in so far as such provisions are incorporated in the special Act of the undertakers.

34 & 35 Vict. c. 41.

Power to make rules.

16.—(1) The Board of Trade may make rules in relation to applications and other proceedings under this Act and to the payments to be made in respect thereof, and to the publication and service of notices and the publication of advertisements, and the manner in which and the time within which representations or objections with reference to any application or other proceeding are to be made, and to the holding of inquiries in such cases as they may think it advisable and to the costs of such inquiries, and to any other matters arising in relation to their powers and duties under this Act (*a*).

(2) Any rules made in pursuance of this section shall be laid before Parliament as soon as may be after they are made and shall have the same effect as if enacted in this Act.

(*a*) See S. R. & Os., 1922, Nos. 380, 403; 1923, No. 439; 1926, No. 978.

Exercise of powers of Board of Trade.

17. All things required or authorised under this Act to be done by the Board of Trade, may be done by the President or Secretary or Assistant Secretary of the Board, or any person authorised in that behalf by the President of the Board.

Section 18.

Definitions.

18. For the purposes of this Act—

The expression "local authority" means the common council of the City of London and any county, county borough, or urban district council, and in relation to any gas undertaking means any such local authority the whole or any part of whose area is within or partly within the limits of supply of the undertakers;

The expression "gas undertakers" or "undertakers" means any local authority, company, body or person authorised to supply gas by any Act of Parliament, or any order having the force of an Act of Parliament;

[The expression "quarter sessions" means the quarter sessions for the area of any local authority which has failed to appoint a gas examiner or for any area in which the testing of gas is imperfectly attended to] (*a*).

(*a*) The definition in square brackets was substituted for the definition in the Act by s. 8 and Sch. of Gas Undertakings Act, 1929. The former definition referred to the area in which the gasworks were situated.

Supersession of existing enactments.

19. Any provisions of this Act or any order made thereunder shall have effect in lieu of any provisions to the same effect or inconsistent therewith in any Act relating to the testing of gas-measuring instruments, or in any Act or order having the force of an Act relating to an undertaking with respect to which an order has been made under this Act.

Expenses of local authorities.

20. The expenses of a local authority under this Act shall be defrayed, in the case of the common council of the City of London out of the general rate, in the case of a county council as payments for special county purposes made in respect of the parishes which are wholly or partly within the limits of supply of any gas undertakers in respect of which the county council have power to appoint a gas examiner, and in the case of other councils as expenses incurred in the administration of the Public Health Acts, 1875 to 1908 (*a*).

(*a*) As to these expenses, see s. 207 of the P. H. A., 1875, *ante*, p. 495, as amended by the R. & V. Act, 1925, *ante*, p. 1633.

21.—(1) [*Application to Scotland and Ireland.*]

Short title.

22. This Act may be cited as the Gas Regulation Act, 1920.

SCHEDULE.

Section 11.

Provisions of the Factory and Workshop Act, 1901, applied to Special Orders made under this Act.

80.—(1) Before the Board of Trade make any special order under this Act, the undertakers concerned shall publish, in such manner as the Board may think best adapted for informing persons affected, notice of the application for the order, and of the place where copies of the draft order may be obtained, and of the time (which shall be not less than twenty-one days) within which any objection made with respect to the draft order by or on behalf of persons affected must be sent to the Board of Trade.

(2) Every objection must be in writing and state—

(*a*) the specific grounds of objection; and

(*b*) the omissions, additions, or modifications asked for.

(3) The Board of Trade shall consider any objection made by or on behalf of any persons appearing to them to be affected which is sent to them within the required time.

(4) Where the Board of Trade do not amend or withdraw any draft order to which any objection has been made, then (unless the objection either is withdrawn or appears to them to be frivolous) they shall, before making the order, direct an inquiry to be

Schedule.

held in the manner hereinafter provided, and may, after considering the report of the person who held the inquiry, make the order either without modification or subject to such modification as they think fit, or may refuse to make the order.

81.—(1) The Board of Trade may appoint a competent and impartial person to hold an inquiry with regard to any draft order, and to report to them thereon.

(2) The inquiry shall be held in public, and any objector and any other person who, in the opinion of the person holding the inquiry, is affected by the draft order, may appear at the inquiry either in person or by counsel, solicitor, or agent.

(3) The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

(4) Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the Board of Trade.

(5) The fee to be paid to the person holding the inquiry shall be such as the Board of Trade may direct.

THE CENSUS ACT, 1920.

(10 & 11 Geo. 5, c. 41.)

An Act to make provision for the taking from time to time of a Census for Great Britain or any area therein and for otherwise obtaining Statistical Information with respect to the Population of Great Britain (*a*).

[16th August, 1920.]

* * * * * *

Provision with respect to local census.

6.—(1) If an application is made to the Minister of Health by a local authority to which this section applies (*b*) asking that a census may be taken for the whole or any part of the area of the authority, or for an area consisting of the whole or any part of that area and of the whole or any part of an adjoining area, the Minister may, if he thinks fit, submit the application to His Majesty, and His Majesty may by Order in Council, if it appears to His Majesty expedient so to do for the purpose of facilitating the due performance by the local authority of its statutory duties, direct that a census shall be taken for the area specified in the application, or for any part of that area.

(2) The provisions of this Act with respect to the taking of a census for Great Britain (other than the provision with respect to the interval between one census and another) shall, subject to such exceptions, modifications and adaptations as may be specified in the Order, apply to the taking of a census under this section.

(3) The local authorities to which this section applies are the common council of the City of London, metropolitan borough councils, the councils of counties, the councils of boroughs, and urban district councils:

Provided that, without prejudice to the power of any other authority being a local authority to which this section applies to make an application under this section, an application may be made by the council of a county and an order may be made under this section with respect to the whole of the area of the council, including the areas of any authorities which are local authorities for the purposes of this section.

(*a*) Those sections only which specially affect local authorities are included in this volume.

(*b*) See sub-s. (3).

Expenses of local authorities.

7. Any expenses incurred in connection with the taking of a census under this Act in pursuance of an application made by a local authority, including the publication of any reports or returns relating to the census, shall be paid by the local authority by which the application for the census was made, and any expenses so incurred, and any other expenses incurred by a local authority under this Act, shall be defrayed in the case of the common council of the City of London and a metropolitan borough out of the general rate, in the case of a county council as expenses for general county purposes, and in the case of other councils as expenses incurred in the administration of the Public Health Acts, 1875 to 1908 (*a*).

(*a*) See s. 207 of the P. H. A., 1875, *ante*, p. 495, as amended by the R. & V. Act, *ante*, p. 1633.

* * * * * *

THE UNEMPLOYMENT (RELIEF WORKS) ACT, 1920.

(10 & 11 GEO. 5, c. 57.)

An Act to make better provision for the employment of unemployed persons by facilitating the acquisition of, and entry on, land required for works of public utility, and for purposes connected therewith (*a*).

[3rd December, 1920.]

Provision for facilitating the compulsory acquisition of, and entry on, land required for works of public utility.
9 Edw. 7. c. 44.
9 & 10 Geo. 5. c. 35.
53 & 54 Vict. c. 70.

1. Subject as hereinafter provided, the provisions of the Housing, Town Planning, &c. Act, 1909, and of the Housing, Town Planning, &c. Act, 1919, which relate to the procedure for the compulsory acquisition of land for the purposes of Part III. of the Housing of the Working Classes Act, 1890, by the Minister of Health and local authorities, and to entry on land acquired for those purposes (*b*), shall apply to the compulsory acquisition of land for the purpose of works of public utility (*c*) and of land which may be acquired in connection with any such works, and to the entry on land acquired for that purpose, as if those enactments were herein re-enacted with the necessary adaptations and modifications and with the substitution of the appropriate Government department (*d*) for the Minister of Heatlh and of the local authority having power to execute a work of public utility for the local authority within the meaning of the said Part III.:

Provided that—

(*a*) the powers conferred by this section shall not be exercised except where it is certified by the Minister of Labour that, having regard to the amount of unemployment existing in any area, it is desirable that the provisions of this section should be put into operation with a view to the speedy provision of employment for unemployed persons from that area, and the Minister of Labour shall take into consideration any representations which may be made to him by any local authority to the effect that he should issue a certificate under this section; and

(*b*) no order authorising the compulsory acquisition of any land for any purpose shall be made under any enactment as applied by this section, unless an order authorising the compulsory acquisition of that land for that purpose could have been made under some enactment in force at the commencement of this Act (*e*); and

(*c*) where an enactment in force at the commencement of this Act, which authorises the compulsory acquisition of land for any purpose for which land has been authorised to be acquired compulsorily by an order made under this Act, contains a provision that the arbitrator in determining the amount of any disputed compensation shall have regard to the extent to which the remaining and contiguous lands and hereditaments belonging to the same proprietor may be benefited by the proposed work for which the land is authorised to be acquired, that provision shall have effect as respects land authorised to be acquired compulsorily by the said order (*f*).

(*a*) This Act is temporary only. See s. 7 (2) and the note thereto, *post*. The Act merely expedites procedure and does not give new powers of compulsory purchase (see s. 1, proviso (*b*)).

(*b*) The Acts of 1890, 1909 and 1919 have all now been repealed and are consolidated in the Housing Act, 1925. As to the compulsory acquisition of land for the purposes of Part III. of that Act (corresponding to Part III. of the 1890 Act), see s. 64 and Sch. III., *ibid.*, *ante*, pp. 1437, 1484, and as to entry on land acquired, see s. 106, *ibid.*, *ante*, p. 1465.

In connection with works for which the Minister of Transport is the appropriate Government department under this Act, the Ministry of Transport (Unemployment Relief Works Procedure) Order, 1925, in App. II. at p. 3439, *post*, should be referred to.

(*c*) For the definition of "works of public utility," see s. 5, *post*, p. 2822.

(*d*) For the definition of this expression, see s. 5 (2), *post*, p. 2822.

(*e*) For example, an order might be made authorising the compulsory acquisition of land for widening or improving streets under the Public Health Act, 1875, ss. 154, 176, *ante*, pp. 340, 436. As to the compulsory acquisition of land for the construction of new roads see the Development and Road Improvement Funds Act, 1909, s. 11, *ante*, p. 1206, and s. 4, *post*, p. 2822.

(*f*) For cases in which the principle of betterment is applied, see the Development and Road Improvement Funds Act, 1909, 9 Edw. 7, c. 47, Sched. 2 (*c*), *ante*, p. 1209; the Housing Act, 1925, s. 20 (6), *ante*, p. 1397, and the Town Planning Act, 1925, s. 10 (3), *ante*, p. 1501.

Power to enter on and acquire land for construction and improvement of roads.

2 (*a*).—(1) If it appears to the Minister of Labour that immediate action is necessary for the purpose of dealing with unemployment, and that land cannot be acquired under the foregoing provisions of this Act with such expedition as the case requires, he may certify accordingly, and thereupon the Minister of Transport (in this section referred to as "the Minister") or, with the approval of the Minister, any local authority, shall, subject to the provisions of this section, have power forthwith to enter upon and take possession of any such land as may be required for or in connection with the construction of any arterial road, being a road which the Minister or the local authority, as the case may be, has or have power to construct or required by the local authority for the improvement of any road, with a view to the employment of unemployed persons in the construction or improvement of the road:

Provided that nothing in the foregoing provision shall authorise the Minister or any local authority to enter on any permanent building or structure, or to enter upon or take possession of any land unless that land could, under some enactment in force at the commencement of this Act, have been authorised to be acquired compulsorily for, or in connection with, the construction or improvement of a road (*b*).

(2) Before entering on any land under this Act, the Minister or local authority shall give seven days' notice in writing of the intention so to do to the owner and occupier of the land.

A notice for the purposes of this provision may be served either—

(*a*) by delivering it to or leaving it at the usual or last known place of abode of the person on whom it is to be served; or

(*b*) by sending it by post in a prepaid letter addressed to that person at his usual or last known place of abode; or

(*c*) by delivering it to some person on the premises or, if there is no person on the premises who can be so served, by affixing it on some conspicuous part of the premises;

and any such notice may be addressed by the description of the "owner" or the "occupier" of the premises (naming them) without further name or description (*c*).

(3) Where the Minister or a local authority enter upon any land in pursuance of this section, he or they shall, by virtue of this section, have power

to acquire the land compulsorily, and for the purpose of the acquisition of any such land the provisions of the Lands Clauses Acts shall, subject to the provisions of this section, be deemed to be incorporated in this Act.

(4) The Minister or local authority shall, as soon as may be after entering on any land under this section, serve notice under section eighteen of the Lands Clauses Consolidation Act, 1845 (*d*), of the intention to take the land, and shall add to the notice a statement that the entry on the land is made in pursuance of this Act, and shall in all respects be liable as if such notice had been given on the date of entering on the land.

8 & 9 Vict. c. 18.

(5) The power conferred by this section to enter on land may, save as hereinbefore in this section provided, be exercised without notice to or the consent of any person and without compliance with the provisions of sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845 (*e*), but such entry shall be without prejudice to the liability to pay compensation for the land and interest thereon as from the date on which entry is made, such compensation and interest to be ascertained in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919 (*f*).

9 & 10 Geo. 5, c. 57.

(*a*) This section only applies to the acquisition of land for the construction of "arterial roads" which are nowhere defined and the improvement of any road.

(*b*) See note (*e*) to s. 1, *ante*, p. 2820.

(*c*) Compare the provisions of the P. H. A., 1875, ss. 266, 267, *ante*, pp. 592, 593, as to notices.

(*d*) *Ante*, p. 2094.

(*e*) See the sections referred to, *ante*, pp. 2117 *et seq.*

(*f*) See this Act, *ante*, p. 1271.

Contribution by local authorities to works outside their area.

3.—(1) With a view to the provision of employment for the unemployed persons in their area, a local authority may, subject to the approval of the Minister of Health, enter into agreements with any Government department or local authority by whom any work of public utility is being, or is about to be, constructed for the payment of a contribution by that authority towards the expenses which may be incurred in carrying out that work, and any two or more local authorities may, subject to the like approval, make schemes with a view to providing for the employment of the unemployed persons in their areas on works of public utility and may by any such schemes make arrangements as to the manner in which the expenses incurred in connection with the works are to be defrayed (*a*).

(2) A local authority shall have power, with the approval of the Minister of Health, to borrow money for the purposes of any agreement entered into or any scheme made by the authority under this section, in the case of the council of a county in the same manner as for the purposes specified in section sixty-nine of the Local Government Act, 1888, in the case of the council of a metropolitan borough under the Metropolis Management Acts, 1855 to 1893, in the case of the Common Council of the City of London under the City of London Sewers Acts, 1848 to 1897, and in the case of any other council in the same manner as for the purposes of the Public Health Acts, 1875 to 1908 (*b*).

51 & 52 Vict. c. 41.

(3) In this section the expression "local authority" means the council of a county or a county borough, or of an urban or rural district:

Provided that, for the purposes of the application of the provisions of this section to the administrative county of London, the local authorities shall be the London County Council, the councils of metropolitan boroughs, and the Common Council of the City of London.

(*a*) Section 3 does not increase the powers of a local authority as to the *purposes* for which they may make agreements and schemes. See note (*a*) to s. 5, *post*, p. 2822.

(*b*) The power of borrowing under the P. H. A., 1875, is contained in ss. 233, 234, *ante*, pp. 519, 526.

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Section 9 (2) of 7 Edw. 7, c. 47, not to apply in certain cases.

4. The provisions of subsection (2) of section nine of the Development and Road Improvement Funds Act, 1909 (*a*), shall not apply with respect to the construction of any new road where the Minister of Labour certifies that, having regard to the exceptional amount of unemployment in any area, it is desirable that the construction of the new road should be proceeded with forthwith with a view to the speedy provision of employment for unemployed persons from that area.

(*a*) See this section, *ante*, p. 1205.

Interpretation and saving.

5.—(1) In this Act the expression "work of public utility" means the construction or improvement of roads (including bridges, viaducts, and subways) or other means of transit, the widening or other improvement of waterways, the construction or improvement of harbours, the construction of sewers or waterworks, afforestation, the reclamation or drainage of land, and any other work, being a work which a local authority has power to execute (*a*), which is approved for the purposes of this Act by the appropriate Government department as a work of public utility.

(2) If any question arises in any case as to what department is the appropriate Government department within the meaning of this Act, the question shall be referred to and determined by the Treasury.

(3) The provisions of this Act shall be in addition to and not in substitution for any power of any Government department or local authority to enter upon or acquire any land for the purposes of any work of public utility.

(*a*) It will be observed that the work must be within the powers of the authority. A town council applied to the Ministry of Health for sanction to a loan to defray their share of the cost of straightening and deepening a river running through the borough. The scheme was being carried out under an agreement with the Ministry of Agriculture and Fisheries, and the town council relied for their borrowing power upon the Unemployment (Relief Works) Act, 1920. The Ministry stated that they were advised that there was no authority in the general law which would enable the corporation to carry out the works in question or to borrow for the purpose. In the special circumstances of the case, however, the Ministry were willing to sanction a temporary loan under the Local Authorities (Emergency Provisions) Act, 1923.

6. [*Application to Scotland and Ireland.*]

Short title.

7.—(1) This Act may be cited as the Unemployment (Relief Works) Act, 1920.

(2) This Act shall continue in force for twelve months and no longer unless Parliament otherwise determines (*a*):

Provided that the expiry of this Act shall not—

(*a*) affect the previous operation thereof or of anything duly done or suffered thereunder; or

(*b*) affect any right, privilege, obligation or liability acquired, accrued or incurred thereunder; or

(*c*) affect any legal proceeding, arbitration, remedy or investigation in respect of such right, privilege, obligation or liability as aforesaid;

and any such legal proceeding, arbitration, remedy or investigation may be instituted, enforced or continued as if this Act had not expired.

(*a*) This Act has been continued by Expiring Laws Continuance Acts and that of 1929 continues it until 31st December, 1930.

THE DEFENCE OF THE REALM (ACQUISITION OF LAND) ACT, 1920.

(10 & 11 GEO. 5, c. 79.)

An Act to amend the Defence of the Realm (Acquisition of Land) Act, 1916, *and to continue certain byelaws* (*a*). [23rd December, 1920.]

Power to dispose of land free from restrictive covenant. 6 & 7 Geo. 5, c. 63.

1.—(1) Where land which, or an interest in which, has been or is hereafter acquired under the Defence of the Realm (Acquisition of Land) Act, 1916 (hereinafter referred to as the principal Act), was immediately before its acquisition subject to a restrictive covenant which before the fourth day of November, nineteen hundred and twenty, had lawfully been contravened, and the land or interest therein is disposed of in pursuance of the powers conferred by section five of that Act (*b*), it may be disposed of free from the restriction imposed by the covenant, and shall be deemed to have been so disposed of, if expressed to be disposed of in pursuance of the powers conferred by the principal Act and this Act but not otherwise:

Provided that, where the covenant is one entered into for the protection and maintenance of any building scheme, or for the preservation of the amenities of any dwelling-house in the occupation of a person entitled to enforce the covenant, this section shall not apply unless the Railway and Canal Commission, on the application of the occupying department, and having regard to all the circumstances of the case, direct that it shall apply.

(2) Where any such land or interest is disposed of free from such restriction, no person shall have the right of enforcing the covenant against the person to whom the land or interest is disposed of or his successors in title, but if at any time after such disposition any person who, but for this section, would have had a right to enforce the covenant, establishes such right, there shall be paid to him compensation to be determined in manner provided by the Lands Clauses Act as modified by the principal Act and the Acquisition of Land (Assessment of Compensation) Act, 1919 (*c*), with respect to interests in lands which have been omitted to be purchased, and upon payment of such compensation the right shall, as against him and all persons deriving title through him, be absolutely discharged:

9 & 10 Geo. 5, c. 57.

Provided that, in assessing the compensation, the official arbitrator shall take into consideration any compensation which may have been paid or be payable in respect of the covenant under section four of the principal Act (*d*).

Any compensation payable under the foregoing provision shall be paid out of moneys provided by Parliament, but the sum to be expended in respect thereof shall not exceed fifty thousand pounds.

(3) [*Application of this section to Scotland.*]

(*a*) The principal Act which is amended by this Act is the 6 & 7 Geo. 5, c. 63, and will be found set out in full, *ante*, p. 2742.

(*b*) See the section referred to, *ante*, p. 2743.

(*c*) See this Act, *ante*, p. 1271.

(*d*) See the section referred to, *ante*, p. 2743.

Provisions as to rights of pre-emption.

2.—(1) The right of pre-emption conferred by section five (*a*) of the principal Act on any person other than a person entitled to the lands from which the land proposed to be sold was originally severed shall cease to have effect, *and accordingly in subsection* (3) *of that section the words from "or if such person refuse" to the end of that subsection shall be repealed* (*b*).

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(2) Where the land from which land acquired under the principal Act was severed is settled land within the meaning of the Settled Land Acts, 1882 to 1890, the tenant for life, or person having the powers of a tenant for life under those Acts with respect to that land, shall, for the purposes of section five of the principal Act and this section, be deemed to be, and always to have been, the person entitled to the settled land.

(3) The person by whom the right of pre-emption conferred by the said section five (*a*) as amended by this section is or would for the time being be exerciseable in respect of any land if a Government department were offering that land for sale shall have power at any time to release that right so as to discharge in perpetuity the land or any part thereof to which the release relates, from all such right of pre-emption.

(*a*) See this section at p. 2743, *ante*.
(*b*) Repealed by S. L. R. A., 1927.

Provision as to acquisition and possession of land under the principal Act.

3.—(1) It is hereby declared that—

(*a*) . . . (*a*)

(*b*) the expressions "Government department in possession" and "occupying department," where used in the principal Act and this Act mean, and shall be deemed always to have meant, the Government department for the time being in possession of land, notwithstanding that the department so in possession is not the department by which or on whose behalf possession was originally taken, but is in possession by virtue of a transfer from the said department or from some other department to which possession has subsequently been transferred (*b*):

(*c*) where the occupying department has created or purported to create any tenancy or other interest in the land of which it is in possession in favour of some other person, or has allowed any other person to use or occupy that land, the occupying department shall, for the purposes of the principal Act and this Act, be deemed to have continued in possession of the land, notwithstanding the interest therein of, or the use or occupation thereof by, such other person:

(*d*) the possession by an occupying department shall be deemed not to have been affected or prejudiced by reason of the land or any part thereof at any time ceasing or having ceased to be used for the purpose for which possession thereof was originally taken, or otherwise being or having been used for any other purpose:

(*e*) subsection (4) of section one of the principal Act shall not be construed as limiting the power of one Government department to transfer possession of land to another Government department during the continuance of the present war (*c*).

(2) A Government Department in possession of land under a lease or tenancy granted or created prior to the commencement of the present war shall have the like power of removing any building or other work which, for purposes connected with the present war, has been erected or constructed on, over, or under that land wholly or partially at the expense of the State as is conferred by section two (*d*) of the principal Act on an occupying department, and this power shall be exerciseable notwithstanding any provision of the lease or tenancy under which the land is held, *and paragraph* (*b*) *of the first proviso to subsection* (1) *of section two of the principal Act shall not apply to any such provision* (*e*).

(*a*) This paragraph, which related to s. 3 of the principal Act, was with that section repealed by S. L. R. A., 1927.

(*b*) The expression "Government Department" includes a competent naval or military authority acting under the Defence of the Realm Acts (s. 12 (5) of the 1916 Act, *ante*, p. 2748).

Note to Section 3.

(c) The sub-section referred to was repealed by S. L. R. A., 1927. As to the continuance of the war, see the Termination of the Present War (Definition) Act, 1918, and the Order in Council of August 10th, 1921, declaring the date of the termination of the war to be August 31st, 1921.

(d) This section was repealed by S. L. R. A., 1927.

(e) Repealed by S. L. R. A., 1927.

Consent under section six of the principal Act.

4.—(1) *It is hereby declared that the consent—*

(a) *of a local authority under the proviso in subsection* (1) *of section six of the principal Act to the use of a railway or tramway across a roadway on the level being continued after the expiration of two years from the termination of the present war; and*

(b) *of the commission under subsection* (3) *of that section as to keeping a public highway closed beyond the expiration of twelve months after the termination of the present war,*

may be given at any time before the expiration of those two years or those twelve months as the case may be (a).

(2) If any person considers that the consent of a local authority under the said proviso to subsection (1) of section six (a) has been unreasonably withheld, he may appeal to the Minister of Transport whose decision shall be final and shall have effect as if it were a decision of the authority;

Provided that the Minister may, before considering any such appeal, require the appellant to deposit such sum, not exceeding ten pounds, to cover the costs of appeal as may be fixed by rules to be made by him.

(a) See s. 6 of the principal Act, *ante*, p. 2744. Words in italics repealed by S. L. R. A., 1927.

5 (a).—[*Provisions as to retention of possession and acquisition of land belonging to railway companies, etc.*]

(a) This section, like s. 13 of the principal Act to which it referred, was repealed by S. L. R. A., 1927.

Easements.

6. For the purposes of section *one, two* (a), three, ten, and thirteen of the principal Act (b) and for the purposes of this Act, the exercise or enjoyment of any easement or right over or in relation to land shall be deemed to be possession of that easement or right.

(a) Words in italics repealed by S. L. R. A., 1927.
(b) See these sections at pp. 2742, 2747 and, 2748 *ante*.

7 (a).—[*Temporary continuation of existing byelaws as to ranges.*]

(a) This section was repealed by S. L. R. A., 1927, its operation being spent.

Short title and construction.

8. This Act may be cited as the Defence of the Realm (Acquisition of Land) Act, 1920, and shall be construed as one with the principal Act, and that Act and this Act may be cited together as the Defence of the Realm (Acquisition of Land) Acts, 1916 and 1920.

THE WATER UNDERTAKINGS (MODIFICATION OF CHARGES) ACT, 1921.

(11 & 12 GEO. 5, c. 44.)

An Act to make provision for the modification of the charges which may be made in respect of water undertakings (*a*). [17th August, 1921.]

Modification of provisions affecting water charges.

1.—(1) Where on the application of any water undertakers (*b*) it appears to the Minister (*b*) that, for the purpose of meeting any increase in the cost and charges of and incidental to the carrying on of the undertaking attributable to circumstances arising since the fourth day of August, nineteen hundred and fourteen, which were beyond the control of, and could not have been reasonably avoided by, the undertakers, an order under this section should be made with regard to the undertaking, the Minister may, if he thinks fit, by order—

(*a*) provide for modifying any statutory (*b*) or other provision affecting or regulating charges to be made by the undertakers, and of any statutory or other provisions consequential thereon or supplemental thereto, in such manner and subject to such conditions as may be just and reasonable;

(*b*) provide for the modification of the provisions of any award or agreement which determine the price to be charged by the undertakers for the supply of water or for any fittings, materials or service in connection therewith:

Provided that no such modification shall be made except such as may be reasonably necessary for the purpose of meeting such increase, and that, where the undertakers are a company, no modification shall be made which, in the opinion of the Minister, would enable the company, with due care and management, to pay a dividend on the ordinary stock or shares of the undertaking in excess of the maximum rates prescribed for the undertaking or to make up the deficiency of any previous dividends which shall have fallen short of such rates (*c*).

(2) If at any time, on the application of the undertakers or a local authority (*b*), or, where the local authority are the undertakers, of twenty consumers, it appears to the Minister that the costs and charges of and incidental to the carrying on of the undertaking in respect of which an order has been made have substantially altered, the Minister may make an amending order revising the powers of charging, so, however, that the revised maximum charges shall not in any case be less than the statutory maximum charges applicable to the undertaking on the said fourth day of August, nineteen hundred and fourteen.

(3) An order under this section may—

(*a*) fix the date as from which the charges authorised by the order shall become operative, being a date not less than four weeks after the order is made;

(*b*) revoke, vary, or modify, in whole or in part, any order relating to a water undertaking made under the Statutory Undertakings (Temporary Increase of Charges) Act, 1918 (*d*);

8 & 9 Geo. 5, c. 34.

(*c*) contains such incidental, supplemental, and consequential provisions as may be necessary to give full effect to the order.

(*a*) Under the Statutory Undertakings (Temporary Increase of Charges) Act, 1918, 8 & 9 Geo. 5, c. 34, *ante*, p. 2749, an order might be made for the modification of any statutory provision regulating the charges to be made by the undertakers in relation to undertakings for (*inter alia*) the supply of water. Such an order was to be made, however, for such period during the continuance of the Act as might be thought just and reasonable. The Act was a temporary Act, and is now in force only as respects tramway undertakings. The present Act is not temporary, and there is no limit to the period during which an order made under it is to be in force. It will be noticed that under s. 1 (3) (*b*), such an order may revoke, alter, or modify any order made under the Act of 1918.

(*b*) See the definition of this expression in s. 3 (1), *infra.*

(*c*) See as to the amount of profit to be received by the undertakers when the waterworks are carried on for their benefit, the group of sections in the Waterworks Clauses Act, 1847, ss. 75–83.

(*d*) See note (*a*), *ante*, p. 2826.

Note to Section 1.

Procedure for making orders.

2.—(1) Before making an order under this Act the Minister shall require the applicants to serve notice of the application for the order upon any local authority affected (*a*), and to give, in terms approved by him, and in such manner as he may consider best adapted for informing any other persons affected, public notice of the application for the order, and as to the manner in which and the time within which the objections may be made, and as to the manner in which and the place where any documents submitted to the Minister in connection with the application may be inspected and copies thereof made and purchased, and shall consider any objection which may be duly made, and in the event of any objection being made and not withdrawn shall cause an inquiry to be held.

(2) On the making of an order under this Act, notice shall be given of the making of the order and the effect thereof to any local authority or persons who have objected to the application for an order under the preceding subsection, and if within four weeks from the date of such notice any such local authority, or, where a local authority are the undertakers, twenty consumers, being persons who have so objected as aforesaid, give notice in writing to the Minister that they object to the order, and the objection is not withdrawn, or if for any other reason the Minister thinks it desirable, the order shall be provisional only, and shall not have effect unless and until confirmed by Parliament, but in any other case the order shall have effect as if enacted in this Act (*b*).

(3) Rules may be made by the Minister with respect to applications and other proceedings under this Act, including the payments to be made by persons making applications or objections, the publication and service of advertisements and notices, the making of representations and objections, the holding of inquiries, and the cost of such inquiries, and with respect to such other matters of procedure as may be necessary, and the rules with respect to the holding of inquiries may apply the provisions of section seventy-two of the Local Government Act, 1894 (*c*).

56 & 57 Vict. c. 73.

(*a*) See the definition in s. 3 (1), *infra.*

(*b*) As to provisional orders under the Public Health Act, 1875, see s. 297 of that Act, *ante*, p. 631.

(*c*) The rules made under this sub-section, dated October 7th, 1921, will be found set out in Appendix II, *post*, p. 3909. They include rules for expenses of local inquiries which are adopted from s. 72 of the Local Government Act, 1894, which is set out and annotated at p. 1034, *ante.*

Interpretation.

3.—(1) For the purposes of this Act—

The expression "the Minister" means the Minister of Health;

The expression "water undertakers" means any local authority, joint board, company, body, or person authorised to supply water by any Act of Parliament or order having the force of an Act of Parliament;

The expression "statutory provision" includes provisions of any order having the force of an Act of Parliament;

The expression "local authority" means the mayor, aldermen, and commons of the city of London in common council assembled, the council of any county or borough (including a metropolitan borough) or urban or rural district, and, in relation to any water undertaking,

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means any such local authority the whole or any parts of whose area is within the limits of supply of the water undertakers.

(2) For the purpose of any Act of Parliament passed before or after the passing of this Act which refers directly or indirectly to a special Act conferring power on water undertakers, an order made under this Act shall be deemed to be a special Act.

Short title and extent.

4. This Act may be cited as the Water Undertakings (Modification of Charges) Act, 1921.

(2) This Act shall not extend to Scotland or Ireland.

* * * * * *

THE SUMMER TIME ACT, 1922.

(12 & 13 Geo. 5, c. 22.)

An Act to provide for the time in Great Britain, Northern Ireland, the Channel Islands, and the Isle of Man being in advance of Greenwich mean time during a certain period of the year (*a*). [20th July, 1922.]

Advance of time during certain period.

1.—(1) The time for general purposes in Great Britain shall, during the period of summer time, be one hour in advance of Greenwich mean time.

(2) Wherever any reference to a point of time occurs in any enactment, Order in Council, order, regulation, rule, byelaw, deed, notice or other document whatsoever, the time referred to shall, during the period of summer time be deemed, subject as hereinafter provided, to be the time as fixed for general purposes by this Act.

(3) Nothing in this Act shall affect the use of Greenwich mean time for purposes of astronomy, meteorology, or navigation, or affect the construction of any document mentioning or referring to a point of time in connection with any of those purposes.

(*a*) This Act is printed as amended by the Summer Time Act, 1925 (15 & 16 Geo. 5, c. 64), which is not set out separately in this work. By that Act s. 3 (3) of the Act in the text was repealed and the Act made permanent, and the amendment in s. 3 (1) made. The effect of fixing Easter by the Easter Act, 1928 (18 & 19 Geo. 5, c. 35) for the first Sunday after the second Saturday in April will mean that as from the time when the Easter Act, 1928, is made operative by an Order in Council (which has not yet been issued) Summer Time will last from the day after the third Saturday in April till the day following the first Saturday in October.

The Act is printed as necessary for the interpretation of Acts, byelaws, deeds, notices, etc., see s. 1 (2).

Application to Northern Ireland, Channel Islands and Isle of Man.

2.—(1) This Act shall apply to Northern Ireland, the Channel Islands and the Isle of Man in like manner as it applies to Great Britain.

10 & 11 Geo. 5, c. 67.

(2) For the purposes of section six of the Government of Ireland Act, 1920, this Act in its application to Northern Ireland shall be deemed to be an Act passed before the appointed day.

Interpretation, short title and duration.

3.—(1) For the purposes of this Act, the period of summer time shall be taken to be the period beginning at two o'clock, Greenwich mean time, in the morning of the day next following the third Saturday in April, or, if that day is Easter Day, the day next following the second Saturday in April, and ending at two o'clock Greenwich mean time, in the morning of the day next following the [first Saturday in October.]

(2) This Act may be cited as the Summer Time Act, 1922.

(3) . . .

THE BREAD ACTS AMENDMENT ACT, 1922.

(12 & 13 Geo. 5, c. 28.)

An Act to amend the enactments relating to the provision of regulations for the making and sale of bread, and for preventing the adulteration of meal, flour, and bread (*a*). [20th July, 1922.]

Amendment of 3 Geo. 4, c. cvi., and 6 & 7 Will. 4, c. 37, so as to permit sale of self-raising flour.

1. Nothing in the Acts relating to the manufacture or sale of bread within or without the City of London and the liberties thereof shall be deemed to prohibit the addition to any flour of any ingredient or mixture for the purpose of making such flour self-raising or the addition to such self-raising flour of ingredients suitable for the making of cakes or puddings, or the sale or offer or exposure for sale of any flour to which any such ingredient or mixture has been added.

(*a*) There are two Acts relating to the manufacture and sale of bread. One is the London Bread Act, 1822, 3 Geo. 4, c. cvi., which applies only to the City of London and within ten miles of the Royal Exchange. The other is the Bread Act, 1836, 6 & 7 Wm. 4, c. 37, which is a general Act and applies to the whole of England outside the area of the former Act. Both of these Acts contain a provision in identical terms prohibiting the manufacture or mixing of flour with any ingredient or mixture whatever not being the real and genuine produce of the corn or grain ground. And it imposed penalties for breach of this provision. It was found that this enactment would apply so as to prevent the making or sale of self-raising flour and the present Act was passed to remove this restriction subject to the provisions of s. 2.

Power to make regulation prohibiting or restricting the use of prescribed ingredients. 7 Edw. 7, c. 32.

2. The power of the Minister of Health to make regulations under the Public Health (Regulations as to Food) Act, 1907 (*a*), shall include a power to make regulations prohibiting or restricting the use for the purpose aforesaid of any such ingredient or mixture as may be prescribed, and prescribing the descriptions under which any flour to which any such ingredient or mixture has been added may be sold.

(*a*) See this Act set out at p. 1098, *ante*, and notes thereto.

Saving of Sale of Food and Drugs Acts, 1875 to 1907.

3. Nothing in this Act shall prejudice or affect the operation of the Sale of Food and Drugs Acts, 1875 to 1907.

These Acts have now been repealed and consolidated in the Food and Drugs (adulteration) Act, 1928, *post*, p. 2948.

Scotland.

4. This Act shall apply to Scotland with the substitution for " the Minister of Health " of " the Scottish Board of Health."

Ireland.

5. This Act shall not extend to Ireland.

Short title.

6. This Act may be cited as the Bread Acts Amendment Act, 1922.

THE CELLULOID AND CINEMATOGRAPH FILM ACT, 1922.

(12 & 13 Geo. 5, c. 35.)

An Act to make better provision for the prevention of fire in premises where raw celluloid or cinematograph film is stored or used. [4th August, 1922.]

General safety provisions.

1.—(1) No premises shall be used for any purpose to which this Act applies (*a*)—

(*a*) unless the occupier has furnished to the local authority (*b*) in writing

Section 1.

a statement of his name, the address of the premises, and the nature of the business there carried on ;

(*b*) unless the premises are provided with such means of escape in case of fire as the local authority may reasonably require, and such means of escape are maintained in good condition and free from obstruction ;

(*c*) if the premises are situated underneath premises used for residential purposes ;

(*d*) if the premises are so situated that a fire occurring therein might interfere with the means of escape from the building of which they form part or from any adjoining building ;

(*e*) where the premises form part of a building, unless such part either—

(i) is separated from any other part of the building by fire-resisting partitions (including fire-resisting ceilings and floors) and fire-resisting self-closing doors ; or

(ii) is so situated and constructed that a fire occurring therein is not likely to spread to other parts of the building, and its use for the purposes to which this Act applies is sanctioned in writing by the local authority and any conditions attached to such sanction are complied with ;

(*f*) unless the regulations set out in the First Schedule to this Act are duly observed ;

(*g*) unless any regulations are duly observed which may be made by the Secretary of State (*c*) with respect to the use upon the premises of any cinematograph or other similar apparatus.

(2) In the case of premises used for any purpose to which this Act applies at the date of the commencement of this Act (*d*), the provisions of this section requiring the occupier to furnish a statement to the local authority shall take effect at the expiration of two months after the commencement of this Act, and the provisions of this section requiring means of escape in case of fire to be provided shall not take effect until the expiration of such period as may be reasonably necessary for enabling the occupier to comply with any requirements of the local authority in that respect.

(3) Any person aggrieved by any requirement of a local authority, or the refusal of the local authority to grant any sanction, or by the conditions attached to any such sanction, may within, seven days after being notified of such requirement, refusal or conditions, appeal to a court of summary jurisdiction (*e*), provided that he has given not less than twenty-four hours notice in writing of such appeal and of the grounds thereof to the local authority, and the court on any such appeal may make such order as appears to the court to be just, including any order for the payment of costs.

(4) The Secretary of State may by order, made in accordance with the provisions contained in the Second Schedule to this Act—

(*a*) make regulations with respect to the use of any cinematograph or similar apparatus upon any premises used for any purpose to which this Act applies (*f*) ; and

(*b*) modify or add to the regulations set out in the First Schedule to this Act, and those regulations shall thereupon have effect as so modified or added to.

An order made under this section may apply either generally, or to such classes or descriptions of premises as may be mentioned in the order.

(*a*) See s. 2, *post*, p. 2831.

(*b*) See the definition in s. 9, *post*, p. 2833.

(*c*) See sub-s. (4), and the Order of the Secretary of State (S. R. & O., 1924, No. 403) made thereunder.

Note to Section 1.

(*d*) See s. 11 (1), *post*, p. 2833.
(*e*) As to what is a court of summary jurisdiction, see the note in Vol I., p. 38, *ante*.
(*f*) See the Order (S. R. & O., 1924, No. 403) made hereunder.

Purposes to which the Act applies.

2. The purposes to which this Act applies are—

(1) the keeping or storing of raw celluloid—

(*a*) in quantities exceeding at any one time one hundredweight; or

(*b*) in smaller quantities unless kept (except when required to be exposed for the purpose of the work carried on in the premises) in a properly closed metal box or case; and

(2) the keeping or storing of cinematograph film—

(*a*) in quantities exceeding at any one time twenty reels, or eighty pounds in weight; or

(*b*) in smaller quantities unless each reel is kept (except when required to be exposed for the purpose of the work carried on in the premises) in a separate and properly closed metal box or case:

Provided that—

(i) for the purposes of this Act, cinematograph film shall be deemed to be kept in any premises where it is temporarily deposited for the purpose of examination, cleaning, packing, re-winding or repair, but celluloid or cinematograph film shall not be deemed to be kept or stored in any premises where it is temporarily deposited whilst in the course of delivery, conveyance or transport; and

(ii) the provisions of this Act shall not, except in the cases referred to in paragraphs (*c*), (*d*) and (*e*) of sub-section (1) of section one thereof, apply to premises to which the Factory and Workshop Acts, 1901 to 1920, apply (*a*); and

(iii) the provisions of this Act shall not apply to premises licensed in accordance with the provisions of the Cinematograph Act, 1909 (*b*). 9 Edw. 7, c. 30.

(*a*) See the Factories Act, 1901, ss. 149, 150, *ante*, pp. 2646—2648.
(*b*) This Act is the 9 Edw. 7, c. 30. It provides that any exhibition of pictures, etc. by means of a cinematograph for the purposes of which imflammable films are used, shall not be given unless the regulations made by the Secretary of State are complied with or elsewhere than on premises licensed for the purpose by the council of a county or county borough. A licence of the Board of Trade is also necessary for the exhibitor (Cinematograph Films Act, 1927 (17 & 18 Geo. 5, c. 29), s. 20).

Penalties for infringement of foregoing provisions.

3.—(1) In the event of any contravention in or in connection with any premises of the foregoing provisions of this Act, the occupier shall be liable on summary conviction to a fine not exceeding fifty pounds and, in the case of a continuing offence, to a further fine not exceeding ten pounds for each day on which the offence is continued after conviction thereof.

(2) In the event of the contravention by any person employed on any premises of any regulation contained in the First Schedule to this Act or of any regulation made under this Act, he shall be liable on summary conviction to a fine not exceeding five pounds.

(3) The provisions of section one hundred and forty-one of the Factory and Workshop Act, 1901 (which relates to the power of an occupier to exempt himself from fine on the conviction of the actual offender), shall apply to offences under this Act as it applies to offences under that Act (*a*). 1 Edw. 7, c. 22.

(*a*) See the section referred to, *ante*, p. 2643.

Execution of Act by local authorities.

4.—(1) It shall be the duty of local authorities (*a*) to see that the provisions of this Act are duly complied with.

(2) The expenses incurred by a local authority in the execution of their powers under this Act shall be defrayed in the same manner as expenses incurred in the administration of the Public Health Acts, 1875 to 1908 (*b*).

(3) The occupier of premises in respect of which a statement is required (*c*) to be furnished to the local authority shall pay to the local authority when furnishing such statement and on the first day of January of every year thereafter, so long as the premises are used for any purpose to which this Act applies, such fees as the Secretary of State may prescribe (*d*).

(*a*) For the definition of local authority see s. 9, *post*, p. 2833.

(*b*) In urban districts the expenses will be defrayed out of the general rate fund or general rate, as to which see the P. H. A., 1875, s. 207, *ante*, p. 495; in rural districts as general expenses, s. 229, *ibid*, *ante*, p. 514, and the R. & V. Act, 1925, *ante*, p. 1633.

(*c*) See s. 1 (1) (*a*), *ante*, p. 2829.

(*d*) These fees are prescribed by Order (S. R. & O., 1922, No. 1076).

Power of entry.

5.—(1) An officer duly authorised by a local authority may, at all reasonable times, enter and inspect any premises which are used, or which such officer has reasonable cause to believe are used, wholly or in part for any purpose to which this Act applies.

(2) Every such officer as aforesaid shall be furnished with a certificate of his authorisation by the local authority and when visiting any such premises as aforesaid shall, if so required, produce the said certificate to the occupier of the premises (*a*).

(*a*) Compare with this provision that contained in 9 Edw. 7, c. 30, s. 4.

Power to take samples.

6. An officer duly authorised by a local authority may, at any time, take for analysis sufficient samples of any material which he suspects to be or to contain celluloid.

Obstruction of officers.

7. If any person refuses to permit any officer authorised under this Act to enter or inspect any premises, or hinders or obstructs (*a*) any such officer in the execution of his duty under this Act, or refuses to allow any officer to take samples in pursuance of the last preceding section or to give him facilities for the purpose, that person shall be liable on summary conviction to a fine not exceeding twenty pounds.

(*a*) As to what may amount to obstruction see note (*a*) to P. H. A., 1875, s. 306, *ante*, p. 643.

Power of county court to modify agreements and to apportion expenses.

8.—(1) If any occupier of premises is prevented by any agreement from carrying out any structural alterations which are necessary to enable him to comply with the provisions of this Act, and is unable to obtain the consent to those alterations of the person whose consent is necessary under the agreement, he may apply, in accordance with rules of court, to the county court, and the court, after hearing the parties and any witnesses whom they may desire to call, may make such an order setting aside or modifying the terms of the agreement as the court considers just and equitable in the circumstances of the case.

(2) Where in any premises any structural or other alterations are required in order to comply with the provisions of this Act and the occupier alleges that the whole or part of the expense of the alterations ought to be borne by the owner, the occupier may apply, in accordance with rules of court, to the county court, and the court, after hearing the parties and any witnesses whom they may desire to call, may make such order concerning the expenses or their apportionment as the court considers just and equitable in the

circumstances of the case, regard being had to the terms of any contract between the parties, or in the alternative the court may, at the request of the occupier, determine the lease (*a*). Section 8.

(*a*) Compare the somewhat similar provisions in the Factory Act, 1901, s. 14 (4), *ante* p.2625.

9. For the purposes of this Act— Definitions

The expression "celluloid" means and includes the substances known as celluloid and xylonite and other similar substances, containing nitrated cellulose or other nitrated products, but does not include any substances which are explosives within the meaning of the Explosives Act, 1875: 38 & 39 Vict. c. 17.

The expression "raw celluloid" means—

(*a*) celluloid which has not been subjected to any process of manufacture; and

(*b*) celluloid scrap or waste:

The expression "cinematograph film" means any film containing celluloid which is intended for use in a cinematograph or any similar apparatus:

The expression "local authority" means county borough councils, borough councils, urban district councils and rural district councils.

10. [*Application to Scotland and Ireland*].

11.—(1) This Act may be cited as the Celluloid and Cinematograph Film Act, 1922, and shall come into operation on the first day of October, nineteen hundred and twenty-two. Short title, commencement, &c.

(2) This Act shall not apply to the administrative county of London or to the city and royal burgh of Glasgow.

(3) The Secretary of State may by order direct that any provisions of the Liverpool Corporation Act, 1921, relating to the keeping, storing or manipulation of celluloid and cinematograph films shall cease to have effect as from such date as may be fixed by the order, but so long as those provisions continue to have effect this Act shall not apply to the city of Liverpool. 11 & 12 Geo. 5, c. lxxiv

SCHEDULES.

FIRST SCHEDULE.

Sections 1 and 3.

PART I.

RAW CELLULOID STORES.

The following regulation shall be observed in or in connection with premises where raw celluloid is kept or stored:—

All such celluloid shall be kept or stored in a fire-resisting store-room and, subject to the regulations applying to such store-rooms.

PART II.

PREMISES WHERE CINEMATOGRAPH FILM IS KEPT OR STORED.

The following regulations shall be observed in or in connection with premises where cinematograph film is kept stored or manipulated:—

1. All stock except when actually being used or manipulated shall be kept either in a fire-resisting store-room and subject to the regulations applying to such store-rooms, or in fire-resisting receptacles which shall not be used for any other purpose and shall be plainly marked "Film."

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2. Every reel of film shall, except when required to be exposed for the purposes of the work carried on in the premises, be kept in a separate and properly closed metal box.

3. Not more than 10 reels or 40 pounds of film shall be exposed at any one time.

4. The following provisions shall apply to every room used—

(*a*) for the storing, or

(*b*) for the examination, cleaning, packing, re-winding or repair of film :—

(i) the room shall be used for no other purpose ;

(ii) the room shall be kept properly ventilated ;

(iii) adequate means of extinguishing fire, having regard to the amount of film on the premises, shall be kept constantly provided and readily available ;

(iv) the furniture and apparatus shall be so arranged as to afford free egress to persons in the room in the event of fire ;

(v) no open light or fire shall be allowed ;

(vi) the fittings shall, so far as is practicable, be of non-inflammable or fire-resisting material ;

(vii) the doors shall be self-closing, and shall, except in the case of sliding doors, be so constructed as to open outwards ;

(viii) no person shall smoke in or take matches into the room ;

(ix) there shall be kept posted up in large characters in the room—

(*a*) a printed copy of Parts II. and III. of this Schedule ;

(*b*) full instructions as to the action to be taken in case of fire ; and

(*c*) full directions as to the means of escape from the room in case of fire.

5. All celluloid waste and scrap on the premises shall be collected at frequent intervals and placed either in a fire-resisting store-room, or in a strong metal receptacle fitted with a hinged lid and marked "Celluloid Waste."

PART III.

FIRE-RESISTING STORE-ROOMS.

The following regulations shall apply to fire-resisting store-rooms :—

1. The store-room shall be constructed of fire-resisting material in such manner as to prevent as far as is reasonably practicable any fire occurring in the store-room from spreading to other parts of the premises or to other premises, and any fire occurring outside the store-room from reaching the contents thereof.

2. The store-room shall be properly ventilated.

3. The fittings of the store-room shall, so far as is practicable, be of non-inflammable or fire-resisting material.

4. Adequate means of extinguishing fire shall be kept constantly provided and readily available.

5. No open light and no means of heating shall be allowed in the store-room.

6. If electric light is used, all conductors and apparatus shall be so constructed, installed, protected, worked and maintained as to prevent danger. Vacuum-type lamps only shall be used, and shall be in fixed positions and fitted with substantial outer protecting globes.

7. No person shall smoke in or take matches into the store-room.

8. The doors of the store-room shall be self-closing and shall be kept securely locked, except when articles are being placed therein or removed therefrom.

9. The store-room shall not be used for any purpose other than the keeping of celluloid or cinematograph film, and shall be clearly marked "Celluloid" or "Film."

10. Not more than one ton of celluloid and not more than five hundred and sixty reels or one ton of cinematograph film shall be kept in one store-room :

Provided that, where a store-room is divided into separate compartments by separate fire-resisting partitions without any openings therein, each such compartment may, for the purposes of this provision, be regarded as a separate store-room.

11. When both celluloid and cinematograph film are stored in one store-room the aggregate quantity therein shall, at no time, exceed one ton.

Sched. II.

SECOND SCHEDULE.

Section 1.

PROCEDURE FOR MAKING ORDERS, &c.

1. Before the Secretary of State makes any order, he shall publish, in such manner as he may think best adapted for informing persons affected, notice of the proposal to make the order, and of the place where copies of the draft order may be obtained, and of the time (which shall be not less than twenty-one days) within which any objection made with respect to the draft order by or on behalf of persons affected must be sent to the Secretary of State.

2. Every objection must be in writing and state—

(*a*) the draft order or portions of the draft order objected to;

(*b*) the specific grounds of objection; and

(*c*) the omissions, additions, or modifications asked for.

3. The Secretary of State shall consider any objection, made by or on behalf of any persons appearing to him to be affected, which is sent to him within the required time, and he may, if he thinks fit, amend the draft order, and shall then cause the amended draft to be dealt with in like manner as an original draft.

4. Where the majority of the occupiers of the premises affected by the proposed order dispute the reasonableness of the requirements in the proposed order, and the Secretary of State does not amend or withdraw the draft order, he shall, before making the order, direct an inquiry to be held in the manner hereinafter provided. The Secretary of State may also direct an inquiry to be held in regard to any objection, though not made by the majority of the occupiers, if he thinks fit.

5. The Secretary of State may appoint a competent person to hold an inquiry with regard to any draft order, and to report to him thereon.

6. The inquiry shall be held in public, and any person who, in the opinion of the person holding the inquiry, is affected by the draft order, may appear at the inquiry either in person or by counsel, solicitor, or agent.

7. The witnesses on the inquiry may, if the person holding it thinks fit, be examined on oath.

8. Subject as aforesaid, the inquiry and all proceedings preliminary and incidental thereto shall be conducted in accordance with rules made by the Secretary of State.

9. The fee to be paid to the person holding the inquiry shall be such as the Secretary of State may direct.

10. The order shall be laid as soon as possible before both Houses of Parliament, and, if either House within the next forty days after the order has been laid before that House resolve that all or any of the provisions of the order ought to be annulled, the order shall, after the date of the resolution, be of no effect, without prejudice to the validity of anything done in the meantime thereunder or to the making of any new order. If any of the provisions of an order are annulled, the Secretary of State may, if he thinks fit, withdraw the whole order.

11. Notice of any order having been made and of the place where copies of them can be purchased shall be published in the London and Edinburgh Gazettes.

THE ELECTRICITY (SUPPLY) ACT, 1922 (*a*).

(12 & 13 GEO. 5, c. 46.)

An Act to amend the law with respect to the supply of electricity.

[4th August, 1922.]

Power of authorities to borrow.

1.—(1) For the purposes hereinafter mentioned, a joint electricity authority may, with the consent of the Electricity Commissioners, and subject to regulations to be made by the Minister of Transport with the approval of the Treasury, borrow money, in such manner and subject to such provisions as to the repayment thereof, and with such powers as to reborrowing for the purpose of paying off a loan previously raised, as may be prescribed by the regulations, and such

Section 1. regulations may empower a joint electricity authority to borrow temporarily, to issue bonds and to make arrangements with bankers, and may apply with or without modifications any enactments relating to borrowing by local authorities, including provisions as to the enforcement of the security by the appointment of a receiver or otherwise.

(2) Such powers of borrowing as aforesaid may be exercised for all or any of the following purposes :—

9 & 10 Geo. 5, c. 100.

(*a*) for the purpose of the payment of the purchase price of any generating station or main transmission line transferred to, acquired by, or vested in a joint electricity authority under the Electricity (Supply) Act, 1919 (*b*) (hereinafter referred to as "the principal Act"), or of any undertaking or part of an undertaking acquired by the authority under the principal Act ;

(*b*) for the purpose of any other payment or of any permanent work or other thing which the authority are authorised to execute or do, the cost of which ought, in the opinion of the Electricity Commissioners, to be spread over a term of years (including the payment of interest on money borrowed for capital expenditure whilst the expenditure remains unremunerative, but in no case for a period of more than five years from the commencement of the financial year next after that in which such expenditure commences to be incurred, and the payment of any sum payable under subsection (3) of section eighteen of the principal Act (*c*)) ;

(*c*) for the purpose of providing working capital.

(3) Any money borrowed under this section, and the interest thereon, may be charged on the undertaking and all the revenues of the joint electricity authority, or on any specific property forming part of that undertaking, and shall be repaid within such period not exceeding sixty years as the Electricity Commissioners may determine.

(4) A scheme constituting a joint electricity authority shall fix with reference to the estimated capital expenditure of the authority the maximum amount which may be borrowed by the authority, and the authority shall not have power to borrow any sums in excess of the amount so fixed, otherwise than for the purpose of paying off loans previously raised, unless authorised by an order of the Electricity Commissioners confirmed by the Minister and such order shall be provisional only and shall not come into force unless confirmed by Parliament.

(*a*) This Act, together with the Electric Lighting Act, 1882, *ante*, p. 2437, the Electric Lighting Act, 1888, *ante*, p. 2495, the Electric Lighting Act, 1909, *ante*, p. 2695, the Electricity (Supply) Act, 1919, *ante*, p. 2782, the Electricity (Supply) Act, 1926, *post*, p. 2909, and the Electricity (Supply) Act, 1928, *post*, p. 3019, constitute the Electricity (Supply) Acts, 1882 to 1928.

This Act for the most part amends the provisions of the 1919 Act.

(*b*) See this Act, at p. 2782, *ante*.

(*c*) See this sub-section at p. 2793, *ante*.

Sinking fund for new works.

2. Notwithstanding anything to the contrary contained in any Act, whether public general or local and personal, it shall be lawful for the annual provision required to be made by a joint electricity authority or by a local authority for the repayment of money borrowed after the passing of this Act for any of the purposes of the Electricity Supply Acts, 1882 to 1919 (*a*), or of this Act, to be suspended whilst the expenditure out of such moneys remains unremunerative, for such period and subject to such conditions as the Electricity Commissioners or other authority by whom the borrowing is sanctioned may determine :

Provided that such suspension shall not be for a longer period than five years from the commencement of the financial year next after that in which such expenditure commences to be incurred.

(a) *I.e.* the Electric Lighting Act, 1882, *ante*, p. 2437, the Electric Lighting Act, 1888, *ante*, p. 2495, the Electric Lighting Act, 1909, *ante*, p. 2695, and the Electricity (Supply) Act, 1919, *ante*, p. 2782.

Power to authorise issue of stock.

3.—(1) The Electricity Commissioners may, for the purpose of enabling a joint electricity authority to raise money which they are authorised to borrow under this Act, authorise the authority to issue stock bearing interest at such rate as the authority with the consent of the Electricity Commissioners may determine.

(2) All such stock, and interest thereon, shall be charged on the undertaking and all the revenues of the joint electricity authority.

(3) Subject to the provisions of this Act, any stock created by a joint electricity authority under the powers of this Act shall be issued, transferred, dealt with, and redeemed according to regulations made by the Electricity Commissioners, and any such regulations (*a*) may apply for the purpose of this section, with or without modifications, any provisions of the Local Loans Act, 1875 (*b*), the Public Health Acts Amendment Act, 1890 (*c*), and the Acts amending those Acts, and of any Act relating to stock issued by any local authority(*d*).

38 & 39 Vict. c. 83.
53 & 54 Vict. c. 59.

(*a*) See the Joint Electricity Authorities Stock Regulations, 1927 (S. R. & O., 1927, No. 433).

(*b*) See this Act at p. 2343, *ante*.

(*c*) See the relevant part (Part V.) of this Act, at p. 914, *ante*.

(*d*) See Public Authorities and Bodies (Loans) Act, 1916, as amended by s. 8, Housing (Additional Powers) Act, 1919, *ante*, p. 1235.

Power to discharge purchase price by issue of stock, &c.

4. A joint electricity authority may, with the consent of the authorised undertakers concerned, discharge the whole or any part of the purchase price payable under the principal Act or this Act (otherwise than by way of annuity) to any authorised undertakers in respect of any undertaking or part thereof, or any generating station or main transmission line transferred to or acquired by the authority under the principal Act, by the issue to, or the creation in favour of, the undertakers of such amount of stock or other securities as may be agreed upon, or determined in manner hereinafter provided, to be equivalent in value to the whole or part of the purchase price in respect of which the stock or other securities are issued or created, and if any difference arises as to the amount of stock or other securities which is so equivalent in value the difference shall be determined by an independent financial expert agreed between the parties or, in default of agreement, appointed by the Treasury.

Power of undertakers, &c. to give financial assistance.

5.—(1) Any authorised undertakers whose area of supply is wholly or partly within the district of any joint electricity authority, and any local authority, company, or person receiving or intending to receive a supply of electricity from the joint electricity authority, and the council of any county or any borough or county district having a population according to the last published census returns for the time being of not less than fifty thousand wholly or partly within the district of the joint electricity authority, shall have power—

(*a*) to lend any money to the joint electricity authority which the authority is authorised to borrow ; or

(*b*) to subscribe for any securities issued by the joint electricity authority for the purpose of raising such money ; or

(*c*) to guarantee or join in guaranteeing the payment of interest on any money borrowed by the joint electricity authority or on any securities issued by that authority ;

on such terms (including the payment of consideration for the assistance

Section 5. given) and subject to such conditions, as the authority, company, or person giving such financial assistance may think fit:

Provided that, in the case of the council of a county or borough or county district, whether or not the council are authorised undertakers, or receive or intend to receive a supply of electricity from the joint electricity authority, such powers as aforesaid shall not be exercised (except in the case of the London County Council) without the consent of the Minister of Health:

Provided also that nothing in this section shall authorise the raising of any money or the giving of any guarantee by any such council as aforesaid which would involve the council in an annual liability exceeding—

(*a*) in cases where the council are not authorised undertakers, the amount which would be produced by a rate of one penny in the pound; such amount to be estimated for the purposes of this section in such manner as may be determined by the Minister of Health; or

(*b*) in cases where the council are authorised undertakers, the estimated annual amount of any capital charges from which the council will be relieved by reason of taking a supply in bulk from the joint electricity authority; such estimated amount to be determined by the Electricity Commissioners, whose decision shall be final.

(2) The raising of money for the purpose of so lending or subscribing for securities shall be a purpose for which a council, being authorised undertakers, may borrow under the Electricity (Supply) Acts, 1882 to 1919 (*a*), and for which a council, not being authorised undertakers, may borrow—

51 & 52 Vict. c. 41. (*a*) in the case of a council of a county, under the Local Government Act, 1888;

(*b*) in the case of the council of a metropolitan borough, under the Metropolis Management Acts, 1855 to 1893; and

38 & 39 Vict. c. 55. (*c*) in the case of the council of a municipal borough or county district, under the Public Health Act, 1875 (*b*);

and any money payable by such council under any such guarantee, shall be treated as expenses in the carrying of the said Acts into execution respectively, and in the case of a council of a county shall, if the Minister of Health so directs, be treated as expenses for special county purposes charged on the part of the county within the district of the joint electricity authority.

9 Edw. 7, c. 34. Section twenty-one of the Electric Lighting Act, 1909 (*c*), shall apply to money borrowed by a council under this section as it applies to money borrowed by a local authority under the Electric Lighting Acts, and accordingly money so borrowed under this section shall not be reckoned as part of the total debt of the council for the purpose of any limitation on borrowing under the enactments relating to borrowing by the council.

(3) Any company, association, or body of persons may exercise any such power as aforesaid, notwithstanding anything contained in any Act, order, or instrument by or under which it is constituted or regulated, and may apply any of their funds for the purpose of lending any such money, subscribing for any such securities, or fulfilling any such guarantee, and may borrow for the purpose of making any such loans or subscriptions.

(4) A scheme under the principal Act constituting a joint electricity authority or other body for the improvement of the organisation of the supply of electricity in any electricity district may include provisions authorising or requiring authorised undertakers, and authorising companies and other bodies represented, on the authority or body to contribute towards any administrative expenses of the authority or body.

62 & 63 Vict. c. 19. (5) Any authorised undertakers may exercise such powers as aforesaid, notwithstanding anything in section three (*d*) of the schedule to the Electric Lighting (Clauses) Act, 1899, as incorporated in any order or special Act

applying to them or any similar provisions contained in any such order or special Act.

(6) This section shall apply in the case of the City of London as if the City of London were a county and the common council of the city the council thereof, and as if the raising of money for the purpose of lending or subscribing to securities under this section were a purpose for which the common council may borrow under and in accordance with the City of London Sewers Acts, 1848 to 1897.

(*a*) See note (*a*) under s. 2 of this Act at p. 2837, *ante.*
(*b*) See ss. 233 *et seq.* of P. H. Act, 1875, *ante*, p. 519.
(*c*) See this section at p. 2701, *ante.*
(*d*) See this section at p. 2571, *ante.*

6. Any authorised undertakers may lease to a joint electricity authority and a joint electricity authority may take a lease from any authorised undertakers of the whole or any part of their undertaking.

Power of authorised undertakers to lease undertaking to joint electricity authority.

Any such lease shall be subject to the approval of the Electricity Commissioners, and, subject thereto, may be, with or without the option of purchase by the authority of the undertaking or any part thereof, leased thereby and may be made to and taken by the authority for such period on such terms and conditions including the vesting in the authority of any rights, powers, and obligations of the transferring undertakers under any contract or agreement entered into by such undertakers and relating to the supply of electricity as may be agreed upon between the authority and the transferring undertakers.

7.—(1) The period of two years mentioned in section twenty-nine of the principal Act (*a*) shall be deemed to have extended to the thirty-first day of March, nineteen hundred and twenty-two, and the advances made to the Commissioners under that section shall be repaid, with interest as therein provided, by instalments before the thirty-first day of March, nineteen hundred and twenty-five, so that not more than two-thirds thereof shall be outstanding on the thirty-first day of March, nineteen hundred and twenty-three, and not more than one-third thereof shall be outstanding on the thirty-first day of March, nineteen hundred and twenty-four.

Expenses of Electricity Commissioners.

(2) The Electricity Commissioners may, during the financial year current at the passing of this Act, make the apportionment among and demand upon the joint electricity authorities and authorised undertakers provided for by the said section, and such apportionment shall be made in accordance with the number of units of electricity generated by each joint electricity authority or authorised undertaker within Great Britain in the year ending the thirty-first day of December, nineteen hundred and twenty-one; and in any case where an authorised undertaker obtained a supply from any source other than the joint electricity authority or an authorised undertaker the number of units of electricity so obtained by such authorised undertaker shall be deemed to have been generated by that authorised undertaker. Any apportionment under the said section twenty-nine subsequent to the financial year current at the passing of this Act shall (notwithstanding anything to the contrary in the principal Act) be made in accordance with the number of units of electricity sold by each joint electricity authority or authorised undertaker within Great Britain in the year ending the thirty-first day of December next preceding that for which the apportionment is made. The expression " units of electricity sold " means all units generated or purchased by a joint electricity authority or authorised undertaker less (*a*) those used in the generating station, (*b*) those lost in transmission or distribution, and (*c*) those sold in bulk to authorised undertakers (*b*).

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(3) Every such joint electricity authority and authorised undertaker shall furnish to the Electricity Commissioners not later than the first day of March in each year a statement of the number of units so sold by them, and in the event of any such authority or undertaker failing to supply such particulars on or before that date the Electricity Commissioners may proceed with the apportionment, and for that purpose may make any necessary estimates.

(4) The apportionment when made shall be conclusive for all purposes:

Provided that, if it subsequently appears to the Electricity Commissioners that for any reason the apportionment for any year ought to be revised, they may revise the apportionment, and when determining the apportionment in any subsequent year make such adjustments as may be necessary to give effect to such revision.

(5) If any joint electricity authority or authorised undertaker fail to pay to the Electricity Commissioners the sum apportioned to them within two months after receiving the demand therefor, interest at the rate of six per centum per annum shall be payable on the amount demanded from the date of demand to the date of payment.

(6) The Electricity Commissioners may, in estimating their expenditure for the purposes of sub-section (1) of section twenty-nine (*c*) of the principal Act, include a reasonable sum in order to provide a working balance for the year.

(7) Any sums due from any joint electricity authority or authorised undertaker under section twenty-nine (*a*) of the principal Act, as amended by this section, shall be recoverable by the Electricity Commissioners summarily as a civil debt.

(*a*) See this section at p. 2799, *ante*.

(*b*) The expenses of the Commissioners in respect of standardisation under s. 9 of the 1926 Act, *post*, p. 2916, will not be apportioned in the manner provided by this section (s. 9 (3) Electricity (Supply) Act, 1926).

(*c*) See this sub-section at p. 2799, *ante*.

Method of payment of purchase price payable to local authorities.

8. The consideration payable to a local authority in respect of the transfer of the whole or any part of their undertaking, either in pursuance of a scheme constituting a joint electricity authority or in pursuance of section thirteen of the principal Act, may, in the option of the local authority, be either one or more terminable annuities, or a capital sum, or any other form of payment approved by the Electricity Commissioners.

Use of main transmission lines by agreement.

9. A joint electricity authority may, by agreement with any authorised undertakers or other persons, use, subject in the case of authorised undertakers to the Acts and Orders relating to the undertaking, any main transmission line of those undertakers or persons for such time and upon such terms as may be agreed.

Disposal of stations and works not required.

10. A joint electricity authority may, with the consent of the Electricity Commissioners, dispose of any generating station, land, or other works or property which may appear to them to be no longer required for the purposes of their undertaking, subject, as respects any land which is subject to any right of pre-emption, to that right:

Provided that, where the generating station contains plant which is the property of the former owners of the generating station, the Electricity Commissioners shall, as a condition of granting their consent to the disposal of the generating station, require such provision to be made by the joint electricity authority as the Electricity Commissioners consider necessary to safeguard the rights of such former owners.

Power to continue wayleaves.

11. Where any joint electricity authority or authorised undertakers have under any terminable agreement or arrangement, whether made before or after the passing of this Act, placed above or below ground any electric line which could have been so placed under the provisions of section twenty-two of the principal Act (*a*), the joint electricity authority or authorised undertakers may, notwithstanding the termination of such agreement or arrangement, retain the line in position, on the same terms and subject to the same conditions as were previously applicable thereto, unless and until objection is made by the owner or occupier of any land over or under which it is placed, but, in the event of any such objection being made, the line shall only be retained if the provisions of section twenty-two of the principal Act (*a*) regulating the placing of a new line are complied with, and subject to the provisions of that section applicable to lines placed across land in pursuance of that section:

Provided that the joint electricity authority or authorised undertakers may, at any time whilst a line is so retained, apply to the Minister of Transport for a revision of the said terms and conditions, in which event the provisions of section twenty-two of the principal Act (*a*) shall apply as if the retention of the line in position were the placing of an electric line across land, and the authority or undertakers shall not be required to remove the line pending the decision upon such application.

(*a*) See this section at p. 2795, *ante*.

Power to make agreements as to working of generating stations.

12. Where a generating station or main transmission line becomes transferred to or is acquired by a joint electricity authority under the principal Act (*a*), the authority may, subject to the approval of the Electricity Commissioners, agree with the former owner thereof that such owner shall work and maintain the same on behalf of the authority for such period and on such terms as may be agreed between them.

(*a*) See this Act at p. 2782, *ante*.

Conditions under which restriction on generating stations and obligation to take supply from are not to apply.

13. The Electricity Commissioners shall not—

(*a*) refuse, under section eleven of the principal Act (*a*), their consent to the establishment of a new, or the extension of an existing, generating station by any authorised undertakers if it is proved to the satisfaction of the Electricity Commissioners that, having regard to all the circumstances of the case, the undertakers are or will, if the consent be given, be in a position to give a supply of electricity adequate in quantity and regularity to meet present and prospective demands of their consumers at a cost not greater than that at which they could give a supply if they obtained a supply of electricity from some other available source designated by the Electricity Commissioners; or

(*b*) require under section nineteen of the principal Act (*b*) any authorised undertakers to enter into an agreement for taking a supply of electricity from some other specified undertakers if it is proved to the satisfaction of the Electricity Commissioners that, having regard to all the circumstances of the case, including the duration of the period during which the supply is taken, and the estimated financial results likely to be obtained during that period, the undertakers would, if they obtained a supply of electricity from some other source, be in a position to give a supply of electricity adequate in quantity and regularity to meet the present and prospective demands of their consumers at a cost not greater than that at which they could give such a supply if they obtained the supply from those specified undertakers;

unless the Electricity Commissioners determine that such refusal or requirement is necessary in the interest of the general supply of electricity in the district whether provisionally or finally determined under the principal Act (*c*).

(*a*) See this section at p. 2786, *ante*

(*b*) See this section at p. 2793, *ante*.

(*c*) By s. 18 (2) of the Electricity (Supply) Act, 1926, *post*, p. 2922, it will in future be necessary also for the Minister or the Commissioners to have regard to the provisions of that Act and the effect of any scheme or proposed scheme thereunder in determining whether to give or withhold consent or approval to any application by an authorised undertaker requiring such consent or approval.

Suspension of powers of purchase of undertakings.

14 (*a*).—(1) The Electricity Commissioners by an order establishing a joint electricity authority or a special order may, as regards any undertaking or part of an undertaking of any authorised undertakers, suspend any powers of a joint electricity authority or the London County Council or any local authority relating to the purchase of such undertaking or part thereof for such period and on such conditions (if any) as the Electricity Commissioners may think fit, and may for that purpose amend the provisions of any Act or order relating to such undertaking:

Provided that no such powers shall be suspended under the provisions of this section except with the consent of the authority or authorities in whom the said powers are vested.

(2) Where under the powers of this section the Electricity Commissioners suspend any powers of purchase relating to the undertaking of any authorised undertakers or any part thereof, they may make provision as to the relation between the prices which may be charged for electricity and the dividends to be paid by such undertakers.

(*a*) By s. 41, Electricity (Supply) Act, 1926, *post*, p. 2933, power is given to alter by agreement terms of purchase of undertakings. *Quære* whether under that section a suspension can be agreed between the parties in lieu of obtaining an order under this section.

Mode of exercise of powers by authorities.

15. The powers and duties as to the generation and supply of electricity conferred and imposed by or under the principal Act (*a*) or this Act on joint electricity authorities may be exercised and performed by any such authority either by themselves or, if so authorised by the order establishing that authority or by special order, through any authorised undertakers; and, where any such authority act through any such undertakers, the undertakers shall have, to such extent as may be provided by such order as aforesaid, the powers and duties of the authority under the principal Act and this Act.

(*a*) See this Act at p. 2782, *ante*.

Limitation on powers of joint electricity authorities in areas of power companies.

16.—(1) Subsection (1) of section twelve (*a*) (Powers of joint electricity authorities in respect of the supply of electricity) of the principal Act shall have effect as if—

(*a*) the words from "except" in paragraph (b) of that subsection to the end of that paragraph were omitted therefrom;

(*b*) the words "or power company" were omitted from the proviso to that subsection in each place where those words occur; and

(*c*) the following proviso were inserted at the end of that subsection:

> Provided that, if in any particular part of the area of supply of a power company, the power company are not willing and in a position to supply electricity to any local authority, company, or person, who is prepared to enter into a binding contract with that power company to continue to receive and pay for a supply of electricity upon such terms and conditions (including the payment of a minimum annual

sum) as will, in the opinion of the Electricity Commissioners, afford an adequate return to the power company and is also (in the case of a company or person) prepared to give to the power company (if required by them so to do) security for the payment of all sums which may become due to the power company under the contract, then and in such case the Electricity Commissioners may, by special order under section twenty-six of the principal Act (*b*), authorise a joint electricity authority to supply electricity in that particular part of the area of supply of the power company without the consent of the power company. In determining what terms and conditions will afford an adequate return to the power company, the Commissioners shall have regard to the following amongst other considerations:

(i) The period for which the authority, company or person requiring the supply guarantees to take the supply;

(ii) The amount of electricity and the maximum power required;

(iii) The hours during which the power company can be called upon to give the supply;

(iv) The capital expenditure in connection with the supply; and

(v) To what extent capital expended in connection with the supply may become unproductive to the power company upon the discontinuance of the supply.

(*a*) See this subsection at p. 2787, *ante*.
(*b*) See this section at p. 2799, *ante*.

Special provisions as to power companies.

17.—(1) The Electricity Commissioners may, by the order establishing a joint electricity authority, or after the establishment of a joint electricity authority by an order made on the application of that authority, exclude from the area of supply of any power company, subject to such terms, conditions, and reservations as the Electricity Commissioners may think fit—

(*a*) any part of that area in which any right of the power company to supply electricity is subject to the absolute veto of some other authorised undertaker, and where the order provides for or is made conditional on the transfer to the joint electricity authority of the generating station from which a supply of electricity is given to the part of the area in question;

(*b*) any part of that area which at the time of the local inquiry on the scheme to which the order establishing the joint electricity authority gives effect, or, as the case may be, at the time of the application for the order, is not being supplied by the power company, and which it appears to the Electricity Commissioners could be better served by the joint electricity authority themselves or by that authority acting through any authorised undertakers; and

(*c*) with the consent of the power company any other part of the area of supply of the power company;

and in any such case the order may confer on the power company, subject to such conditions as the Electricity Commissioners may prescribe, power to supply electricity for all purposes in any other part of their area of supply which does not at the time form part of the area of supply of any authorised distributors:

Provided that, where on the application of a joint electricity authority it is proposed to make such an order (not being an order made under section seven of the principal Act (*a*)), and the power company, or any county council, local authority, or authorised undertakers which appear to the Electricity Commissioners to be interested object to the proposed order, effect shall not

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(2) Where in pursuance of this section any part of the area of supply of a power company is by order excluded from such area of supply—

(*a*) the exclusion shall not affect any rights of the power company existing immediately before the making of the order to lay mains through the part so excluded, but any such rights may continue to be exercised by the power company notwithstanding such exclusion ;

(*b*) the exclusion shall not prevent the power company from giving a supply of electricity at any point in their remaining area for the purpose of haulage or traction on any railway, tramway, or canal, and for the purpose of lighting vehicles and vessels used on any such railway, tramway, or canal which they could have supplied if the part of the area excluded under this section had remained part of their area of supply.

(3) Section fourteen of the principal Act is repealed (*c*).

(*a*) See this section at p. 2785, *ante*.

(*b*) See this section at p. 2799, *ante*.

(*c*) This section contained special provisions as to power companies for which are now substituted the provisions in sub-sections (1) and (2) of the section in the text.

Limitation on prices charged.

18.—(1) The prices charged for electricity by a joint electricity authority shall be so fixed by the authority, subject to such directions as may be given by the Electricity Commissioners, that, over a term of years to be approved by the Electricity Commissioners, their receipts on income account shall be sufficient to cover their expenditure on income account (including interest and sinking fund charges), with such margin as the Electricity Commissioners may allow.

(2) If the receipts of the joint electricity authority on revenue account in any year are insufficient to meet the charges payable out of revenue in that year, the deficiency may, unless provided for out of a reserve fund, be apportioned amongst the authorised undertakers within the district of the joint electricity authority who take a supply of electricity from the joint electricity authority in proportion to the number of units of electricity supplied to them in that year : Provided that, in any case in which it appears to the joint electricity authority that the deficiency in any year can by a reasonable adjustment of charges, or otherwise, be made good out of moneys receivable by the joint electricity authority in any succeeding year or years, or that the deficiency is so small as to justify postponement of any apportionment, the joint electricity authority shall refrain from making any such apportionment and such deficiency may be included in the charges payable out of the revenue in any succeeding year or years.

Amendment of section five of principal Act.

19 (*a*). *Section five of the principal Act* (*Electricity districts*) *shall have effect as if after the word " authority," in subsection* (2) *of that section, there had been inserted the words " or other body."*

(*a*) This section, which amended s. 5 of the 1919 Act has been superseded by s. 36 of the Electricity (Supply) Act, 1926 (*q.v.* at p. 2930, *post*), which substitutes a new provision for s. 5 as amended.

Amendment of section six of principal Act.

20. Section six of the principal Act (*a*) shall have effect as if after the word " interests " in subsection (1) of that section there had been inserted the words (" including the persons employed in connection with the supply of electricity "), and as if after the words " electricity district " where they last occur in that subsection there had been inserted the words " and the conditions of employment of persons employed by the Joint Electricity Authority."

(*a*) See this section, as here amended, at p. 2784, *ante*.

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Amendment of section 16 of principal Act.

21.—(1) Section sixteen of the principal Act (*a*) shall have effect as if for the words " under this Act " there were substituted the words " under or in consequence of this Act," and as if for the words " in consequence of this Act " there were substituted the words " in consequence of any such transfer scheme, agreement or arrangement " :

Provided that any question as to whether a transfer scheme, agreement or arrangement, [was made under or in consequence of the principal Act] (*b*), shall be determined by the Electricity Commissioners.

(2) The Minister of Labour may make rules as to the procedure before the referee or board of referees under the said section sixteen and may by those rules provide—

(*a*) for limiting the amount of costs and providing for the taxation thereof;

(*b*) for fixing the fees to be paid to the referee or members of the board of referees and for determining by whom such fees are to be paid.

(*a*) See this section, as here amended, at p. 2791, *ante.*

(*b*) The words in brackets were substituted for the words " not made under the principal Act, was in consequence of that Act " by s. 50 and Sch. VI. of the Electricity (Supply) Act, 1926, *post*, p. 2937, in order to remove the defect in the former provision which was demonstrated by the decision in *R.* v. *Minister of Labour* (*ex parte Torquay Corporation*), [1924] 2 K. B. 210 ; 88 J. P. 131, cited in note (*c*) to s. 16 of the 1919 Act at p. 2792, *ante.*

Methods of charging and revision of prices.

22 (*a*).—(1) Subsection (2) of section thirty-one (*b*) of the Schedule to the Electric Lighting (Clauses) Act, 1899 (which relates to the method of charging by undertakers), is hereby repealed, and such repeal shall apply to that schedule as incorporated with any Act or order passed or confirmed before the passing of this Act, and where any such Act or order does not incorporate the Schedule to the Electric Lighting (Clauses) Act, 1899 (*c*), or incorporates it subject to an exception of the said subsection, but contains a provision corresponding to the said subsection, the Act or order shall have effect as if that provision were omitted therefrom.

(2) With a view to making three years the ordinary period of revision of maximum prices, and extending the provisions as to the revision of maximum prices to local authorities, section thirty-two of the Schedule to the Electric Lighting (Clauses) Act, 1899 (*c*), as incorporated with any Act or order passed or confirmed either before or after the passing of this Act, shall have effect as if for subsection (2) thereof the provisions set out in the Schedule to this Act were substituted.

(3) With regard to any Act or order passed or confirmed before the passing of this Act which limits the price to be charged for electricity, but does not incorporate the said Schedule to the Electric Lighting (Clauses) Act, 1899 (*c*), or incorporates it subject to an exception of the said section thirty-two (*d*), the Act or order shall have effect as if the provisions set out in the Schedule to this Act, mutatis mutandis, were contained therein in substitution for the provisions therein contained as to the revision of prices, and, where any such Act or order does not contain any provisions authorising the periodical revision of prices, the prices to be charged by the undertakers shall be subject to revision in accordance with the provisions set out in the Schedule to this Act (*e*).

(4) Where a joint electricity authority has been established, then on any revision of prices to be charged by undertakers who receive a supply of electricity either directly or indirectly from that authority, regard shall be had to the benefit to the undertakers of any reductions in the cost of electricity attributable to the establishment of the authority.

(5) Where any authorised undertakers have, before the passing of this Act, obtained an order varying the prices to be charged by them, the undertakers may apply to the Minister of Transport for an order varying the

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methods of charge notwithstanding that a period of three years has not elapsed since the making of the first-mentioned order.

9 Edw. 7, c. 34.

(6) Section ten of the Electric Lighting Act, 1909, is hereby repealed (*f*).

(*a*) See also the provisions of s. 42 of the Electricity (Supply) Act, 1926, *post*, p. 2933.

(*b*) This sub-section gave to consumers a right to object to charges by a method approved by the Board of Trade and to require undertakers to charge him at their option by the actual amount of energy supplied or by the electrical quantity contained in the supply.

(*c*) See this Schedule at p. 2569, *ante*.

(*d*) See this section at p. 2588, *ante*.

(*e*) See also the power of revision given to the Minister in respect of power companies by s. 31 of the Electricity (Supply) Act, 1926, *post*, p. 2927.

(*f*) This section related to the revision of maximum prices. See now the provisions of the section in the text as to revision of prices.

Standby supplies of electricity.

23.—(1) Notwithstanding anything in the Electricity (Supply) Acts, 1882 to 1919 (*a*), or in this Act, or in any other Act of Parliament, or any provisional Order or special order made under any such Act, a person shall not be entitled to demand or continue to receive for the purposes of a standby supply only from any authorised undertakers a supply of electricity for any premises having a separate supply of electricity or a supply (in use or ready for use for the purposes for which the standby supply of electricity is required) of gas, steam, or other form of energy unless he has agreed with the undertakers to pay to them such minimum annual sum as will give them a reasonable return on the capital expenditure incurred by them in providing such standby supply and will cover other standing charges incurred by them in order to meet the possible maximum demand for those premises. The sum to be so paid shall be determined in default of agreement by arbitration.

(2) Section fifteen of the Electric Lighting Act, 1909, is repealed (*b*).

(*a*) See note (*a*) under s. 2 of this Act, *ante*, p. 2837.

(*b*) This section related to supply of electricity to premises having a separate supply. See the provisions in lieu thereof in sub-s. (1) of the section in the text.

Provision as to railways, &c.

24. Notwithstanding anything contained in any Act or order, electricity supplied by a joint electricity authority or power company within their district to any company or authority being the owners or lessees of a railway, tramway, dock, harbour or canal undertaking may be used by the company or authority receiving the supply for the purposes of haulage or traction or for lighting vehicles or vessels used on the railway, tramway, dock, harbour or canal on any part of the system of such company or authority. [Provided that such supply shall be used in such manner as not to cause or be likely to cause any interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Postmaster-General or with the telegraphic communication by means of such line. This provision shall not apply to an undertaking or part thereof in respect of which any company or authority is authorised to use electricity by Act of Parliament or by an order confirmed by or having the effect of an Act of Parliament containing provisions for the protection of the telegraphic lines of the Postmaster-General in respect of the use of electricity. In this section " telegraphic line " has the same meaning as in the Telegraph Act, 1878.] (*a*).

(*a*) The words in brackets were inserted by s. 50 and Sch. VI. of the Electricity (Supply) Act, 1926. The same Act by s. 47 (*q.v.* at p. 2935, *post*), enables the Minister to consent to the use of power supplied under this section for any purposes of the undertaking.

Power of persons not being undertakers to supply electricity.

25.—(1) Notwithstanding anything to the contrary contained in any special Act or order, it shall be lawful for the owners or lessees of any railway generating station, or of any generating station erected under statutory authority for the purpose of working tramways or light railways, to supply electricity therefrom upon such terms and conditions as may be agreed—

(a (to a joint electricity authority; or
(b) to an authorised undertaker; or
(c) to any consumer, subject, in the case of premises situate within the area of supply of an authorised undertaker, to the consent of that undertaker:

Provided that no such supply shall be given under the powers conferred by this section—

(i) without the consent of the Electricity Commissioners, who before giving their consent to a supply to any consumer shall have regard to the interests of any undertakers (other than electrical undertakers) who may be affected thereby, or otherwise than subject to such conditions as the Commissioners may impose;
(ii) to any authorised distributors whose undertaking is in the area of a power company without the consent of that company;
(iii) to any premises within the district of a joint electricity authority and not within the area of any other authorised undertakers without the consent of that authority:

Provided also that nothing contained in this section shall limit or derogate from any powers already conferred on or exerciseable by any owners or lessees of any railway generating station, or of any generating station erected under statutory authority for the purpose of working tramways or light railways, or apply to any agreement already or hereafter entered into in pursuance of any such powers.

(2) The Electricity Commissioners may, subject to the provisions of the Electricity (Supply) Acts, 1882 to 1919 (*a*), and of the Schedules to the Electric Lighting (Clauses) Act, 1899 (*b*), by order authorise the breaking up of such roads, railways, and tramways as may be necessary for the purpose of such a supply.

(3) The provisions of the Electricity (Supply) Acts, 1882 to 1919 (*a*), and of the Schedule to the Electric Lighting (Clauses) Act, 1899 (*b*), so far as they relate to the protection of the Postmaster-General, shall apply to any works for the supply of electricity under this section, and, in the application of those provisions, the owners or lessees mentioned in subsection (1) of this section shall be deemed to be the undertakers, and nothing in this section shall affect any right or remedy of the Postmaster-General under the Telegraph Acts, 1863 to 1921.

(*a*) See note (*a*) under s. 2 of this Act at p. 2837, *ante*.
(*b*) See the Schedule to this Act at p. 2569, *ante*.

Provision for payment off of debentures in certain cases.

26. Where the generating station of any company becomes transferred to or is acquired by a joint electricity authority, and the company has created and issued debentures or debenture stock (whether irredeemable or not) charged upon such generating station, the company may, and, if so required by the trustees for the holders of the debentures or debenture stock, shall, present to the court having jurisdiction to wind up the company a scheme for the payment off in whole or in part of the debentures or debenture stock out of the proceeds of the sale, and if the court sanctions the scheme the debentures or debenture stock may, notwithstanding anything therein or in any trust deed for securing the same, be paid off accordingly;

Provided that the cost which an auditor appointed by the Electricity Commissioners certifies to have been necessarily incurred in obtaining and carrying out the scheme shall be borne and paid by the joint electricity authority.

Winding up companies.

27.—(1) After the whole undertaking of any company incorporated by Act of Parliament is transferred to a joint electricity authority under the principal Act, such company may, subject to the provisions of this Act, be wound up under and in accordance with the provisions of and in the same manner and with the same incidents as if the company were a company registered under the Companies Acts, 1908 to 1917, and had, on such transfer duly passed a special resolution requiring the company to be wound up voluntarily.

(2) For the purposes of such winding up, the company shall, from and after such transfer, be deemed to be registered under the last-mentioned Acts in that part of the United Kingdom in which its principal place of business is situated, and, for the purpose of calling and holding meetings and passing resolutions and other matters incidental to such winding up, resolutions of meetings of the company convened and held in pursuance and in accordance with the provisions contained in the Acts relating to the company may and shall take effect as resolutions of a company duly registered.

Expenses of London County Council.

28. Any expense incurred by the London County Council under or in pursuance of this Act or the Electricity (Supply) Acts, 1882 to 1919 (*a*), shall be defrayed as expenses for general county purposes.

(*a*) See note (*a*) under s. 2 of this Act, *ante*, p. 2837.

29. [*Extension of period for repayment of money borrowed by Scottish local authorities.*]

30. [*Application to Scotland.*]

Short title, construction, and extent.

31.—(1) This Act may be cited as the Electricity (Supply) Act, 1922, and the Electricity (Supply) Acts, 1882 to 1919 (*a*), and this Act shall be construed together as one Act, and may be cited as the Electricity (Supply) Acts, 1882 to 1922.

(2) This Act shall not extend to Ireland.

(*a*) See note (*a*) under s. 2 of this Act, *ante*, p. 2837.

Section 22.

SCHEDULE.

PROVISION TO BE SUBSTITUTED FOR SECTION 32 (2) OF THE SCHEDULE TO THE ELECTRIC LIGHTING (CLAUSES) ACT, 1899.

Provided that if either—

(*a*) the undertakers; or

(*b*) such number of consumers not less than twenty as the Minister of Transport considers sufficient having regard to the population of the area of supply; or

(*c*) in a case where the local authority are not themselves the undertakers, the local authority; or

(*d*) in a case where the local authority are not themselves the undertakers and the area of supply is situate wholly or partly within the county of London, the London County Council,

at any time after the expiration of three years after the confirmation of the special order make a representation to the Minister that the prices or methods of charge stated in the special order or approved by the Minister ought to be altered, the Minister, after such inquiry as he may think fit, may make an order varying the prices or methods of charge stated in the special order or so approved as aforesaid or substituting other prices or methods of charge in lieu thereof, and the prices or methods of charge so varied or substituted shall have effect on and after such day as may be mentioned in the order as if they had been stated in the special order:

Provided also that the prices and methods of charge for the time being in force may be altered in like manner at any time after the expiration of any or every period of three years after they were last altered.

THE RAILWAY AND CANAL COMMISSION (CONSENTS) ACT, 1922.

(12 & 13 GEO. 5, c. 47.)

An Act to amend the Law as respects certain matters in connection with which the consent of the Railway and Canal Commission is required.

[4th August, 1922.]

Provisions as to consents by the Railway and Canal Commission under 6 & 7 Geo. 5, c. 63.

1.—(1) Where before the thirty-first day of August, nineteen hundred and twenty-two, an application has been made to the Railway and Canal Commission under subsection (3) of section six of the Defence of the Realm (Acquisition of Land) Act, 1916 (hereinafter referred to as the principal Act) for the consent of the Commission to any highway being kept closed after that date, the highway may be kept closed until the application has been disposed of by the Commission, but not for more than six months after the said thirty-first day of August unless the Commission in any particular case allow a longer time; and where the Commission on any such application consent to the highway being kept closed for a limited period, the Commission may subsequently, on any application being made at any time before the expiration of such limited period, extend that period (*a*).

(2) Where an application has before the twenty-eighth day of February, nineteen hundred and twenty-three, been made to the Railway and Canal Commission for their consent to the occupying department continuing in the possession of land, and the application is not disposed of by the Commission before the thirty-first day of August, nineteen hundred and twenty-three, the occupying department may continue in possession of the land until the application has been disposed of, but not for more than six months after the thirty-first day of August, nineteen hundred and twenty-three, unless the Commission in any particular case allow a longer time: Provided that this subsection shall not apply to commons or common lands (*b*).

(3) Where the consent of the Railway and Canal Commission is necessary to the acquisition of any land under section three of the principal Act (*c*), and an application is made to the Commission for their consent before the expiration of the period within which the power of acquisition must be exercised, and the Commission give their consent, the power of acquisition may be exercised if notices to treat are served within three months after the consent of the Commission is given, notwithstanding that the time within which the power must be exercised under the said section has elapsed.

(*a*) This subsection is an amendment of 6 & 7 Geo. 5, c. 63, s. 6 (3), *ante*, p. 2745.

(*b*) This is an amendment of 6 & 7 Geo. 5, c. 63, s. 1. That section, which was of temporary duration, only has now expired and was repealed by S. L. R. A., 1927.

(*c*) The section referred to related to the power to acquire land compulsorily on behalf of the Crown. That section, which was of temporary duration only, has now expired and was repealed by S. L. R. A., 1927.

Short title.

2. This Act may be cited as the Railway and Canal Commission (Consents) Act, 1922.

WAR MEMORIALS (LOCAL AUTHORITIES' POWERS) ACT, 1923.

(13 & 14 GEO. 5, c. 18.)

An Act to enable local authorities under certain circumstances to maintain, repair and protect war memorials vested in them. [18th July, 1923.]

Expenditure in maintenance, etc., of war memorials.

1. A local authority (*a*) may incur reasonable expenditure in the maintenance, repair and protection of any war memorial (*b*) within their district which may be vested in them.

(*a*) See the definition in s. 4, *infra.*

(*b*) This provision was made to meet the case of memorials in forms other than those of statues in streets or public places, which could be maintained under s. 42, Public Health Acts Amendment Act, 1890, *ante*, p. 902.

Note that the Act extends only to war memorials, but is not limited to memorials in respect of the Great War, 1914–1918.

Approval of county council or Minister of Health.

2. Any expenditure to be incurred under this Act by a local authority shall—

(*a*) in the case of a parish council or parish meeting, be limited to an amount which will not involve a rate exceeding a penny in the pound (*a*) for any financial year, and be subject to the approval of the county council;

(*b*) in the case of any other local authority, be limited to an amount from time to time approved by the Minister of Health.

(*a*) This limit is increased by 33⅓ per cent. by s. 75 of the L. G. A., 1929, *ante*, p. 1940, and may by an order of the Minister be increased by a greater percentage in special circumstances (*ibid.*).

Application.

3. The provisions of this Act shall not apply to a war memorial provided or maintained by a local authority in the exercise of any other statutory power (*a*).

(*a*) Thus a local authority may have provided or accepted as a gift a war memorial, which took the form of a building or public park which they had statutory authority to provide or maintain under the Public Health Acts, Local Government Act, 1894, or other Act. The provisions in the text will not apply to such memorials.

Definition.

4. In this Act the expression "local authority" means the council of a county, county borough, metropolitan borough, or other borough, or of an urban district or parish, and the parish meeting of a rural parish with no parish council.

Short title.

5. This Act may be cited as the War Memorials (Local Authorities' Powers) Act, 1923.

LONDON TRAFFIC ACT, 1924.

(14 & 15 GEO. 5, c. 34.)

An Act to make provision for the control and regulation of traffic in and near London, and for purposes connected therewith (*a*). [7th August, 1924.]

Constitution of Advisory Committee (*b*).

1.—(1) With a view to facilitating and improving the regulation of traffic in and near London, there shall, for the purpose of giving advice and assistance in manner provided by this Act to the Minister of Transport (hereinafter referred to as the Minister) in connection with the exercise and performance of his powers and duties in relation to traffic within the area described in the First Schedule to this Act (hereinafter referred to as the London Traffic Area) be constituted a committee, to be called the London and Home Counties Traffic Advisory Committee and hereinafter referred to as the Advisory Committee consisting of a chairman elected by the Committee and such ordinary and additional members as are hereinafter mentioned.

(2) Of the ordinary members—

One shall be appointed by a Secretary of State :

Two shall be appointed by the London County Council :

One shall be appointed by the Corporation of the City of London :

Two shall be appointed by the councils of the metropolitan boroughs :

One shall be appointed by the councils of the administrative counties mentioned in the First Schedule to this Act, other than the administrative county of London lying north of the Thames :

One shall be appointed by the councils of the administrative counties mentioned in the First Schedule to this Act, other than the administrative county of London lying south of the Thames :

One shall be appointed by the councils of the several county boroughs within the London Traffic Area :

One shall be a representative of the metropolitan police appointed by a Secretary of State :

One shall be a representative of the City police appointed by the Corporation of the City of London :

One shall be appointed by the Minister :

Where one or more members are to be appointed by a group of local authorities, the appointment shall be made by a joint committee consisting of one representative chosen by each of the local authorities in accordance with rules of procedure made by the Minister (*c*) :

Every ordinary member appointed by a local authority or group of local authorities other than the representative of the City police shall be a member of the local authority or of one of the grouped authorities, as the case may be, and, if he cease to hold such qualification, shall cease to be a member of the Committee.

(3) Of the additional members—

Three shall be representatives of the interests of labour engaged in the transport industry within the London Traffic Area appointed by the Minister of Labour after consultation with such bodies representative of those interests as he may think fit :

Four shall be representatives of the interests of persons providing means of transport and users of mechanically propelled and horse-drawn road vehicles within the London Traffic Area appointed by the Minister after consultation with such bodies representative of those interests as he may think desirable.

(4) The ordinary members shall form part of the committee on all occasions, and the additional members shall form part of the committee when considering and reporting to and advising the Minister upon any matter referred to the committee under or by virtue of section ten of this Act, or any matter or question referred to the committee under this Act in connection with the matters specified in Part I. of the Second Schedule to this Act :

Provided that the Minister may, if he thinks fit, direct that in any particular case the additional members shall form part of the committee when considering and reporting to and advising him upon any matter or question referred to the committee under this Act in connection with any of the matters mentioned in Part II. of the said Schedule.

(5) A person shall be disqualified for being appointed or being an ordinary member of the Advisory Committee if he is a director of a company or a partner in a firm or is in the employment of a company or firm engaged in providing means of transport within the London Traffic Area.

(6) The term of office of the members of the Advisory Committee first appointed shall be from the date of appointment until the first day of December, nineteen hundred and twenty-five, and, subject to the provisions as to the term of office of persons appointed to fill casual vacancies, the term of office of persons subsequently appointed shall be three years ; but a person going out of office may be reappointed. The chairman shall go out of office on the day on which the members of the committee by whom he is elected ordinarily go out of office.

(7) If any member of the Advisory Committee without having received leave of absence by a resolution of the committee fails for a period of six months to attend duly summoned meetings of the Committee, or of a sub-committee on which he has been appointed to serve, his seat shall thereupon become vacant, and he shall not be eligible for reappointment in respect of that vacancy.

(8) On a casual vacancy occurring on the Advisory Committee by reason of death, resignation, or otherwise, the vacancy shall be filled by the appointment of a new member in like manner as the member in whose place he is appointed, and he shall hold office until the time when the member in whose place he is appointed would have gone out of office, and shall then go out of office. The foregoing provision shall apply to the chairman with the substitution of "election" for "appointment" and of "elected" for "appointed." If an ordinary member or any additional member is elected chairman, his election shall not create a casual vacancy.

(9) The Minister may place at the disposal of the Advisory Committee the services of such of the officers and servants of the Ministry of Transport as appear to him to be required for the purpose of the proper discharge of the duties of the Committee.

(10) The Advisory Committee may make rules for regulating their procedure (including the fixing of a quorum, and the appointment, powers, duties and procedure of sub-committees) and for regulating the procedure at any inquiry held by the Advisory Committee or by any members thereof under this Act ; and the additional members shall form part of the Advisory Committee when considering and making such rules of procedure.

(11) The Advisory Committee shall make an annual report of their proceedings to the Minister, which shall be laid before Parliament.

(12) The proceedings of the Advisory Committee shall not be invalidated by any vacancy in their number or any defect in the appointment of any member.

(a) This Act is included as it affects local authorities near London, but outside the administrative county of London. The area to which the Act applies is defined in the First Schedule, *post*, p. 2864. The Act is of an experimental character and was, therefore, originally to remain in force only until December 1st, 1928 (s. 17 (2)). It has, however, been continued in force until December 31st, 1931, by Expiring Laws Continuance Act, 1928. Section 1 of the Act came into force on September 1st, 1924, and the remainder of the provisions on October 1st of that year (s. 17 (1) and the London Traffic Act (Appointed Days) Order, 1924, S. R. & O., 1924, No. 982).

(b) The Advisory Committee has been appointed under this section, and is under the chairmanship of Sir Henry Maybury, K.B.E.

(c) These rules are contained in the London Traffic (Joint Committees) Rules of Procedure, 1924, S. R. & O., 1924, No. 1015.

Duties of Advisory Committee.

2. It shall be the duty of the Advisory Committee to consider and report to the Minister on any matters within the scope of the provisions of this Act, and to report to and advise the Minister upon such matters and questions as may be referred to them under this Act, or as the Minister may from time to time refer to them in connection with any of the matters mentioned in the Second Schedule to this Act.

Power of Advisory Committee to hold inquiries (a).

3. (1) In any case where the Advisory Committee think it desirable or expedient so to do, the Committee may, before advising and reporting to the Minister on any matter referred to them in pursuance of this Act, appoint one or more of their number to hold, or may if they think it advisable, themselves hold such public inquiry into the matter as they may think fit, and when one or more members of the Advisory Committee are appointed to hold the inquiry they shall make a report thereon to the Committee.

(2) Before any such inquiry is held the Advisory Committee shall give public notice of the date and place at which the inquiry will be held and of the matters to be dealt with at the inquiry, and any person affected may make representations to the member or members holding the inquiry, or in the case of an inquiry held by the Advisory Committee themselves to that Committee, and, unless in their discretion such member or members or the Committee consider it unnecessary, any such person shall be heard at the inquiry: Provided that, for the purposes of this provision, the Corporation of the City of London and the council of any county, borough or district wholly or partly comprised in the London Traffic Area shall be deemed to be persons affected and shall have the right to be heard in any case where such corporation or council, or any persons represented by them, may be affected by any such inquiry.

(3) In any case where the Minister thinks it expedient or proper so to do, the Minister may delegate to the Advisory Committee the duty of holding any inquiry respecting any matter affecting traffic within the London Traffic Area which under any other Act the Minister is authorised or required to hold, and where the Minister has so delegated any such duty, the Advisory Committee shall appoint one or more of their number to hold, or may if they think it advisable themselves hold such inquiry as is required under the Act in respect of which the duty has been delegated, and when one or more members of the Advisory Committee are appointed to hold the inquiry they shall make a report to the Committee.

(a) Inquiries under this section need only be held where the Advisory Committee think fit, except where the Minister delegates to the committee his power of holding an inquiry under some other Act.

Where the committee determine to hold an inquiry, the council of any county borough or district, wholly or partly in the London Traffic Area, which may be affected by the inquiry, will be entitled to be heard at such inquiry.

Closing of streets for works (a).

4.—(1) With a view that the times for the execution of works of road maintenance and improvement by various road authorities within the London Traffic Area may be so arranged as to mitigate as far as possible the congestion of traffic due to the closing of streets for the purposes of the execution of such works, it shall be the duty of every road authority within that area to submit to the Minister, on or before such half-yearly dates in each year as the Minister may fix, a statement in such form and containing such particulars as the Minister may require of all works of road maintenance and improvement proposed to be commenced or continued by the authority during the periods of six months commencing at the expiration of such interval, not being less than two months, after the said half-yearly dates as the Minister may fix, being works of such a nature as will involve the closing to vehicular traffic of any part of any street to which this section applies either absolutely or to the extent of one-third or more of the width of the carriageway.

Section 4.

(2) The Minister shall refer all such statements to the Advisory Committee, and it shall be the duty of that Committee to consider the proposals contained in such statements in relation to one another and report to the Minister thereon; and the Minister, after considering the report, shall draw up schemes prescribing the times during which the several works are to be commenced and the order in which they are to be executed, or prohibiting or restricting the execution of any such works, and shall send copies of any such scheme to all road authorities and undertakers affected thereby, and

(*a*) if within fourteen days after copies of any scheme have been so sent, no objection in writing to the scheme has been received by the Minister from any road authority or undertakers affected thereby, or every such objection has been withdrawn, the Minister may by order confirm the scheme;

(*b*) if any such objection has been received by the Minister within such time and has not been withdrawn, the Minister may, after considering the objection, either by order confirm the scheme with or without amendments, or revoke the scheme;

and upon the confirmation of any such scheme it shall become final and binding on all the road authorities affected and shall not be subject to appeal to any court:

Provided that the Minister may subsequently by order modify any such scheme in so far as it imposes any prohibition or restriction on the execution of any works in such manner as he may consider expedient.

(3) With a view to securing that, so far as possible, all works involving the breaking up of streets by any undertakers having statutory powers to break up streets (including any Government Department) shall be carried out at the same time as or in connection with works of road maintenance and improvements, the Minister shall send to all such undertakers copies of the proposals of the road authorities when received by him under this section so far as they relate to streets to which the powers of the undertakers extend and shall consider any representations made to him by such undertakers; and where works of road maintenance and improvement involving the closing of a street to such extent as aforesaid have been executed in accordance with any such scheme, it shall not be lawful for any such undertakers within twelve months of completion of those works to break up the street or part of the street so closed without the previous consent of the Minister and unless they prove to the satisfaction of the Minister that there were reasonable grounds for their failure or omission to execute whilst the street or part thereof was closed the works for the execution of which they require to break up the street and that it is essential that the works should be executed or commenced within the said twelve months; and the Minister may, if he thinks fit, make it a condition on giving his consent under this subsection to the breaking up of the street or part thereof that all works in connection therewith shall be carried out at night by commencing the same after the hour of eight in the evening and completing the same by the hour of eight in the morning, and if not then completed by carrying on the same continuously by day and night.

(4) Nothing in this section shall prevent any road authority or any such undertakers as aforesaid from carrying out works in any streets in cases of emergency, or prevent any such undertakers from making, altering, repairing or disconnecting service connections.

(5) The streets to which this section applies are such streets or streets of such classes within the London Traffic Area as may be prescribed by an order made by the Minister.

Note to Section 4.

(*a*) The streets to which this section applies are scheduled to the London Traffic (Closing of Streets for Works) Order, 1927, S. R. & O., 1927, No. 260, made under sub-s. (5). The local authorities responsible for those streets are to submit to the Minister half-yearly details of works to be carried out in those streets, so that a scheme may be made to arrange for works to be done at such a time as to cause the minimum interference with traffic, and to further this end, provision is made prohibiting undertakers from breaking up such streets within twelve months of the execution of works without the consent of the Minister except in cases of emergency.

Road authorities and undertakers are defined by s. 16, *post*.

Provision for mitigating obstruction to traffic (*a*).

5.—(1) If it appears to any officer of police authorised for the purpose that, in the exercise of any power to break up streets within the London Traffic Area, any undertakers, by the deposit of excavated matter or other material, or by means of the erection of barriers, or otherwise, have created an obstruction in the street (*b*) to a greater extent or for a longer period than is reasonably necessary, he shall report the matter to the road authority and the road authority shall cause an inspection to be made, and, if on such inspection it appears to them that the allegation is well founded, they may, by notice in writing, require (*c*) the undertakers to take such steps as may be necessary to mitigate or discontinue the obstruction ; and, if the undertakers fail to do so within twenty-four hours of the receipt of the notice, the road authority may themselves take the necessary steps and may recover any expenses properly incurred by them in connection therewith from the undertakers summarily as a civil debt :

Provided that, if within the said twenty-four hours the undertakers represent to the Minister that the obstruction to which the notice relates is not greater or has not been continued for a longer period than is reasonably necessary and send to the road authority a copy of the representations so made, the road authority shall not exercise the powers conferred by this section without the consent of the Minister.

(2) A road authority may, if they think fit, delegate to the road surveyor or other officer of the authority the powers of causing inspection to be made and of issuing requisitions conferred on the authority by this section.

(*a*) This section is of general application throughout the London Traffic Area, and imposes duties upon road authorities within the area when moved thereto by the report of a police officer authorised for the purpose. The Act does not prescribe by whom the police officer is to be authorised, but presumably the authority will be given by the Commissioner of Police or Chief Constable.

Road authorities and undertakers are defined by s. 16.

(*b*) See the definition in s. 16.

(*c*) The road authority is not bound to accept the report of the police officer, but must satisfy themselves by inspection that his allegation is well founded. The authority may delegate their powers of inspection, and issuing requisitions to the road surveyor or other officer of the authority (sub-s. (2)).

Power to attach conditions to grant of omnibus licences plying in the city of London and the metropolitan police district (*b*).

6.—(1) As respects the area consisting of the city of London and the metropolitan police district, any licensing authority may, with the view to securing the public safety and the convenience of traffic, define, by reference to terminal points and to the course to be followed between those points, the routes (hereinafter called "approved routes") within the area of its licensing jurisdiction upon which regular services of omnibuses (*a*) may be established. Any person who proposes to establish a regular service of omnibuses within the area of the licensing jurisdiction of any such licensing authority upon a route which is not an approved route may apply to the licensing authority to define that route as an approved route, and in the event of the licensing authority refusing so to define such route an appeal shall lie to the Minister, who may, if he thinks fit, define the route, either as originally proposed, or subject to such alterations as he thinks proper, and any route so defined by the Minister shall be deemed to be an approved route.

Section 6.

(2) When licensing an omnibus to ply for hire within the area aforesaid. the licensing authority may, subject to the right of appeal to the Minister given by subsection (3) of section fourteen of the Roads Act, 1920 (*c*), attach to any such licence all or any of the following conditions, that is to say :—

10 & 11 Geo. 5, c. 72.

(*a*) a condition that the omnibus shall not ply for hire upon specified approved routes or any specified parts thereof, but such condition shall be imposed only on the ground that the omnibus is by reason of its construction or equipment unsuitable for use on such routes or parts thereof ;

(*b*) a condition that the omnibuses shall not, without the consent of the licensing authority, which consent may be either of special or of general application, and may be either absolute or subject to any conditions, ply for hire except upon approved routes ;

(*c*) a condition that the omnibus shall not, without such consent as aforesaid, ply for hire except in maintaining a regular service ;

and, if any person to whom a licence is granted subject to any such condition fails to comply with the condition, he shall be liable on summary conviction to a fine not exceeding five pounds, and, if a person is convicted of a second or subsequent offence under this subsection, the licensing authority may, if they think fit, revoke or suspend the licence for the omnibus in respect of which the second or subsequent offence was committed.

(3) Where a licensing authority have defined approved routes, the authority may, with a view to attaching such conditions as aforesaid to licences, require in writing that all or any licences for omnibuses to ply for hire within the area aforesaid issued by them shall, within fourteen days of such requirement, be surrendered to them, and may issue in substitution for the licences so surrendered licences expiring on the same date as the licences so surrendered, and attach to any such substituted licences all or any of such conditions as aforesaid, and any licence so required to be surrendered shall, if not surrendered in accordance with the requirement, cease to have effect at the expiration of the said fourteen days, and, if so surrendered, shall cease to have effect on the issue of such substituted licence.

(4) A person to whom a licence for an omnibus has been granted subject to the condition that it shall not ply for hire except in maintaining such a regular service as aforesaid shall, within seven days or such other period as the Minister may fix after such condition has been first imposed, deposit with the licensing authority a schedule in such form and identified in such manner as the licensing authority may require, showing—

(*a*) the approved routes upon which he intends to establish a regular service of omnibuses ;

(*b*) the time at which the service on each route is to commence and end on each day ;

(*c*) the service to be maintained on each such route, distinguishing, if the service to be maintained on different days or at different hours is to vary, the service to be maintained on the several days or at the several hours ;

(*d*) the maximum number of omnibuses to be used to maintain such service on each such route distinguishing, if the service is to vary on different days, the maximum number to be so used on the several days ;

(*e*) the stages into which he intends to divide each route and the fares which he intends to charge in respect of such stages, distinguishing, if the stages and fares are to vary on different days or at different hours, the stages and fares on the several days and at the several hours ;

and shall supply to the licensing authority such number of copies of the deposited schedule as the authority may require.

(5) On any such schedule being deposited with the licensing authority in accordance with the foregoing provisions, the same shall come into force, but the licensing authority shall send copies thereof to every person who is providing a regular service of omnibuses upon any route or any substantial portion of any route included in the schedule, and any such person shall have the right within seven days, or such other period as the Minister may fix, of receiving such copy to appeal to the Minister on the ground—

(*a*) that having regard to the number of omnibuses to be used for maintaining the service on any route, an increase in the service on that route specified in the schedule may reasonably be required either generally or during particular hours; or

(*b*) that having regard to the service to be maintained on any such route the maximum number of omnibuses to be used in maintaining the service is excessive;

and the Minister on such appeal, after giving the holder of the licence an opportunity of being heard, may make such order amending the schedule as he may think fit.

The Corporation of the City of London and the council of any county, or borough, or district wholly or partly within the area aforesaid, shall have the right at any time of appealing to the Minister against any schedule for the time being in force on the ground that any of the stages specified therein are unreasonably short or inconvenient or that any of the fares so specified are unreasonably high, and the Minister on such appeal, after giving the holder of the licence an opportunity of being heard, may make such order amending the schedule as he may think fit.

When an order amending a schedule has been made under this subsection the schedule shall have effect subject to the amendments made in the order.

(6) The holder of such a licence may at any time, but, subject as in the next following section provided, only at intervals of not less than four weeks, amend any such schedule or substitute a new schedule therefor by depositing with the licensing authority the proposed amendment or new schedule in such form and identified in such manner as the licensing authority may require, and shall send to the licensing authority such number of copies of the proposed amendment or new schedule as the licensing authority may require; and on the deposit of the amendment or new schedule the schedule proposed to be amended shall have effect subject to the amendment or, as the case may be, the new schedule shall be substituted for the schedule previously in force, subject in either case to the like right of appeal to the Minister as in the case of the original schedule:

Provided that, where a schedule has been amended on appeal to the Minister, no amendment to the schedule, nor any schedule to be substituted therefor, shall be so deposited within four weeks after the schedule as amended by the Minister came into force.

(7) The Minister may make regulations (*d*) with respect to the procedure on appeals under this section, and those regulations may provide for the appointment of a person or two or more persons to hold a public inquiry in such manner as may be prescribed into the subject matter of the appeal and for enabling the person or persons so appointed—

(*a*) to determine by whom and in what manner the costs of the appeal (including the remuneration of the person or persons appointed to hold the inquiry and any other expenses of the Minister) are to be borne;

(*b*) to take evidence on oath and for that purpose to administer oaths;

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(*c*) by order to require any person subject to the payment or tender of the reasonable expenses of attendance to attend as a witness and give evidence or produce any documents in his possession or under his control which relate to any matter in question at the inquiry and are such as would be subject to production in a court of law.

If any person fails without reasonable excuse to comply with any requirement contained in any such order, he shall, on summary conviction, be liable to a fine not exceeding five pounds.

(8) Where a person deposits a schedule (whether original or substituted) or an amendment to a schedule under this section, he shall send to the Minister such number of copies thereof as the Minister may require, and the copies so sent to the Minister shall be open to inspection by any person at all reasonable hours, and any person shall be entitled to make copies thereof or extracts therefrom.

(9) If a person to whom a licence for an omnibus has been granted subject to the condition that it shall not ply for hire except in maintaining a regular service, fails to deposit a schedule as required by this section, or, except when prevented by accident or other unavoidable cause, or by a stoppage of work caused by an industrial dispute, or when otherwise authorised by the licensing authority, fails to establish or maintain a service in accordance with the schedule for the time being in force with respect to his omnibuses, or uses for the maintenance of any service a greater number of omnibuses than the maximum specified in such schedule or charges different fares or fares with respect to different stages from those specified in such schedule, he shall be liable on summary conviction to a fine not exceeding five pounds, and, if a person is convicted of a second or subsequent offence under this subsection, the licensing authority may, if they think fit, but subject to a right of appeal to the Minister, revoke or suspend all or any of the licences granted to the offender.

(10) Proceedings for an offence under this section shall not be instituted except by or on behalf of a licensing or police authority.

(*a*) See the definition in s. 16, *post*, p. 2863.

(*b*) This section is limited to the City of London and the Metropolitan Police district. Local authorities within that area are given the right at any time to appeal to the Minister against any schedule of omnibus routes, fares, etc., under sub-s. (4) on the grounds set out in sub-s. (5).

The licensing authority is defined by s. 16, *post*, p. 2863.

(*c*) See this section at p. 1302, *ante*.

(*d*) No regulations have yet been made under this subsection.

Power to limit the number of omnibuses plying on certain streets within the city of London and the metropolitan police district.

7.—(1) Where as respects any street or part of a street within the area consisting of the city of London and the metropolitan police district, the Minister is of opinion that by reason—

(*a*) of the width of the street or part of the street or the density of traffic thereon; or

(*b*) of the existence of alternative facilities for the conveyance of passengers along the street or part of the street or in proximity thereto, or of the omnibus accommodation on the street or part of the street being excessive;

it is desirable that an order under this section shall be made, he may by order declare the street or part of the street to be a street in which the plying for hire by omnibuses ought to be prohibited or restricted either generally or during particular hours, and a street or part of a street with respect to which such an order is made is hereinafter referred to as a "restricted street." (*a*).

(2) Where the Minister has so declared any street or part of a street to be a restricted street, the Minister may make regulations (*b*)—

Section 7.

(a) prohibiting or restricting the plying for hire by omnibuses in the street either generally or during particular hours, or limiting the aggregate number of journeys which may be made in either direction along the street during particular hours by omnibuses plying for hire;

(b) determining the omnibus proprietors whose omnibuses alone may ply for hire on the street and apportioning amongst those proprietors such aggregate number of journeys as aforesaid; but so, nevertheless, that the right so to ply shall not be limited to the omnibuses of one proprietor in any case where it appears to the Minister to be reasonable and practicable that the right should be exercised by other omnibuses also; and

(c) conferring on a licensing authority such powers as he may deem necessary to enable them to secure the observance of the regulations;

and the regulations may provide for dispensing with or relaxing the restrictions imposed thereby in such circumstances and in such manner as may be provided in the regulations.

(3) Where in consequence of any such regulations it is necessary for any proprietor to amend the schedule of services for the time being in force with respect to his omnibuses, he may do so notwithstanding that such an interval of four weeks as is mentioned in the last preceding section has not elapsed.

(4) If any person contravenes or fails to comply with any such regulations, he shall be liable on summary conviction to a fine not exceeding five pounds, and on the conviction of a person for a second or subsequent offence under this subsection, the licensing authority shall notify the Minister of the conviction, and the licensing authority, if so directed by the Minister, shall thereupon revoke or suspend all or any licences to ply for hire in the area aforesaid which they may have granted to the offender in respect of omnibuses:

Provided that proceedings for any such offence shall not be instituted except by or on behalf of a licensing or police authority.

(5) Before making an order declaring any street or part of a street to be a restricted street, or making any regulations under this section, the Minister shall give such notice of his intention to make the order or regulations, as the case may be, as he may think best adapted for informing persons affected, and shall refer the matter to the Advisory Committee for their advice and report (c).

(6) Any regulation made under this section shall be laid before both Houses of Parliament forthwith; and, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such regulation is laid before it praying that the regulation may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new regulation.

(a) Under this subsection the Minister has made a number of orders, viz. the London Traffic (Restricted Streets) Order, 1925, S. R. & O., 1925, No. 179; (No. 2) Order, 1925, S. R. & O., 1925, No. 549; (No. 3) Order, 1925, S. R. & O., 1925, No. 648; Order, 1927, S. R. & O., 1927, No. 351; (No. 2) Order, 1927, S. R. & O., 1927, No. 1078; Order, 1928, S. R. & O., 1928, No. 32; (No. 2) Order, 1928, S. R. & O., 1928, No. 447; (No. 3) Order, 1928, S. R. & O., 1928, No. 1096.

(b) A number of regulations have been made under this subsection, these regulations are entitled the London Traffic (Restricted Streets) Regulations, and will be found in S. R. & O., 1925, Nos. 322, 805, 806, 892, S. R. & O., 1927, Nos. 576 and 1292, and S. R. & O., 1928, Nos. 289, 579.

A number of provisional regulations have also been made.

(c) On a reference to the advisory committee under this subsection as to the declaring a street to be a "restricted street," the "additional members" do not sit under s. 1 (4) (*May* v. *Beattie*, [1927] 2 K. B. 353; 91 J. P. 78).

Section 8.

Reports to Parliament on holders of omnibus licences.

8.—(1) It shall be the duty of the proprietor of any omnibus, licensed subject to the condition that it shall not ply for hire except in maintaining a regular service as aforesaid, to keep such records and to make to the Minister such returns as the Minister may require.

(2) The Minister shall annually make a report to Parliament containing such of the returns so furnished to him, together with such comments thereon, and on the results of operating the said services, as he may think fit, and it shall be the duty of every such proprietor as aforesaid to furnish to the Minister such information, and to produce to him such accounts, books and documents as he may require for the purpose of preparing such report or otherwise carrying out his duties under this Act, or as he may consider to be necessary for the purposes of any inquiry held under this Act.

(3) An order of the Minister requiring any person to fulfil any duty imposed by this section shall be enforceable by the High Court on the application of the Minister in any of the ways referred to in section three of the Railway and Canal Traffic Act, 1854.

Penalties for disobedience to directions of police (*a*).

9. Where a police constable in uniform is for the time being engaged in the regulation of traffic at any place in a street within the London Traffic Area, any person driving or propelling any vehicle who wilfully neglects or refuses to stop the vehicle or make it proceed or keep to a particular line of traffic when directed so to do by such police constable in the execution of his duty shall, on summary conviction, be liable to a fine not exceeding five pounds.

(*a*) This section is applicable to the whole of the London Traffic Area. *Cf.* s. 74 of the P. H. A., 1925, *ante*, p. 1620, and notes thereto.

Power to make regulations.

10.—(1) For the purpose of relieving congestion and facilitating traffic in and near London, the Minister may make regulations (*a*) to have effect in the London Traffic Area, or any such part thereof or places or streets therein, as may be specified in the regulations, for any of the purposes or with reference to any of the matters set out in the Third Schedule to this Act, and special regulations applicable only at special times or on special occasions may be so made:

Provided always that no such regulations shall interfere with street markets nor (so far as respects matters which may be dealt with by regulations under section one of the Metropolitan Streets Amendment Act, 1867) with street traders (*b*).

(2) Any regulations so made by the Minister may provide for the suspension or modification so long as the regulations remain in force of any provisions of any Acts (whether public general, or local or private) byelaws or regulations, dealing with the same subject matter as the regulations made by the Minister, or of any Acts conferring power of making byelaws or regulations dealing with the same subject matter, so far as such provisions apply to any place or street to which the regulations made by the Minister apply.

(3) Any such regulations may provide for imposing fines recoverable summarily in respect of breaches thereof not exceeding in the case of a first offence twenty pounds, or in the case of a second or subsequent offence fifty pounds, together with, in the case of a continuing offence, a further fine not exceeding five pounds for each day the offence continues after notice of the offence has been given in such manner as may be prescribed by the regulations.

(4) Before making any regulations under this section, the Minister shall refer the matter to the Advisory Committee for their advice and report.

(5) Before making any regulations under this section which will impose new or additional duties on the police, the Minister shall consult the Secretary of State.

(6) The making of any regulations under this section shall be conclusive evidence that the requirements of this section have been complied with.

(7) Any regulation made under this section shall be laid before both Houses of Parliament forthwith; and, if an address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such regulation is laid before it praying that the regulation may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new regulation.

(a) A number of regulations have been made under this subsection, and references to them will be found in the notes to Sched. III., *post*, p, 2867. The Minister has very wide powers in making these regulations (see sub-s. (2)), but the regulations must be laid before Parliament (sub-s. (7)). The only regulation which is of universal application throughout the London Traffic Area, is the London Traffic (Lighting and Guarding of Street Works) Regulations, 1927, which is set out in App. II., *post*, at p. 3740.

(b) As to the regulation of street traders within the administrative county of London, see the London County Council (General Powers) Act, 1927 (17 & 18 Geo. 5, c. xxii.), and *R.* v. *Lewisham Corporation, ex parte Jackson* (1929), 27 L. G. R., 416; *Clifton* v. *Holborn B. C.* (1929), 45 T. L. R. 633; and *Westminster Corporation* v. *Armstrong* (1929), 45 T. L. R. 634, decided thereunder.

Limitation upon imposition of expenses upon local authorities.

11. Nothing in this Act shall be construed as giving power to the Minister to impose any obligation upon a local authority to incur any expenditure on or in connection with the improvement of any road or the construction of any new road without consent of such local authority.

Notice of and inquiries into accidents.

12.—(1) Where, owing to the presence of a vehicle on any road, an accident occurs within the London Traffic Area and it appears to the Minister that—

(a) the nature and character of the road or of the road surface was the sole or a contributory cause of the accident; or

(b) a defect in design or construction of the vehicle or in the materials used in the construction of the road or of the vehicle was the sole or a contributory cause;

the Minister, if he thinks fit, may cause an inquiry to be held into the cause of the accident.

(2) Where an accident occurs within the London Traffic Area resulting in the death of any person, and it is alleged that the accident was due to the nature or character of any road or road surface or to a defect in the design or construction of any vehicle or in the materials used in the construction of any road or vehicle, the coroner holding inquiry into the cause of death shall send to the Minister, or to such officer of the Ministry of Transport as the Minister may direct, notice in writing of the time and place of holding the inquest, and of the adjourned inquest, and any officer appointed by the Minister for the purpose shall be at liberty at any such inquest to examine any witness, subject nevertheless to the power of the coroner to disallow any question which in his opinion is not relevant or is otherwise not a proper question.

(3) Section twenty of the Ministry of Transport Act, 1919 (a) (which relates to the holding of inquiries), shall apply to inquiries held for the purposes of this section in like manner as it applies to inquiries for the purposes of that Act.

(a) See this section at p. 2769, *ante*.

Protection of public interests.

13.—(1) It is hereby declared that nothing in this Act is to be treated as conferring on any omnibus proprietor any right to the continuance of any benefits arising from the grant of licences, or from any conditions attached to

Section 13. licences, or from any orders, schedules or regulations for the time being in force under this Act.

(2) In the event of any undertaking providing means of transport within the London Traffic Area being purchased compulsorily by any local or public authority, that part of the value of the undertaking attributable directly or indirectly to this Act, or to any orders, schedules or regulations made thereunder, shall not be taken into account (*a*).

(*a*) This provision is inserted for the protection of local authorities who contemplate purchasing an undertaking affected by orders, etc., under this Act. The subsection uses the words local or public authority, and there is no definition of public authority in the Act; *cf.*, however, s. 12 (2), Acquisition of Land (Assessment of Compensation) Act, 1919, *ante*, p. 1278.

Particulars to be supplied by licence-holders.

14.—(1) It shall be the duty of the proprietor of any omnibus which is licensed subject to the condition that it shall not ply for hire except in maintaining a regular service, to supply to the Minister on such form as the Minister may determine—

(*a*) full particulars of any agreement or arrangement, written or verbal, whereby his business is controlled (whether through shareholding or nomination of directors, or as the result of a loan or other financial transactions or otherwise) by any other person who is engaged in providing any form of transport service in the London traffic area or elsewhere, or in the manufacture or supply of vehicles, plant or equipment, or requisites for any such service or in financing persons so engaged; and

(*b*) full particulars as to the holding or beneficial interest of the proprietor in stocks, shares, or securities of any company which is so engaged as aforesaid.

(2) Particulars to be supplied by a proprietor of an omnibus under this section shall be supplied by him within fourteen days after the grant of the licence for the omnibus, and as respects any interests created or arising during the currency of a licence shall be supplied within fourteen days after such interests are created or have arisen:

Provided that, where particulars have been duly supplied by a proprietor on the grant of a licence for an omnibus, particulars need not be supplied by him on the grant of a licence for any other omnibus belonging to him which is granted within a period of one year after the date of the first-mentioned licence.

(3) If any person refuses or neglects to supply any particulars which he is required to supply under this section, or knowingly supplies any particulars which are false in any material respect, he shall be liable on summary conviction to a fine not exceeding one hundred pounds, or in the case of a continuing offence to a fine not exceeding twenty pounds for every day during which the offence continues.

(4) All particulars required to be supplied under this section shall be treated as confidential except where the person supplying the same otherwise agrees, or where the Minister considers that it is in the public interest that they should be included in a report to Parliament under this Act, or where the Minister considers that the disclosure of the same is requisite for the purposes of any inquiry under this Act, or, in cases where legal proceedings are taken, for the purpose of those proceedings.

If any person discloses or publishes, in contravention of this subsection, any particulars which are to be treated as confidential, he shall be liable on summary conviction to a fine not exceeding one hundred pounds.

Section 15.

Expenses.

15. All expenses incurred in connection with the execution of powers and duties under this Act by the Minister or the Advisory Committee or the members thereof (including the remuneration of any officers and servants of the Ministry of Transport placed at the disposal of the Committee by the Minister, or such apportioned part of such remuneration as the Treasury may determine to be proper) shall, to such amount as may be sanctioned by the Treasury, be defrayed out of the Road Fund.

Definitions.

16. For the purposes of this Act, unless the context otherwise requires—

The expressions "street" and "road" respectively include any highway and any bridge carrying a highway, and any lane, mews, footway, square, court, alley or passage whether a thoroughfare or not;

The expression "road authority" in relation to any street or road means the county council, the common council of the City of London, the borough council or district council, as the case may be, for the time being charged with the duty of maintaining or repairing the street or road (*a*);

The expression "borough" includes "metropolitan borough";

The expression "omnibus" includes every omnibus, char-a-banc, wagonette, brake, stage-coach, or other carriage not being a trolley vehicle or tramway car plying for hire by, or used to carry, passengers at separate fares;

The expression "trolley vehicle" means a mechanically propelled vehicle adapted for use upon roads without rails and moved by power transmitted thereto from some external source;

The expression "tramway car" includes any carriage used on any street or road in the London traffic area by virtue of an order made under the Light Railways Act, 1896;

The expression "licensing authority" in relation to omnibuses within the area comprising the City of London and the metropolitan police district means any authority appointed by the Secretary of State for the purpose under the Metropolitan Public Carriages Act, 1869;

32 & 33 Vict. c. 115.

The expression "undertakers" includes any local or public authority, company, or individual having powers to break up streets for the purposes of any sewerage system or any water, gas, electricity, tramway, or other undertaking;

The expression "proprietor" in relation to any omnibus includes a person having the use of an omnibus under a hiring or hire-purchase agreement.

(*a*) The county council will therefore be the "road authority" in respect of all "county roads" except those claimed by an urban district council under s. 32 of the L. G. A., 1929, *ante*, p. 1891.

Short title and commencement.

17.—(1) This Act may be cited as the London Traffic Act, 1924, and shall come into operation on the appointed day, and the appointed day shall be such day not being later than the first day of October, nineteen hundred and twenty-four, as the Minister may by order appoint (*a*), and different days may be appointed for different purposes and for different provisions of this Act.

(2) This Act shall continue in force until the first day of December, nineteen hundred and twenty-eight (*b*):

Provided that the expiration of this Act shall not affect any penalty, forfeiture, or punishment previously incurred under this Act or under any regulations made under this Act, or affect any legal proceeding or remedy in respect of any such penalty, forfeiture, or punishment, and any such legal proceeding or remedy may be instituted, or continued, or enforced, and such

Section 17. penalty, forfeiture, or punishment may be imposed as if this Act had not expired.

(*a*) See the London Traffic Act (Appointed Days) Order, 1924 (S. R. & O., No. 982), referred to in note (*a*) to s. 1, *ante*, p. 2852.

(*b*) The Act is continued to September 31st, 1931, by the Expiring Laws Continuance Act, 1928 (19 Geo. 5, c. 3).

SCHEDULES.

Section 1.

FIRST SCHEDULE.

The London traffic area shall include the following areas :—

The administrative county of London ;

The administrative county of Middlesex ;

The county boroughs of Croydon, East Ham, and West Ham ;

So much of the administrative county of Buckingham as comprises :—

- The urban districts of Beaconsfield, Eton, and Slough ;
- The rural district of Eton ;
- The parishes of Amersham, Chalfont St. Giles, Chalfont St. Peter, Chenies, and Penn ; Coleshill Hamlet and Seer Green Chapelry in the rural district of Amersham ;

So much of the administrative county of Essex as comprises :—

- The urban districts of Barking Town, Brentwood, Buckhurst Hill, Chingford, Epping, Grays Thurrock, Ilford, Leyton, Loughton, Romford, Tilbury, Waltham Holy Cross, Walthamstow, Wanstead, and Woodford ;
- The rural districts of Billericay, Epping, Ongar, Orsett, and Romford :

So much of the administrative county of Hertford as comprises :—

- The boroughs of St. Albans, Hertford and Watford ;
- The urban districts of Barnet, Bushey, Cheshunt, Chorleywood, East Barnet Valley, Harpenden, Hoddesdon, Rickmansworth and Ware ;
- The rural districts of Barnet, Hatfield, Hertford, St. Alban's, Ware, Watford and Welwyn ; and the detached part (lying between the rural districts of Ware and Epping) of the parish of High Wych in the rural district of Hadham :

So much of the administrative county of Kent as comprises :—

- The boroughs of Bromley and Gravesend ;
- The urban districts of Beckenham, Bexley, Chislehurst, Crayford, Dartford, Erith, Northfleet, Penge, Sevenoaks and Sidcup ;
- The rural districts of Bromley and Dartford ;
- The parishes of Brasted (excluding the detached portion), Chevening, Dunton Green, Halstead, Kemsing, Otford, Riverhead, Seal, Sevenoaks Weald, Shoreham, Sundridge, and Westerham, in the rural district of Sevenoaks :

So much of the administrative county of Surrey as comprises :—

- The boroughs of Guildford, Kingston-upon-Thames, Reigate, Richmond, and Wimbledon ;
- The urban districts of Barnes, Beddington and Wallington, Carshalton, Caterham, Chertsey, Coulsdon and Purley, Dorking, East and West Molesey, Egham, Epsom, Esher and the Dittons, Ham, Leatherhead, Merton and Morden, Mitcham, Surbiton, Sutton, The Maldens and Coombe, Walton-upon-Thames, Weybridge, and Woking ;
- The rural district of Epsom ;
- The parishes of Bisley, Byfleet, Pyrford, and Thorpe in the rural district of Chertsey ;
- The parishes of Dorking Rural, Effingham, and Mickleham in the rural district of Dorking ;
- The parishes of Addington, Bletchingly, Chelsham, Crowhurst, Farleigh, Godstone (except the detached portion), Limpsfield, Oxted, Tandridge (except so much of the said parish as lies to the south of an imaginary straight line drawn from the point where the western boundary of the said parish joins the southern boundary of the parish of Godstone to the point where the eastern

boundary of the said parish joins the southern boundary of the parish of Crowhurst), Tatsfield, Titsey, Warlingham, and Woldingham in the rural district of Godstone;

The parishes of Artington, East Clandon, East Horsley, Merrow, Ockham, Pirbright, Send and Ripley, West Clandon, West Horsley, Wisley and Worplesdon; and part of the parish of Compton in the rural district of Guildford;

The parishes of St. Martha (Chilworth) and Shalford in the rural district of Hambledon;

The parishes of Betchworth, Buckland, Chaldon, Chipstead, Gatton, Merstham, Nutfield, and Walton-on-the-Hill; and Kingswood Liberty in the rural district of Reigate.

SECOND SCHEDULE.

Sections 1, 2.

PARTICULAR MATTERS WHICH MAY BE REFERRED TO THE ADVISORY COMMITTEE.

PART I.

Matters in respect of which the additional members are to form part of the Advisory Committee.

(*a*) The co-ordination of all or any of the various forms of transport services, and co-operation between the persons operating the same or different forms of transport services with a view to the combined operation of all means of transport in the London Traffic Area in the best interests of the public;

(*b*) The causes tending to hinder the free circulation of traffic on streets in the London Traffic Area and the measures to be adopted to remove such causes or to minimise their effects;

(*c*) The desirability of the revision, simplification, codification and extension of existing enactments, orders, regulations and byelaws, and of the initiation of new legislation, with regard to or affecting traffic on streets in the London Traffic Area;

(*d*) The making of new orders, byelaws and regulations (including the fixing of speed limits) relating to traffic on streets in the London Traffic Area;

(*e*) The provision of sufficient headroom in the construction of new bridges over streets, and the proper marking and lighting of structures across streets which do not provide sufficient headroom;

(*f*) The comparative desirability of different forms of transport services in various circumstances either generally or in particular localities, or in any specific case.

PART II.

Matters in respect of which the additional members are, if the Minister so directs, to form part of the Advisory Committee.

(*g*) The development, improvement, or extension of the existing system of road communication within the London Traffic Area;

(*h*) New transport systems or developments or extensions of existing systems proposed to be established or carried out within the London Traffic Area;

(*i*) The exercise of any of the powers of the Minister from whatsoever source derived in relation to traffic on streets in the London Traffic Area, with the exception of any matters dealt with by him in virtue of section seven of this Act.

PART III.

Matters in respect of which the additional members are not to form part of the Advisory Committee.

(*j*) The formulation of proposals for the equitable distribution amongst the various road authorities in the London Traffic Area of the cost of any scheme of road development, improvement or extension.

Sched. III.

Section 10.

THIRD SCHEDULE.

PURPOSES OR MATTERS FOR OR WITH RESPECT TO WHICH REGULATIONS MAY BE MADE BY THE MINISTER.

(1) For prescribing the routes to be followed by all classes of traffic, or of any particular class or classes of traffic or vehicles, from one specified point to another, either generally or between any specified times.

(2) For the prescribing streets which are not to be used for traffic by vehicles of any specified class or classes, either generally or at specified times.

(3) For regulating the relative position in the roadway of traffic of differing speeds or types.

(4) For prescribing the places where vehicles or vehicles of any particular class or description may not turn so as to face in the opposite direction to that in which they were proceeding, or where they may only so turn under conditions prescribed by the regulations (*a*).

(5) For prescribing the conditions subject to which, and the times at which, articles of exceptionally heavy weight or exceptionally large dimensions may be carried by road (*a*).

(6) For prescribing the number and maximum size and weight of trailers which may be drawn on streets by vehicles or vehicles of any particular class or description either generally or on streets of any class or description, and for prescribing that a man should be carried on the trailer or, where more than one trailer is drawn, on the rear trailer for signalling to the driver.

(7) For prescribing the conditions subject to which, and the times at which, articles may be loaded on to or unloaded from vehicles, or vehicles of any particular class or description, on streets (*b*).

(8) For prescribing the conditions subject to which, and the times at which, vehicles, or vehicles of any particular class or description, delivering or collecting goods or merchandise, or delivering goods or merchandise of any particular class or classes, may stand in streets, or in streets of any class or description, or in specified streets.

(9) For prescribing the conditions subject to which, and the time at which, vehicles, or vehicles of any particular class or description, may be used on streets for collecting refuse (*c*).

(10) For prescribing rules as to precedence to be observed as between vehicles proceeding in the same direction, or in opposite directions, or when crossing.

(11) For prescribing the conditions subject to which, and the times at which, horses, cattle, sheep and other animals may be led or driven on streets within the Metropolitan police district and the city of London.

(12) For requiring the erection, exhibition, and removal of traffic notices, and as to the form, plan, and character of such notices (*d*).

(13) Broken down vehicles (*e*).

(14) Vehicles, or vehicles of any particular class or description, when unattended.

(15) Places in streets where vehicles, or vehicles of any particular class or description, may, or may not, wait either generally or at particular times (*f*).

(16) Cab ranks and ranks and stopping places of omnibuses and other public conveyances.

(17) Cabs and hackney carriages not hired and being in a street elsewhere than on a cab rank (*g*).

(18) For restricting the use of vehicles and animals, and of sandwichmen and other persons, in streets for the purposes of advertisement of such a nature or in such a manner as to be likely to be a source of danger or to cause obstruction to traffic (*a*).

(19) The lighting and guarding of street works (*h*).

(20) The erection or placing or the removal of any works or objects likely to hinder the free circulation of traffic in any street, or likely to occasion danger to passengers or vehicles.

(21) Queues of persons waiting in streets.

(22) Priority of entry to public vehicles.

(23) For enabling any police, local or other public authority, in the event of any person failing to do anything which under the regulations he ought to have done, to

do such act, and to recover the expenses thereof from the person so in default summarily as a civil debt.

(a) See, hereon, the London Traffic (Reversing in Streets, Advertising in Streets, and Exceptional Loads) Regulations, 1928, S. R. & O., 1928, No. 87.

(b) See, hereon, the London Traffic (Loading and Unloading of Vehicles) Regulations, 1928, S. R. & O., 1928, No. 443.

(c) See hereon the London Traffic (Collection of Refuse) Regulations, 1927, S. R. & O. 1927, No. 101. These regulations apply only to certain streets specified therein.

(d) See hereon the London Traffic (Traffic Notices) Regulations, 1927, S. R. & O., 1927, No. 804.

(e) See hereon the London Traffic (Broken Down Vehicles) Regulations, 1925, S. R. & O., 1925, No. 906.

(f) Under this heading have been made the London Traffic (Parking Places) Regulations, 1925 (S. R. & O., 1925, No. 905) and 1928 (S. R. & O., 1928, No. 27), which prescribe a number of places in the area where cars may be parked. It should be noted that s. 68, Public Health Act, 1925, *ante*, p. 1611, does not enable a local authority to appoint as a parking place any street within the London Traffic Area.

(g) See hereon the London Traffic (Unhired Cabs) Regulations, 1927, S. R. & O., 1927, No. 786.

(h) Under this heading has been made the London Traffic (Lighting and Guarding of Street Works) Regulations, 1927 (S. R. & O., 1927, No. 57), set out in App. II. at p. 3740, *post*, which are effective throughout the whole of the area.

NATIONAL HEALTH INSURANCE ACT, 1924.

(14 & 15 GEO. 5, c. 38.)

An Act to consolidate the enactments relating to National Health Insurance (a).
[7th August, 1924.]

(a) Considerations of space prohibit any attempt to deal with the scheme of National Insurance embodied in this Act and the Widows, Orphans, and Old Age Contributory Pensions Act, 1925. Upon questions arising as to the general administration of those Acts, *e.g.*, as to what employees of a local authority must, or need not, be insured, reference should be made to a text book upon the subject. It may be mentioned here, however, that s. 1 and Sched. I., Part I (d), provides that there shall be included among the classes of employment within this Act employment under any local or other public authority except such as may be excluded by a special order. See hereon the Employment under Local, etc., Authorities Order, 1924, and the Subsidiary Employments Consolidated Order, 1924, Sched. I., Part III. Certificates of exemption in respect of certain employees may be obtained under Sched. I., Part II. (b) of this Act, and s. 15 of the 1925 Act. The few sections set out on the following pages are those relating to the power of local authorities to contribute money for certain purposes, and their liabilities in the case of "excessive sickness" within their area.

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Powers and duties of insurance committees.

50.—(1) An insurance committee shall, in addition to the other powers and duties conferred and imposed on them by this Act, have the following powers and duties:—

(a) They shall make such reports as to the health of insured persons within the county or county borough as the Minister may prescribe, and shall furnish to him such statistical and other returns as he may require, and may make to him such other reports on the health of those persons and the conditions affecting the same, and may make such suggestions with regard thereto as they may think fit, and the reports and returns so made shall include such reports and returns as will enable an analysis and classification to be made of the persons who are deposit contributors (a):

(b) They shall make such provision for the giving of lectures and the publication of information on questions relating to health as they

Section 50.

think necessary or desirable, and may, if they think fit, for that purpose make arrangements with local education authorities, universities and other institutions (*b*).

(2) For the purpose of assisting insurance committees in the exercise and performance of their powers and duties under this Act, and with a view to promoting co-operation between such committees and the councils of counties, boroughs, and urban and rural districts, any medical officer of health may, at the request of an insurance committee and with the consent (*c*) of the council by whom he is appointed, attend meetings of the committee and give such advice and assistance as is in his power.

(3) The Minister shall forward copies of any reports, returns, and suggestions made under this section to the councils of the counties, boroughs, and urban and rural districts, which appear to him to be affected thereby or interested therein.

(4) For the purposes of this section, the expression "council of a borough" includes the mayor, aldermen and commons of the City of London in common council assembled, and the council of a metropolitan borough.

(*a*) Copies of such reports, etc., if affecting local authorities will be supplied to them by the Minister (sub-s. (3)).

(*b*) Local authorities have similar powers under s. 67, P. H. Act, 1925, *ante*, p. 1611, and joint arrangements with insurance committees for the purpose might be possible under this section, as a form of the co-operation referred to in the next subsection.

(*c*) The medical officer of health must obtain the consent of the council before attending meetings of the insurance committees.

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Provision of funds for insurance committees.

83.—(4) It shall be lawful for any local authority, out of any fund or rate out of which the expenses of the authority are payable, to subscribe such sums as they may think fit towards the general purposes of the insurance committee (*a*).

(*a*) As to the expenses of insurance committees and their power to subscribe to the funds of any association of insurance committees, see s. 87.

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Contributions by local authorities towards medical benefit.

85.—(1) If in any year the amount payable to an insurance committee in respect of all persons for the administration of whose medical benefit (*a*) they are responsible is insufficient to meet the estimated expenditure thereon, the committee may, through the Minister, transmit to the Treasury and to the council of the county or county borough an account showing the amount so payable and the estimated expenditure, and the Treasury and the council of the county or county borough may, if they think fit and if satisfied that the amounts so payable and the proposed expenditure are reasonable and proper in the circumstances, sanction the expenditure.

(2) The Treasury and the council of the county or county borough sanctioning any such expenditure as aforesaid shall thereupon each be liable to make good, in the case of the Treasury out of moneys provided by Parliament, and in the case of the council of a county or county borough, out of the county fund or borough fund or borough rate (*b*), as the case may be, one-half of any sums so sanctioned by them and expended by the insurance committee on medical benefit in the course of the year in excess of the amounts so payable to the insurance committee as aforesaid (*c*).

(3) The council of any borough or urban or rural district may agree (*d*) with the council of the county in which the borough or district is situate to repay to the council of the county the whole or any part of the sums payable by that council in accordance with the provisions of this section towards the excess expenditure on medical benefit so far as that excess is properly

Section 85.

attributable to the borough or district, and any sums payable by the council of the borough or district in pursuance of such an agreement shall be payable, in the case of a borough, out of the borough fund or borough rate (*b*), and, in any other case, as part of the general expenses incurred by the council in the execution of the Public Health Acts (*e*).

(4) An agreement under this section may provide that the county council shall not raise any sum on account of any expenditure incurred by them under this section for the purpose to which the agreement relates within the area of any borough or urban or rural district the council of which has entered into such agreement, during the continuance of the agreement.

(*a*) Medical benefits under the Acts are in all cases to be administered by and through the various Insurance Committees (s. 12 (1)). "Medical benefit" means medical treatment and attendance, including the provision of proper and sufficient medicines, and such medical and surgical appliances as may be prescribed by regulations (s. 10 (1) and (2)).

(*b*) Now the general rate fund or general rate. See the R. & V. Act, 1925, *ante*, p. 1633.

(*c*) See sub-s. (3), as to the power of borough and district councils to contribute towards such excess expenditure.

(*d*) By making such an agreement a healthy district will be able to avoid contributing through the county rate to expenses incurred in treating patients from less healthy districts, if a clause on the lines of sub-s. (4) is included.

(*e*) *I.e.* under s. 207 or 229 of the P. H. Acts, 1875, as amended by the R. & V. Act, 1925, *ante*, pp. 495, 514.

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Inquiries into causes of excessive sickness (*a*).

107.—(1) Where it is alleged by any approved society or insurance committee that the sickness which has taken place among any insured persons, being persons for the administration of whose sickness and disablement benefits the society is or committee are responsible, is excessive, and that the excess is due to—

(*a*) the conditions or nature of employment of those persons; or

(*b*) bad housing or insanitary conditions in any locality; or

(*c*) an insufficient or contaminated water supply; or

(*d*) neglect on the part of any person or authority to observe or enforce the provisions of any Act relating to the health of workers in factories, workshops, mines, quarries or other industries, or relating to public health or the housing of the working classes, or any regulations made under any such Act, or to observe or enforce any public health precautions,

the society or committee making the allegation may send to the person or authority alleged to be in default a claim for the payment of the amount of any extra expenditure alleged to have been incurred by reason of such cause as aforesaid, and if the society or committee and the person or authority fail to arrive at any agreement on the subject, may refer the matter, with a statement in support of the allegation, to the Minister, and if the Minister is of opinion that a primâ facie case for an inquiry is disclosed, he may appoint a competent person to hold an inquiry:

Provided that, if the excess is alleged to be due to neglect to observe or enforce the provisions of any Act for the administration of which the Secretary of State or the Board of Trade is responsible, the Minister shall refer the matter to the Secretary of State or to the Board of Trade, as the case may be, and thereupon the Secretary of State or the Board of Trade, as the case may be, may appoint a competent person to hold an inquiry.

(2) If the Minister is of opinion that the sickness which has taken place among any insured persons is excessive, and it appears to him that the excess is, or may be, due to any of the causes set out in subsection (1) of this section, he may make a claim in the same manner as a society or committee

Section 107. under that subsection, and on failure to arrive at any agreement with the person or authority may cause an inquiry to be held as provided in that subsection.

(3) If, upon any inquiry being held, it is proved to the satisfaction of the person holding the inquiry that the amount of sickness has, during a period of not less than three years next before the date of the inquiry, or where there has been an outbreak of any epidemic, endemic or infectious disease, during any less period, been in excess of the amount of sickness which, in the opinion of the person holding the inquiry, would have occurred if there had been no default by any person or authority as aforesaid, the amount of that extra expenditure found by the person holding the inquiry to have been, by reason of the default, incurred under this Act—

(*a*) where the claim is made by the Minister, by any societies or committees; or

(*b*) where the allegation is made by a society or committee, by the society or committee in question,

shall be ordered by the person holding the inquiry to be made good in accordance with the following provisions :—

(i) Where the excess is due to the conditions or nature of the employment or to any neglect on the part of any employer to observe or enforce any such Act or regulation as aforesaid, it shall be made good by the employer :

(ii) Where the excess is due to bad housing or insanitary conditions in the locality, or to any neglect on the part of any local authority to observe or enforce any such Act or regulation or such precautions as aforesaid, it shall be made good by such local authority as appears to the person holding the inquiry to have been in default, or if due to the insanitary condition of any particular premises, shall be made good either by the authority or by the owner, lessee or occupier of the premises who is proved to the satisfaction of the person holding the inquiry to be responsible :

(iii) Where the excess is due to an insufficient or contaminated water supply, it shall be made good by the local authority, company or person by whom the water is supplied, or who having imposed upon them the duty of affording a water supply have refused or neglected to do so, unless the local authority, company or person prove that the insufficiency or contamination was not due to any default on the part of the authority, company or person, but arose from circumstances over which they had no control.

(4) Where any such inquiry as aforesaid is held in respect of bad housing or insanitary conditions in any locality, it shall be lawful for the local authority to serve notice upon the owner, lessee or occupier of any premises which are the subject-matter of the inquiry, and where it is proved that such a notice has been served and that any such extra expenditure as aforesaid, or any part thereof, has been caused by the act or default of the owner, lessee or occupier, the person holding the inquiry may order the owner, lessee or occupier to repay to the local authority the amount of the extra expenditure or part thereof which has been so caused.

(5) Regulations shall be made as to the procedure on inquiries under this section, and a person holding an inquiry under this section shall have all such powers as an inspector has for the purposes of an inquiry under the Public Health Acts, and shall have power to order how and by what parties costs, including such expenses as the Minister or the Secretary of State or the Board of Trade may certify to have been incurred by him or them, are to be paid, and any order so made may, by leave of the High Court, be

enforced in the same manner as a judgment or order of the High Court to the same effect:

Provided that a society or committee shall not be ordered to pay the costs of the other party to the inquiry if the person holding the inquiry certifies that the demand for an inquiry was reasonable under the circumstances, and, where he so certifies, the Treasury may repay to the society or committee the whole or any part of the costs incurred by them.

(6) *Without prejudice to any other method of recovery, any sum ordered under this section to be paid by a local authority may in accordance with regulations, and subject to the approval of the Treasury, be paid out of the Local Taxation Account and deducted from any sums payable either directly or indirectly out of that account to the local authority* (*b*).

(7) For the purposes of this section, any expenditure on any benefit administered by an insurance committee shall be deemed to be expenditure of that committee, but any sums paid to any such committee under this section to meet extra expenditure on sickness benefit or disablement benefit shall be dealt with for the benefit of deposit contributors in accordance with regulations.

(8) Where under this section any sum is paid to the Minister, he shall apply the same in discharge of any expenses incurred by him under this section and shall distribute the balance among the societies and committees which appear to him to have incurred extra expenditure on account of the excessive sickness, in such proportions as he may think just.

(9) Where an association of deposit contributors resident in any county or county borough has been formed under regulations, the insurance committee for the county or county borough shall, if so required by the association, take proceedings under this section on behalf and at the expense of the association.

(*a*) This section imposes a serious liability upon local authorities, property owners and employers of labour, who may be called upon to indemnify the societies or committees whose funds have been drained by preventible illness.

(*b*) This subsection is repealed by Sch. XII. Pt. VI. of the L.G.A., 1929, consequent upon the winding up of the Local Taxation Account under s. 85, *ibid.*, *ante*, p. 1948. Reference may be made to s. 104, *ibid.*, *ante*, p. 1965, which enables the Minister to reduce the grants payable to local authorities under Pt. VI. of that Act in certain circumstances.

TRUSTEE ACT, 1925.

(15 GEO. 5, C. 19.)

An Act to consolidate certain enactments relating to trustees in England and Wales (*a*). [9th April, 1925.]

(*a*) Only those parts of this Act which affect local authorities are set out here.

PART I.

INVESTMENTS.

Authorised investments (*a*).

1.—(1) A trustee (*b*) may invest any trust funds in his hands, whether at the time in a state of investment or not, in manner following, that is to say:

(*a*) In any of the parliamentary stocks or public funds or Government securities of the United Kingdom;

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(*b*) On real or heritable securities in the United Kingdom, including the security of a charge on freehold land by way of legal mortgage and a charge under section thirty-three of the Finance Act, 1896;

(*c*) In the stock of the Bank of England or the Bank of Ireland;

(*d*) In India Seven, Five and a half, Four and a half, Three and a half, Three and Two and a half per cent. stock, or in any other capital stock which may at any time be issued by the Secretary of State in Council of India under the authority of any Act of Parliament, and charged on the revenues of India, or any other securities the interest in sterling whereon is payable out of and charged on the revenues of India;

(*e*) In any securities the interest of which is for the time being guaranteed by Parliament;

(*f*) In consolidated stock created by the Metropolitan Board of Works, or by the London County Council, or in debenture stock created by the Receiver for the Metropolitan Police District, or in metropolitan water stock (*c*);

(*g*) In the debenture or rentcharge, or guaranteed or preference, stock of any railway company in the United Kingdom incorporated by special Act of Parliament, and having during each of the ten years last past before the date of investment paid a dividend at the rate of not less than three per centum on its ordinary stock (*d*);

(*h*) In the stock of any railway or canal company in the United Kingdom whose undertaking is leased in perpetuity or for a term of not less than two hundred years at a fixed rental to any such railway company as is mentioned in paragraph (*g*) of this subsection, either alone or jointly with any other railway company;

(*i*) In the debenture stock of any company owning or operating a railway in India the interest in sterling on which is paid or guaranteed by the Secretary of State in Council of India;

(*j*) In the "B" annuities of the Eastern Bengal, the East Indian, the Scinde Punjaub and Delhi, Great Indian Peninsula and Madras Railways, or in any securities substituted therefor, and any like annuities which may at any time after the commencement of this Act be created on the purchase of any other railway by the Secretary of State in Council of India, and charged on the revenues of India, and which may be authorised by Act of Parliament to be accepted by trustees in lieu of any stock held by them in the purchased railway; also in deferred annuities comprised in the register of holders of annuity Class D and annuities comprised in the register of annuitants Class C of the East Indian Railway Company;

(*k*) In the stock of any company owning or operating a railway in India upon which a fixed or minimum dividend in sterling is paid or guaranteed by the Secretary of State in Council of India, or upon the capital of which the interest is so guaranteed;

(*l*) In the debenture or guaranteed or preference stock of any company in the United Kingdom established for the supply of water for profit, and incorporated by special Act of Parliament or by Royal Charter, and having during each of the ten years last past before the date of investment paid a dividend of not less than five per centum on its ordinary stock;

(*m*) In nominal or inscribed stock issued, or to be issued, under the authority of any Act of Parliament or Provisional Order, by the corporation of any municipal borough in the United Kingdom having, according to the returns of the last census prior to the date of investment, a population exceeding fifty thousand, or by any county council in the United Kingdom (*e*);

(*n*) In nominal or inscribed stock issued or to be issued by any commissioners incorporated by Act of Parliament for the purpose of supplying water, and having a compulsory power of levying rates over an area having according to the returns of the last census prior to the date of investment a population exceeding fifty thousand, provided that during each of the ten years last past before the date of investment the rates levied by such commissioners have not exceeded eighty per centum of the amount authorised by law to be levied;

(*o*) In any stocks, funds, or securities authorised under the Colonial Stock Act, 1900 (*f*), or any Act extending the same, but subject to any restrictions thereby imposed;

(*p*) In any local bonds issued under the Housing (Additional Powers) Act, 1919, and mortgages of any fund or rate granted after the passing of that Act under the authority of any Act or Provisional Order by a local authority (including a county council) which is authorised to issue local bonds under that Act (*g*);

(*q*) In any stock or securities issued in respect of any loan raised by the Government of Northern Ireland;

(*r*) In any of the stocks, funds, or securities for the time being authorised for the investment of cash under the control or subject to the order of the court (*h*);

and may also from time to time vary any such investment.

(2) For the purposes of this section—

(*a*) the London and North Eastern Railway Company, the Southern Railway Company, the London Midland and Scottish Railway Company, and the Great Western Railway Company shall each be treated as if it were a railway company in Great Britain incorporated by a special Act of Parliament which had in each of the ten years immediately before the date of amalgamation paid a dividend at a rate of not less than three per centum on its ordinary stock, and, for the purposes of this provision the date of amalgamation means—

(i) as respects the London and North Eastern Railway Company and the Southern Railway Company the first day of January, nineteen hundred and twenty-three; and

(ii) as respects the London Midland and Scottish Railway Company and the Great Western Railway Company the first day of July, nineteen hundred and twenty-three;

(*b*) a railway or canal company in Northern Ireland whose system is situate partly in Northern Ireland and partly in the Irish Free State shall not be deemed to be a railway or canal company in Northern Ireland.

(*a*) See also the following sections, and the definition in s. 68, *post*, p. 2874.

(*b*) See as to the application of this section to local authorities s. 7, Trust Investment Act, 1889, set out in note (*h*) to s. 234, P. H. A., 1875, at p. 528, *ante*.

(*c*) By the Metropolis Water Act, 1902, s. 17 (4), a water stock created under that Act is included amongst securities in which a trustee may invest.

(*d*) See hereon sub-s. (2), *post*, and *In re Tattersall*, *Topham* v. *Armitage*, [1906] 2 Ch. 399; 70 J. P. 537.

(*e*) The census returns for 1901 gave the population of B. as 47,003. A footnote stated that, since the date of the actual census, the borough had been extended so as to include some extra parishes adding "the figures at the date of the census were as follows:—B. (C.B.) 59,762." It was held that B. was a borough "having, according to the returns

Note to Section 1.

of the last census" a population exceeding 50,000 (*In re Druitt, Druitt* v. *Dehler*, [1903] 1 Ch. 446; 67 J. P. 99).

(*f*) Under the Colonial Stock Act, 1900, s. 2, trustees may invest in Colonial stocks registered in the United Kingdom in accordance with the provisions of the Colonial Stock Acts, 1877 to 1900, and with respect to which there have been observed such conditions (if any) as the Treasury may by order notified in the London Gazette prescribe.

(*g*) This provision reproduces s. 9 of the Housing (Additional Powers) Act, 1919, which was repealed by s. 70 and Sched. II. of this Act.

Local Bonds are now issued under s. 87, Housing Act, 1925 (*ante*, p. 1453) which reproduces s. 7 of the Housing (Additional) Powers Act, 1919.

(*h*) As to this, see R. S. C., Order XXII., r. 17.

Purchase at a premium of redeemable stocks; change of character of investment.

2.—(1) A trustee may under the powers of this Act invest in any of the securities mentioned or referred to in section one of this Act, notwithstanding that the same may be redeemable, and that the price exceeds the redemption value.

Provided that, in the case of any stock mentioned or referred to in paragraphs (*g*), (*i*), (*k*), (*l*), (*m*), (*o*), (*p*) and (*q*) of subsection (1) of section one of this Act, which is liable to be redeemed at par or at some other fixed rate, a trustee shall not be entitled to purchase the stock—

(*a*) at a price exceeding fifteen per centum above par or such other fixed rate; nor

(*b*) if the stock is liable to be so redeemed as aforesaid within fifteen years of the date of purchase, at a price exceeding its redemption value.

(2) A trustee may retain until redemption any redeemable stock, fund, or security which may have been purchased in accordance with the powers of this Act, or any statute replaced by this Act.

Discretion of trustees.

3. Every power conferred by the preceding sections shall be exercised according to the discretion of the trustee, but subject to any consent or direction required by the instrument, if any, creating the trust or by statute with respect to the investment of the trust funds.

Power to retain investment which has ceased to be authorised.

4. A trustee shall not be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorised by the trust instrument or by the general law.

* * * * * *

Investment in bearer securities.

7.—(1) A trustee may, unless expressly prohibited by the instrument creating the trust, retain or invest in securities payable to bearer which, if not so payable, would have been authorised investments:

Provided that securities to bearer retained or taken as an investment by a trustee (not being a trust corporation) shall, until sold, be deposited by him for safe custody and collection of income with a banker or banking company.

A direction that investments shall be retained or made in the name or a trustee shall not, for the purposes of this subsection, be deemed to be such an express prohibition as aforesaid.

(2) A trustee shall not be responsible for any loss incurred by reason of such deposit, and any sum payable in respect of such deposit and collection shall be paid out of the income of the trust property.

* * * * * *

Definitions.

68. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

(1) "Authorised investments" mean investments authorised by the instrument, if any, creating the trust for the investment of money subject to the trust, or by law;

* * * * * *

(5) "Instrument" includes Act of Parliament;

* * * * * *

(13) "Securities" include stocks, funds, and shares; and so far as relates to payments into court has the same meaning as in the enactments relating to funds in the Supreme Court and "securities payable to bearer" include securities transferable by delivery or by delivery and endorsement;

(14) "Stock" includes fully paid up shares, and so far as relates to vesting orders made by the court under this Act, includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer either alone or accompanied by other formalities, and any share or interest therein;

* * * * * *

(16) "Transfer" in relation to stock or securities, includes the performance and execution of every deed, power of attorney, act, and thing on the part of the transferor to effect and complete the title in the transferee;

(17) "Trust" does not include the duties incident to an estate conveyed by way of mortgage, but with this exception the expressions "trust" and "trustee" extend to implied and constructive trusts, and to cases where the trustee has a beneficial interest in the trust property, and to the duties incident to the office of a personal representative, and "trustee" where the context admits, includes a personal representative, and "new trustee" includes an additional trustee;

* * * * * *

(20) "United Kingdom" means Great Britain and Northern Ireland.

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Enactments repealed.

70. The Acts mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that, without prejudice to the provisions of section thirty-eight of the Interpretation Act, 1889:

(*a*) Nothing in this repeal shall affect any vesting order or appointment made or other thing done under any enactment so repealed, and any order or appointment so made may be revoked or varied in like manner as if it had been made under this Act;

(*b*) References in any document to any enactment repealed by this Act shall be construed as references to this Act or to the corresponding enactment in this Act.

SECOND SCHEDULE.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
* *	* *	* *
56 & 57 Vict. c. 53 .	The Trustee Act, 1893.	The whole Act.
* *	* *	* *
9 & 10 Geo. 5, c. 99 .	The Housing (Additional Powers) Act, 1919.	Section nine.

Section 1.

LAW OF PROPERTY ACT, 1925.

(15 GEO. 5, c. 20.)

An Act to consolidate the enactments relating to conveyancing and the Law of Property in England and Wales (*a*). [9th April, 1925.]

(*a*) This Act came into force on January 1st, 1926. Its provisions as a whole are beyond the scope of this book, and only those sections which directly affect local authorities have been included in this volume.

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Saving of certain legal estates and statutory powers.

7.—(1) A fee simple which, by virtue of the Lands Clauses Acts, the School Sites Acts, or any similar statute, is liable to be divested, is for the purposes of this Act a fee simple absolute, and remains liable to be divested as if this Act had not been passed (*a*) [and a fee simple subject to a legal or equitable right of entry or re-entry is for the purposes of this Act a fee simple absolute] (*b*).

(2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Act, a fee simple absolute.

(3) The provisions of—

(*a*) the Forfeiture Act, 1870, in regard to the land of a convict;

(*b*) the Friendly Societies Act, 1896, in regard to land to which that Act applies;

(*c*) any other statutes conferring special facilities or prescribing special modes (whether by way of registered memorial or otherwise) for disposing of or acquiring land, or providing for the vesting (by conveyance or otherwise) of the land in trustees or any person, or the holder for the time being of an office or any corporation sole or aggregate (including the Crown) (*c*);

shall remain in full force.

This subsection does not authorise an entailed interest to take effect otherwise than as an equitable interest.

(4) Where any such power for disposing of or creating a legal estate is exercisable by a person who is not the estate owner, the power shall, when practicable, be exercised in the name and on behalf of the estate owner.

(*a*) This subsection relates to superfluous lands under s. 127, L. C. A., 1845, which is not incorporated with the P. H. A., 1875.

(*b*) The words in brackets were added by s. 7 and the Schedule to the Law of Property (Amendment) Act, 1926, to remove doubts which had arisen, and take effect from January 1st, 1926.

(*c*) This provision continues in force the provisions of the L. C. A., 1845, as to vesting land by deed poll, viz. ss. 75 and 77, *ante*, pp. 2112 and 2113.

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Construction of expressions used in deeds and other instruments.

61. In all deeds, contracts, wills, orders and other instruments executed, made or coming into operation after the commencement of this Act, unless the context otherwise requires—

(*a*) "Month" means calendar month;

(*b*) "Person" includes a corporation;

(*c*) The singular includes the plural and vice versâ;

(*d*) The masculine includes the feminine and vice versâ.

* * * * * *

Execution of instruments by or on behalf of corporations (*a*).

74.—(1) In favour of a purchaser a deed shall be deemed to have been duly executed by a corporation aggregate if its seal be affixed thereto in the presence of and attested by its clerk, secretary or other permanent officer or his deputy,

Section 74.

and a member of the board of directors, council or other governing body of the corporation, and where a seal purporting to be the seal of a corporation has been affixed to a deed, attested by persons purporting to be persons holding such offices as aforesaid, the deed shall be deemed to have been executed in accordance with the requirements of this section, and to have taken effect accordingly.

(2) The board of directors, council or other governing body of a corporation aggregate may, by resolution or otherwise, appoint an agent either generally or in any particular case, to execute on behalf of the corporation any agreement or other instrument not under seal in relation to any matter within the powers of the corporation.

(3) Where a person is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of a corporation sole or aggregate, he may as attorney execute the conveyance by signing the name of the corporation in the presence of at least one witness, and in the case of a deed by affixing his own seal, and such execution shall take effect and be valid in like manner as if the corporation had executed the conveyance.

(4) Where a corporation aggregate is authorised under a power of attorney or under any statutory or other power to convey any interest in property in the name or on behalf of any other person (including another corporation), an officer appointed for that purpose by the board of directors, council or other governing body of the corporation by resolution or otherwise, may execute the deed or other instrument in the name of such other person; and where an instrument appears to be executed by an officer so appointed, then in favour of a purchaser the instrument shall be deemed to have been executed by an officer duly authorised.

(5) The foregoing provisions of this section apply to transactions wherever effected, but only to deeds and instruments executed after the commencement of this Act, except that, in the case of powers or appointments of an agent or officer, they apply whether the power was conferred or the appointment was made before or after the commencement of this Act or by this Act.

(6) Notwithstanding anything contained in this section, any mode of execution or attestation authorised by law or by practice or by the statute, charter, memorandum or articles, deed of settlement or other instrument constituting the corporation or regulating the affairs thereof, shall (in addition to the modes authorised by this section) be as effectual as if this section had not been passed.

* * * * * *

(*a*) This section applies only to deeds and instruments executed after January 1st, 1926 (sub-s. (5)). The provisions of this section are alternative and additional to those laid down in any statute affecting a corporation (sub-s. (6)).

Power to discharge or modify restrictive covenants affecting land (*a*).

84.—(1) The Authority (*b*) hereinafter defined shall (without prejudice to any concurrent jurisdiction of the court) have power from time to time, on the application of any person interested in any freehold land affected by any restriction arising under covenant or otherwise as to the user thereof or the building thereon, by order wholly or partially to discharge or modify any such restriction (subject or not to the payment by the applicant of compensation to any person suffering loss in consequence of the order) on being satisfied—

(*a*) that by reason of changes in the character of the property or the neighbourhood or other circumstances of the case which the Authority may deem material, the restriction ought to be deemed obsolete, or that the continued existence thereof would impede the reasonable

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user of the land for public or private purposes without securing practical benefits to other persons, or, as the case may be, would unless modified so impede such user; or

(*b*) that the persons of full age and capacity for the time being or from time to time entitled to the benefit of the restriction, whether in respect of estates in fee simple or any lesser estates or interests in the property to which the benefit of the restriction is annexed, have agreed, either expressly or by implication, by their acts or omissions, to the same being discharged or modified; or

(*c*) that the proposed discharge or modification will not injure the persons entitled to the benefit of the restriction:

Provided that no compensation shall be payable in respect of the discharge or modification of a restriction by reason of any advantage thereby accruing to the owner of the land affected by the restriction, unless the person entitled to the benefit of the restriction also suffers loss in consequence of the discharge or modification, nor shall any compensation be payable in excess of such loss; but this provision shall not affect any right to compensation where the person claiming the compensation proves that by reason of the imposition of the restriction, the amount of the consideration paid for the acquisition of the land was reduced.

(2) The court shall have power on the application of any person interested—

(*a*) To declare whether or not in any particular case any freehold land is affected by a restriction imposed by any instrument; or

(*b*) To declare what, upon the true construction of any instrument purporting to impose a restriction, is the nature and extent of the restriction thereby imposed and whether the same is enforceable and if so by whom (*c*).

(3) The Authority shall, before making any order under this section, direct such enquiries, if any, to be made of any local authority (*d*), and such notices, if any, whether by way of advertisement or otherwise, to be given to such of the persons who appear to be entitled to the benefit of the restriction intended to be discharged, modified, or dealt with as, having regard to any enquiries notices or other proceedings previously made, given or taken, the Authority may think fit.

(4) The Reference Committee mentioned in this section may make rules in relation to any applications to be made to the Authority under this section, and with the consent of the Treasury may prescribe the fees to be paid in connexion with any application to the Authority (*e*).

(5) Any order made under this section shall be binding on all persons, whether ascertained or of full age or capacity or not, then entitled or thereafter capable of becoming entitled to the benefit of any restriction, which is thereby discharged, modified, or dealt with, and whether such persons are parties to the proceedings or have been served with notice or not, but any order made by the Authority shall, in accordance with rules of court, be subject to appeal to the court (*f*).

(6) An order may be made under this section notwithstanding that any instrument which is alleged to impose the restriction intended to be discharged, modified, or dealt with, may not have been produced to the court or the Authority, and the court or the Authority may act on such evidence of that instrument as it may think sufficient.

(7) This section applies to restrictions whether subsisting at the commencement of this Act or imposed thereafter, but this section does not apply where the restriction was imposed on the occasion of a disposition made gratuitously or for a nominal consideration for public purposes (*g*).

(8) This section applies whether the land affected by the restrictions is

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registered or not, but, in the case of registered land, the Land Registrar shall give effect on the register to any order under this section when made.

(9) Where any proceedings by action or otherwise are taken to enforce a restrictive covenant, any person against whom the proceedings are taken, may in such proceedings apply to the court for an order giving leave to apply to the Authority under this section, and staying the proceedings in the meantime (*h*).

(10) In this section " the Authority " means such one or more of the Official Arbitrators appointed for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919, as may be selected by the Reference Committee under that Act.

(11) This section does not apply to restrictions imposed by the Commissioners of Works under any statutory power for the protection of any Royal Park or Garden or to restrictions of a like character imposed upon the occasion of any enfranchisement effected before the commencement of this Act in any manor vested in His Majesty in right of the Crown or the Duchy of Lancaster, nor to restrictions created or imposed—

(*a*) for Naval, Military or Air Force purposes,

(*b*) for civil aviation purposes under the powers of the Air Navigation Act, 1920.

(12) Where a term of more than seventy years is created in land (whether before or after the commencement of this Act) this section shall, after the expiration of fifty years of the term, apply to restrictions affecting such leasehold land in like manner as it would have applied had the land been freehold:

Provided that this subsection shall not apply to mining leases.

(*a*) *Cf.* the provision in s. 102, Housing Act, 1925, *ante*, p. 1464, enabling the County Court to vary a restrictive covenant so as to permit the conversion of a house into several tenements.

The provision in the text may be of use where the provisions of a town planning scheme run counter to restrictive covenants, and also in cases where a local authority desire to purchase land for purposes restrained by covenants affecting the land. It will not enable a local authority to dispose of restrictive covenants imposed in connection with a gift of land for public purposes (sub-s. (7)).

(*b*) *I.e.* an official arbitrator under the Acquisition of Land, etc. Act, 1919 (see the Act set out at pp. 1271, *et seq.*) (sub-s. (10), *infra*).

(*c*) This provision is designed to secure that the scope and validity of a restriction may be ascertained before an inquiry is held under this section. The application is to be made to the Chancery Division by Originating Summons (R. S. C. Order 55, r. 14A).

(*d*) The local authority are to be consulted before an order is made by the official arbitrator under this section.

(*e*) As to such appeals, see R. S. C. Order 54D, rr. 3 and 4.

(*f*) The Law of Property (Restrictive Covenants Discharge and Modification) Rules, 1925, S. R. & O., 1925, No. 1182/L.36, and the Law of Property Restrictive Covenants (Discharge and Modification) Fees Rules, 1925, S. R. & O., 1925, No. 1272/L.48, have been made under this subsection.

(*g*) *E.g.* where land is given as a park subject to a covenant that it shall always be used for that purpose.

(*h*) As to the circumstances under which such a stay will be granted, see *Feilden* v. *Byrne*, [1926] Ch. 620, and as to what constitutes an action to enforce a restrictive covenant, see *Iveagh* v. *Harris* [1929] 2 Ch. 142.

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Restrictions on the perpetuity rule.

162.—(1) For removing doubts, it is hereby declared that the rule of law relating to perpetuities does not apply and shall be deemed never to have applied—

* * * * * *

(*d*) To any grant, exception, or reservation of any right of entry on, or user of, the surface of land or of any easements, rights, or privileges over or under land for the purpose of—

* * * * * *

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(iv) constructing, laying down, altering, repairing, renewing, cleansing, and maintaining sewers, watercourses, cesspools, gutters, drains, water-pipes, gas-pipes, electric wires or cables or other like works.

(2) This section applies to instruments coming into operation before or after the commencement of this Act.

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Rights of pre-emption capable of release.

186. All statutory and other rights of pre-emption affecting a legal estate shall be and be deemed always to have been capable of release, and unless released shall remain in force as equitable interests only (*a*).

(*a*) Statutory rights of pre-emption arise chiefly under Acts relating to the acquisition of land by public bodies, such as local authorities, railway, gas and water, and similar undertakings.

See, for example, The Lands Clauses Act, 1845, s. 128 (*ante*, p. 2133).

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Commons and Waste Lands.

Rights of the public over commons and waste lands (*a*).

193.—(1) Members of the public shall, subject as hereinafter provided, have rights of access for air and exercise to any land which is a metropolitan common within the meaning of the Metropolitan Commons Acts, 1866 to 1898, or manorial waste, or a common, which is wholly or partly situated within a borough or urban district, and to any land which at the commencement of this Act is subject to rights of common and to which this section may from time to time be applied in manner hereinafter provided:

Provided that—

(*a*) such rights of access shall be subject to any Act, scheme, or provisional order for the regulation of the land, and to any byelaw, regulation or order made thereunder or under any other statutory authority; and

(*b*) the Minister shall, on the application of any person entitled as lord of the manor or otherwise to the soil of the land, or entitled to any commonable rights affecting the land, impose such limitations on and conditions as to the exercise of the rights of access or as to the extent of the land to be affected as, in the opinion of the Minister, are necessary or desirable for preventing any estate, right or interest of a profitable or beneficial nature in, over, or affecting the land from being injuriously affected, or for protecting any object of historical interest and, where any such limitations or conditions are so imposed, the rights of access shall be subject thereto; and

(*c*) such rights of access shall not include any right to draw or drive upon the land a carriage, cart, caravan, truck, or other vehicle, or to camp or light any fire thereon; and

(*d*) the rights of access shall cease to apply—

(i) to any land over which the commonable rights are extinguished under any statutory provision;

(ii) to any land over which the commonable rights are otherwise extinguished if the council of the county or county borough in which the land is situated by resolution assent to its exclusion from the operation of this section, and the resolution is approved by the Minister.

(2) The lord of the manor or other person entitled to the soil of any land subject to rights of common may by deed, revocable or irrevocable, declare that this section shall apply to the land and upon such deed being deposited with the Minister the land shall, so long as the deed remains operative, be land to which this section applies.

(3) Where limitations or conditions are imposed by the Minister under this section, they shall be published by such person and in such manner as the Minister may direct.

(4) Any person who, without lawful authority, draws or drives upon any land to which this section applies any carriage, cart, caravan, truck, or other vehicle, or camps or lights any fire thereon. or who fails to observe any limitation or condition imposed by the Minister under this section in respect of any such land, shall be liable on summary conviction to a fine not exceeding forty shillings for each offence.

(5) Nothing in this section shall prejudice or affect the right of any person to get and remove mines or minerals or to let down the surface of the manorial waste or common.

(6) This section does not apply to any common or manorial waste which is for the time being held for Naval, Military or Air Force purposes and in respect of which rights of common have been extinguished or cannot be exercised.

(a) On the subject of Commons the reader is referred to Halsbury's Laws of England, Vol. IV. See also the Commons Act, 1876, *ante*, p. 2375. The provision in the text is an express recognition of public rights in common lands as distinguished from the rights of commoners.

Restrictions on inclosure of commons.

194.—(1) The erection of any building or fence, or the construction of any other work, whereby access to land to which this section applies is prevented or impeded, shall not be lawful unless the consent of the Minister thereto is obtained, and in giving or withholding his consent the Minister shall have regard to the same considerations and shall, if necessary, hold the same inquiries as are directed by the Commons Act, 1876, to be taken into consideration and held by the Minister before forming an opinion whether an application under the Inclosure Acts, 1845 to 1882, shall be acceded to or not (*a*).

(2) Where any building or fence is erected, or any other work constructed without such consent as is required by this section, the county court within whose jurisdiction the land is situated, shall, on an application being made by the council of any county or borough or district concerned, or by the lord of the manor or any other person interested in the common, have power to make an order for the removal of the work, and the restoration of the land to the condition in which it was before the work was erected or constructed, but any such order shall be subject to the like appeal as an order made under section thirty of the Commons Act, 1876 (*b*).

(3) This section applies to any land which at the commencement of this Act is subject to rights of common:

Provided that this section shall cease to apply—

- (*a*) to any land over which the rights of common are extinguished under any statutory provision;
- (*b*) to any land over which the rights of common are otherwise extinguished, if the council of the county or county borough in which the land is situated by resolution assent to its exclusion from the operation of this section and the resolution is approved by the Minister.

(4) This section does not apply to any building or fence erected or work constructed if specially authorised by Act of Parliament, or in pursuance of an Act of Parliament or Order having the force of an Act, or if lawfully erected or constructed in connexion with the taking or working of minerals in or under any land to which the section is otherwise applicable, or to any telegraphic line as defined by the Telegraph Act, 1878, of the Postmaster-General.

(*a*) See the provisions of the Commons Act, 1876, s. 10, *ante*, p. 2379.
(*b*) See this section at p. 2390, *ante*.

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UNIVERSITIES AND COLLEGE ESTATES ACT, 1925.

(15 GEO. 5, c. 24.)

An Act to consolidate the Universities and College Estates Acts, 1858 *to* 1898, *and enactments amending those Acts* (*a*) [9th April, 1925.]

Universities and Colleges to which the Act applies.

1. The universities and colleges to which this Act applies are the Universities of Oxford, Cambridge and Durham, and the colleges or halls in those universities, and the Colleges of Saint Mary of Winchester, near Winchester, and of King Henry the Sixth at Eton, and for the purposes of this Act the Cathedral or House of Christ Church in Oxford shall be considered to be a college in the University of Oxford (*b*).

(*a*) Only those provisions of this Act which may affect local authorities are set out.

(*b*) It is only in respect of the lands belonging to the colleges and halls set out in this section that the provisions of this Act apply.

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Miscellaneous Powers.

Power to grant water rights to statutory bodies.

14.—(1) For the development, improvement, or general benefit of land belonging to the university or college (*a*), a university or college may make a grant in fee simple or absolutely or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, to any statutory authority (*b*), of any water or streams or springs of water in, upon, or under land belonging to the university or college, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining, and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any land belonging to the university or college which is required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to land belonging to the university or college in connexion with any of the aforesaid works.

(2) This section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the land affected.

(3) In this section " statutory authority " means an authority or company for the time being empowered by any Act of Parliament, public, general, or local or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the land belonging to the university or college is situated (*c*).

(4) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money, and be paid to the Minister.

(*a*) Note that the provisions of this section will not apply if a water supply is required from land or water rights belonging to a university or college to which the Act applies (s. 1, *supra*) unless it will be for the development, improvement or general benefit of land belonging to such university or college.

(*b*) See the definition in sub-s. (3), which would include a local authority.

(*c*) Local authorities are empowered by s. 51, P. H. A., 1875, *ante*, p. 126, to provide their district with a supply of water.

Power to grant land for public and charitable purposes.

15.—(1) For the development, improvement, or general benefit of land belonging to the university or college, a university or college may with the consent of the Minister make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously (*a*), of any land belonging to the university or college, with or without any easement, right or privilege over or in relation to land belonging to the university or college, for all or any one or more of the following purposes, namely :—

(i) For the site or the extension of any existing site of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building (*b*) ; or

(ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir (*c*) ; or

(iii) For any other public or charitable purpose in connexion with land belonging to the university or college, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on such land (*b*) :

Not more than one acre shall in any particular case be conveyed for any purpose mentioned in paragraphs (i) and (iii) of this subsection, nor more than five acres for any purpose mentioned in paragraph (ii) of this subsection, unless the full consideration be paid or reserved in respect of the excess.

(2) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money, and be paid to the Minister.

(*a*) A local authority may for the purposes of the P. H. A., 1875, accept gifts of land within or without their district (s. 175, P. H. A., 1875, and note (*c*) thereto, p. 431, *ante*).

(*b*) The land to be given or sold at less than the best price for any of the purposes mentioned in this subsection, is not to exceed one acre in any particular case, and the purpose must be for the development improvement or general benefit of land belonging to the university or college.

(*c*) See note (*b*), *supra*, but the limit of the land in this case is five acres.

Dedication for streets, open spaces, (*a*) etc.

16.—(1) On or after or in connexion with a sale or grant for building purposes, or a building lease or the development as a building estate of land belonging to the university or college, or at any other reasonable time, the university or college, for the general benefit of the residents on land belonging to the university or college—

(i) may cause or require any parts of such land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connexion therewith ; and

(ii) may provide that the parts so appropriated shall be conveyed to or vested in trustees or any company or public body, on trusts or subject to provision for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required ; and

(iii) may execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court of Judicature), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.

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(2) In regard to the dedication of land for public purposes a university or college shall be in the same position as if it were an absolute owner.

(3) A university or college shall have power—

(*a*) to enter into any agreement for the recompense to be made for any land belonging to the university or college which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise; and

(*b*) to consent to the diversion of any highway over land belonging to the university or college under section eighty-five of that Act or otherwise; and

(*c*) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway;

and any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an individual who is the absolute owner of the land.

(4) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money, and be paid to the Minister.

(*a*) The purposes for which land may be applied under this section are less limited by the opening words of this section than the corresponding words in ss. 14 and 15.

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Investment or other application of Capital Money.

Modes of investment or application of capital money.

26.—(1) Capital money paid, whether before or after the commencement of this Act, to the Minister under this Act, or under any enactment hereby repealed, and the proceeds of sale of securities representing any such money, may, with the consent of the Minister, be applied by a university or college to any of the following purposes:—

* * * * * *

(xiii) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the Town Planning Act, 1925 (*a*), or any similar previous Act, made with a view to, or in connexion with, the improvement or development of any land belonging to the university or college, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the university or college with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive, and in payment of the costs and expenses of opposing any such proposed scheme as aforesaid affecting land belonging to the university or college, whether or not the scheme is made;

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(xv) In payment to a local or other authority of such sum as may be agreed in consideration of such authority taking over and becoming liable to repair a private road on land belonging to the university or college or a road for the maintenance whereof the university or college is liable ratione tenuræ (*b*);

(*a*) See this Act at p. 1491, *ante*.
(*b*) Such an agreement may be made under s. 141, P. H. A., 1875, *ante*, p. 262.

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Power of raising Money.

Power to raise money with consent of the Minister for improvements.

30.—(1) A university or college may, with the consent of the Minister, raise by mortgage of any lands belonging to the university or college, such sums of money (together with all reasonable costs and expenses incidental to such

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raising and the application thereof) as may be certified by the surveyor of the university or college to be properly required, and may be authorised by the Minister, carrying interest at a rate not exceeding the rate to be specified in the order evidencing the consent of the Minister.

(2) The sums so raised shall be applied for or towards the restoration and improvement and (if need be) enlargement of any house or building forming part of or connected with or otherwise belonging to the university or college, or for or towards the erection of new or additional houses or buildings, or for the extension and improvement of any existing houses or buildings upon any lands belonging to the university or college, or for the execution of any improvement specified in the First Schedule to this Act or for any other permanent and lasting improvement of any lands belonging to the university or college.

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SCHEDULE.

FIRST SCHEDULE.

Section 30.

PART I.

IMPROVEMENTS FOR WHICH A UNIVERSITY OR COLLEGE MAY BORROW OR APPLY CAPITAL MONEY.

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(ix) Farm roads; private roads; roads or streets in villages or towns:

(xi) Cottages for labourers, farm-servants, and artisans, employed on the land or not:

* * * * * *

(xvii) Markets and market-places:

* * * * * *

(xviii) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land (*a*):

(xix) Sewers, drains, watercourses . . . and other works necessary or proper in connexion with any of the objects aforesaid.

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(xxv) The erection and building of dwelling-houses, shops, buildings for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, gasworks, electric light or power works, or any other works necessary or proper in connexion with the development of the land belonging to the university or college as a building estate (*b*):

(*a*) See also s. 16, *ante*, p. 2883.
(*b*) See also s. 15, *ante*, p. 2882.

STATUTORY GAS COMPANIES (ELECTRICITY SUPPLY POWERS) ACT, 1925.

(15 & 16 GEO. 5, C. 44.)

An Act to facilitate the supply of electricity by statutory gas companies.

[31st July, 1925.]

As to granting of Electricity Orders to statutory gas companies.

1. Statutory gas companies (*a*) may apply for special Orders under the Electricity (Supply) Acts, 1882 to 1922, and such companies may use their funds in the promotion of such applications.

(*a*) See the definition in s. 3, *post*, p. 2886.

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Providing for capital powers to statutory gas companies for electricity purposes.

2. The Electricity Commissioners may (*a*) by special Order (*b*) under the Electricity (Supply) Acts, 1882 to 1922, subject after consultation in each case with the Board of Trade to such conditions, limitations and provisions (including the keeping of separate accounts) as they see fit to impose or insert, empower any statutory gas company to apply their funds, and to raise capital or borrow money from time to time for electricity purposes authorised by any Act of Parliament or any Order having the force of an Act of Parliament:

Provided that the principal moneys secured by any mortgage debenture or debenture stock authorised by any such special Order shall rank after any mortgage debenture or debenture stock of any such company existing at the time such Order was made.

(*a*) If the Commissioners are unable or unwilling to make the order they are to refer the matter to the Minister of Transport who may himself make an order (s. 49, Electricity (Supply) Act, 1926, *post*, p. 2937).

(*b*) As to the making of special orders, see ss. 26 and 35, Electricity (Supply) Act, 1919, *ante*, pp. 2799 and 2801. The Commissioners have issued rules with respect to applications under this Act.

Definition.

3. The expression "statutory gas companies" means any company or person authorised to sell gas by any Act of Parliament or any Order having the force of an Act of Parliament.

Short title.

4. This Act may be cited as the Statutory Gas Companies (Electricity Supply Powers) Act, 1925.

FIRE BRIGADE PENSIONS ACT, 1925.

(15 & 16 GEO. 5, c. 47.)

An Act to make provision respecting the retirement, pensions, allowances and gratuities of professional firemen who are members of fire brigades in Great Britain, and their widows, children and dependants (*a*) [31st July, 1925.]

RETIREMENT AND PENSIONS.

Compulsory retirement.

1.—(1) Retirement shall be compulsory for professional firemen (*b*) of all ranks on attaining the age of sixty, except that in special cases the local authority (*c*) may extend any such person's service for a further period on being satisfied that such extension would be in the interests of efficiency.

(2) Retirement shall also be compulsory for any professional fireman (*b*) who, having become entitled to retire without a medical certificate and receive an ordinary pension, is required to retire by the local authority (*c*) on the ground that his retention in the brigade would not be in the interests of efficiency.

(*a*) This Act applies throughout to "professional firemen," *i.e.* members of a fire brigade maintained by the council of any county, county borough, municipal borough, urban or rural district or parish, who are wholly and permanently employed on fire brigade duties, and to whom the Police Pensions Act, 1921, do not apply (s. 23 (1) and (2), *post*).

The Act has been amended by the Fire Brigade Pensions Act, 1929, *post*, p. 3033. The effect of these amendments is noted in the text.

(*b*) See the definition in s. 23 (1), *post*, p. 2897.

(*c*) See the definition in s. 23 (2), *post*, p. 2897.

Pensions and gratuities of professional firemen.

2.—(1) Subject to the provisions of this Act, every professional fireman (*a*)—

(*a*) if he has completed twenty-five years' approved service (*b*), and has attained the age of fifty-five, and has given three months' written notice, or such shorter notice as the local authority may accept, to the local authority of his intention to retire, shall be entitled, on the expiration of such notice, without a medical certificate to retire and receive an ordinary pension for life; and

(*b*) if he has completed ten years' approved service, and is incapacitated (*c*) for the performance of his duty by infirmity of mind or body, shall be entitled on a medical certificate to retire and receive an ordinary pension for life; and

(*c*) if at any time he is incapacitated for (*c*) the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty (*d*) without his own default, shall be entitled on a medical certificate to retire and receive a special pension for life; and

(*d*) if he has not completed ten years' approved service, and is incapacitated (*c*) for the performance of his duty by infirmity of mind or body not occasioned by such injury as aforesaid, shall be entitled on a medical certificate to retire and receive a gratuity.

(2) Where a professional fireman is compelled to retire under this Act on the ground of age, then—

(*a*) if he is not entitled without a medical certificate to retire and receive a pension, he shall be entitled to receive such ordinary pension or gratuity as he would have been entitled to receive had he then retired on a medical certificate;

(*b*) any pension or gratuity to which he is entitled shall be payable as from his retirement, and no notice of intention to retire shall be required.

(3) A chief officer (*e*) appointed after the commencement of this Act shall not, except with the consent of the local authority, be entitled to retire without a medical certificate and receive an ordinary pension, unless at the time of his retirement he has attained the age of sixty.

(4) No gratuity shall be payable to a professional fireman who retires before the expiration of any period of probationary service.

(*a*) See the definition in s. 23 (1), *post*, p. 2897.

(*b*) "Approved service" is defined in s. 6, *post*, p. 2888. In the case of professional firemen, serving at the commencement of this Act, retirement does not become compulsory at the age of fifty-five, unless and until the fireman has completed twenty-five years' approved service. As to approved service for such serving firemen, see s. 22, *post*, p. 2896.

(*c*) As to certification of incapacity, and the necessity for the incapacity being probably permanent (see s. 10, *post*, p. 2890).

(*d*) See as to injuries to be deemed to have been received in the execution of his duty s. 23 (5), *post*, p. 2898).

(*e*) This includes the chief officer of the fire brigade by whatever title he may be known (s. 23 (3), *post*, p. 2897).

Pensions, allowances and gratuities to widows, children and dependants (*a*).

3.—(1) Subject to the provisions of this Act, where a professional fireman (*b*) dies while serving in the fire brigade from the effects of an injury received in, or disease resulting from, the execution of his duty (*c*) without his own default, or having been granted a pension in respect of any such injury or disease, whether before or after the commencement of this Act, dies from the effects of such injury or disease—

(*a*) his widow shall be entitled, where the injury was accidental or where death was due to disease resulting from the execution of his duty, to a widow's ordinary pension, and where the injury was non-accidental (*d*), to a widow's special pension;

(*b*) his children under sixteen years of age shall be entitled to allowances until they severally reach the age of sixteen years; and

(c) the local authority may, if they think fit, grant a gratuity to any relative of his who has been wholly or mainly dependent upon him.

(2) Where the widow of a professional fireman (b) is entitled to a pension, or a child of a professional fireman is entitled to an allowance, under this Act, and the local authority are satisfied that there are special reasons for the grant of a gratuity in lieu thereof, the local authority may at their discretion grant a gratuity accordingly, subject to the consent of the man's widow or, if he eaves no widow, the guardian of the child, as the case may be (e).

(a) As to the scale of pensions, etc., see s. 5 and the Schedule to this Act. An appeal may be lodged against a refusal by a local authority to grant a pension, etc., under this section (s. 15). As to the forfeiture or suspension of a pension or allowance, see ss. 13 and 16. Penalties are imposed for obtaining a pension, etc., by fraud (s. 14). Pensions may be refused on the same grounds as those on which they may be forfeited (s. 19).

(b) See the definition in s. 23 (2), *post*, p. 2897.

(c) See as to injuries to be deemed to be received in the execution of his duty s. 23 (5), *post*, p. 2898).

(d) As to non-accidental injuries, see s. 23 (6), *post*, p. 2898.

(e) This subsection enables a local authority, if satisfied that special reasons exist, to grant a gratuity in lieu of a pension. The authority have, however, an absolute discretion, once they are so satisfied, and their decision cannot be questioned by appeal.

Pension and compensation not payable for same injury.

4. When a professional fireman (a) is entitled to receive a pension on the ground that he is incapacitated in the performance of his duty by infirmity of mind or body occasioned by an injury, or the widow or any child of a professional fireman is entitled to receive a pension or an allowance in consequence of his dying from the effects of an injury, neither the fireman nor his widow or personal representatives shall be entitled to receive compensation or damages from the local authority in respect of the same injury or the consequences thereof (b).

(a) See the definition in s. 23 (2), *post*, p. 2897.

(b) Under the provision in the text the receipt of a pension as a consequence of an injury will debar the person receiving such pension from obtaining compensation or damages from the local authority for the same injury. *Cf. Watts* v. *Manchester Corporation*, [1917] 1 K. B. 791; 10 B. W. C. C. 191.

Scales of pensions, allowances and gratuities.

5. The pensions, allowances and gratuities payable under this Act shall be in accordance with the scales and provisions contained in the Schedule to this Act (a) and the general rules contained in Part III. of that schedule shall apply to such pensions, allowances and gratuities.

(a) See the Schedule at p. 2899, *post*.

Approved Service.

Service to be reckoned for pension.

6.—(1) The service of a professional fireman (a) for the purposes of this Act shall be subject to such deductions in respect of sickness, misconduct, or neglect of duty as may be made therefrom in pursuance of any regulations affecting the brigade to which he belongs, not exceeding the period during which he is absent from duty on account of sickness, misconduct or neglect of duty, as the case may be; and, subject to the provisions of this Act as to professional firemen who were serving as such at the commencement of this Act (b), the expression "approved service" shall, for the purposes of this Act, mean such service as may, after such deductions as aforesaid (if any), be certified by the chief officer of the fire brigade with the approval of the local authority to have been diligent and faithful service, but shall not include service before attaining the age of twenty years, except in the case of a fireman who before attaining that age is incapacitated for the performance of his duty by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default.

(2) Where a deduction is made from the service of a professional fireman in respect of sickness, misconduct, or neglect of duty, notice of the deduction shall be given to him as soon as may be after the occurrence of the cause for which the deducton is made; and he may appeal to the local authority (c) against any act of his chief officer which prevents him from reckoning any period of actual service as approved service, and any period of actual service allowed on such appeal shall be deemed to be approved service.

(a) See the definition in s. 23 (2), *post*, p. 2897.
(b) As to such firemen, see s. 22, *post*, p. 2896.
(c) The decision of the local authority on this point is apparently final, though it is submitted that if the failure to count time as approved service resulted in the failure of a claim to a pension an appeal would lie under s. 15, *post*, p. 2893. See the definition of local authority in s. 23 (1), *post*, p. 2897.

Continuous service in two or more fire brigades.

7.—(1) Where a professional fireman (a) has served in more than one fire brigade and has completed not less than one year's approved service as a professional fireman in any fire brigade from which, after the commencement of this Act, he has, with the written sanction of the local authority, removed to another brigade, such approved service shall be reckoned as approved service in the brigade in which he was serving at the time of his death or retirement.

(2) Where any professional fireman who is entitled under this section to reckon any previous service in another brigade, or his widow or any child or any dependant of his, in due course is granted a pension, gratuity or allowance, the local authority in whose service he then is, or was at the time of his death or retirement, shall be entitled to call upon the other local authority or authorities and they shall contribute a proportionate part of any pension, gratuity or allowance granted to him or his widow or any such child or dependant, reckoned according to his approved service and pay during his service in such brigade, and the said proportionate part shall be settled by agreement between the local authorities, or in default of agreement by an arbitrator appointed by the Secretary of State.

(a) See the definition in s. 23 (2), *post*, p. 2897.

Discontinuous service in one or more brigades, etc.

8.—(1) Where a professional fireman (a), who has retired from a fire brigade without a pension, subsequently, after the commencement of this Act, rejoins the same fire brigade, there shall be reckoned as approved service the period of approved service which he was entitled to reckon at the end of his previous service, if he repays to the local authority the amount of any gratuity which may have been granted to him, or of any rateable deductions from his pay which may have been paid to him by the local authority in respect of his previous service (b).

(2) Where a professional fireman, who has retired without a pension from a fire brigade in which he was employed as a professional fireman or from a police force as a member of which he was employed as a whole-time fireman, subsequently, after the commencement of this Act, takes service as a professional fireman in a fire brigade, the local authority of that brigade may, if they think fit, allow the period of approved service, not being less than one year, which he was entitled to reckon at the end of his service in the first mentioned brigade, or the police force, to be reckoned as approved service, if he pays or has paid to the local authority of the fire brigade in which he has taken service the amount of any gratuity which may have been granted to him, or of any rateable deductions from his pay which may have been paid to him, in pursuance of this Act, or, if he retired from a fire brigade before the commencement of this Act, or from any police force, the amount

of any rateable deductions which would have been made from his pay in respect of his previous service if this Act had been in force during such service and had been applicable thereto.

(3) Payments by a professional fireman under this section shall be effected by means of deductions from pay, or otherwise as the local authority may determine.

(*a*) See the definition in s. 23 (2), *post*, p. 2897.

(*b*) As to the return of rateable deductions, see s. 18, *post*, p. 2894, as amended by the Act of 1929.

Service of men belonging to reserve forces.

9. Where a professional fireman (*a*) with the knowledge of the local authority (*b*) or of the chief officer of the brigade belongs to any royal naval reserve force or army reserve or air force reserve, and is required for training or for permanent service, he shall be entitled, on returning to the fire brigade after the end of such training or service, to reckon any approved service which he was entitled to reckon at the commencement of such training or service; and his period of training or service and any period during which he was incapacitated for fire duty owing to an injury received during his period of training or service without his own default, shall be reckoned in the computation of the approved service.

(*a*) See the definition in s. 23 (2), *post*, p. 2897.

(*b*) See the definition in s. 23 (1), *post*, p. 2897.

GRANT, REVISION, FORFEITURE AND OFFENCES IN RESPECT OF PENSIONS.

Proof of incapacity for duty, liability to serve again and revision of pension.

10.—(1) Before granting a pension or gratuity on the ground that a professional fireman (*a*) is incapacitated by infirmity of mind or body for the performance of his duty, the local authority shall be satisfied (*b*) by the evidence of some duly qualified medical practitioner or practitioners, selected by the local authority, that he is so incapacitated, and that the incapacity is likely to be permanent.

(2) Where the application is for a special pension, the local authority shall also be satisfied that the injury was received in the execution of duty (*c*), that it was received without the default of the applicant, and that the infirmity is attributable to the injury, and shall determine whether the injury was accidental or not (*d*), and the degree of disablement; and, for the purpose of determining any of the said questions which ought to be determined on medical grounds, shall take the like evidence (*b*) as above mentioned.

(3) Where any pension is granted on the ground of incapacity for the performance of duty, the local authority shall, yearly or otherwise, until the power under this section of requiring the pensioner to serve again ceases, satisfy themselves that the incapacity continues, and, unless they resolve that such evidence is unnecessary, shall satisfy themselves by the like evidence (*b*) as above mentioned.

(4) In the event of the incapacity ceasing before the time at which the pensioner would, if he had continued to serve, have been entitled without a medical certificate to retire and receive a pension for life, the local authority may cancel his pension and require him to serve again in the fire brigade, in a rank not lower than the rank which he held before his retirement, and at a rate of pay not less than that on which his pension was calculated.

(5) Where a pensioner so serves again, the provisions of this Act shall apply as if he had not previously retired, save that, except where the pension was granted in respect of a non-accidental injury received in the execution of duty, he shall not reckon as approved service the time which elapsed between his former retirement and the recommencement of his service.

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(6) Any special pension shall be granted for such period as may be fixed by the local authority, and, if at the expiration of that period the degree of disablement is unaltered, the pension shall, at the discretion of the local authority, be either renewed from time to time or made permanent. If within five years of the pensioner's retirement or at any time before the pension is made permanent the local authority are satisfied by the evidence of a duly qualified medical practitioner (*b*) that the degree of the pensioner's disablement has substantially altered, the pension shall be reassessed according to the degree of disablement.

(7) If a professional fireman or pensioner refuses or wilfully or negligently fails, when required by the local authority, to be examined by some duly qualified medical practitioner selected by that authority, the local authority may deal with him in all respects as if they were satisfied by the evidence of such a practitioner as to whether he is incapacitated for the performance of duty or, as the case may be, as to the degree of his disablement.

(8) (*a*) Where, for the purposes of this section, any person is medically examined by a medical practitioner selected by the local authority, and is dissatisfied with his opinion on any medical question, he may appeal in accordance with rules made by the Secretary of State, to an independent person nominated by the Secretary of State.

(*b*) The local authority shall be bound by the decision of any medical question which is determined on any such appeal, but, subject to this provision, the decision of the local authority on any question arising under this section shall be final.

(*a*) See the definition in s. 23 (2), *post*, p. 2897.

(*b*) An appeal will lie against the evidence of the medical practitioner and the local authority will be bound by the opinion of the person hearing the appeal, but in all other respects their decision under this section is final (sub-s. (8)), and therefore not open to appeal under s. 15, *post*, p. 2893. As to the meaning of total disablement and degree of disablement, see s. 23 (4), *post*, p. 2898.

(*c*) As to injuries which are to be deemed to have been received in the execution of duty, see s. 23 (5), *post*, p. 2898.

(*d*) Injuries received under certain circumstances are to be deemed non-accidental, see s. 23 (6), *post*, p. 2898.

Power to reduce pensions where infirmity is due to misconduct.

11. Where a professional fireman (*a*) retires on account of infirmity of mind or body, whether occasioned by injury or otherwise, and the local authority are satisfied that he has brought about or contributed to the injury or infirmity by his own neglect, default or vicious habits, the local authority may, in their discretion (*b*), reduce the amount of his pension or gratuity by an amount not exceeding one-half of that to which he would be otherwise entitled.

(*a*) See the definition in s. 23 (2), *post*, p. 2897.

(*b*) No appeal therefore lies against their decision under this section (s. 15, *post*, p. 2893).

Assignment of pensions and regulations as to payment of pensions, &c.

12. The following provisions shall have effect with respect to every pension allowance or gratuity (in this section referred to as a grant) payable by the local authority to any person (in this section referred to as a pensioner) :—

(1) Every assignment of and charge on a grant and every agreement to assign or charge a grant, shall, except so far as made for the benefit of the family of the pensioner, be void, and on the bankruptcy of the pensioner the grant shall not pass to any trustee or other person acting on behalf of the creditors :

(2) Where any [poor] (*a*) relief is given to a pensioner or to any one whom the pensioner is liable to maintain, the local authority may pay the whole or any part of the grant, or of the instalment thereof next due, to the [council of the county or county borough] (*a*) or other

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authority giving the relief, and any sum so paid may be applied in repayment of any sums expended in such relief, and subject thereto, shall be paid or applied by the [council of the county or county borough] (*a*) or other authority to or for the benefit of the pensioner:

(3) If the pensioner neglects to maintain any person whom the pensioner is liable to maintain, the local authority may in their discretion pay or apply the whole or any part of the grant to or for the benefit of that person:

(4) Where any sum is due from the pensioner to the local authority, the local authority may deduct the amount of any such sum from the grant:

(5) If the pensioner appears to the local authority to be insane or otherwise incapacitated to act, the local authority may pay so much of the grant as they think fit to the institution or person having the care of the pensioner, but shall in such case pay the surplus (if any) for or towards the maintenance and benefit of the dependants (if any) of the pensioner except so far as the said surplus may be otherwise applied for the benefit of the pensioner:

(6) On the death of a pensioner to whom a sum not exceeding one hundred pounds is due on account of a grant, then, if the local authority so direct, probate or other proof of the title of the personal representative of the deceased may be dispensed with, and the sum may be paid or distributed to or among the persons appearing to the local authority to be beneficially entitled to the personal estate of the deceased pensioner or to or among any one or more of those persons as the local authority may think fit, and the local authority, and any officer of the local authority making the payment, shall be discharged from all liability in respect of any such payment or distribution:

(7) Every grant which is a pension or allowance shall be paid, after the first instalment, in advance, except in the case of refusal to quit fire brigade quarters or any premises owned or rented by or on behalf of the local authority, or to give up any equipment, or to make any payment due to the local authority; but, where a person dies whilst in receipt of a grant paid in advance, no return shall be required of any payments which have been made in respect of any period after his death:

(8) Any sum payable to a minor on account of a grant may be paid either to the minor or to such person and on such conditions for the benefit of the minor as to the local authority seems expedient:

(9) Where a payment is made to any person by a local authority in pursuance of this section, the receipt of that person shall be a good discharge to that authority for the sum so paid.

(*a*) Words in brackets substituted for "parochial" and "guardians" in consequence of L. G. A., 1929, Sched. X., r. 1, *ante*, p. 2028.

Forfeiture of pension or allowance (*a*).

13.—(1) A pension or allowance under this Act is granted only upon condition that it becomes forfeited, and may be withdrawn by the local authority, in any of the following cases, that is to say, if the grantee—

(*a*) is convicted of any offence and is sentenced to penal servitude or to imprisonment for a term exceeding one month; or

(*b*) knowingly associates with thieves or reputed thieves; or

(*c*) enters into or continues to carry on any business, occupation or employment which is illegal, or in any way makes use of the fact of his former employment in the fire brigade in a manner which the local authority consider to be discreditable or improper.

(2) Such forfeiture and withdrawal may affect the pension or allowance wholly or in part, and may be permanent or temporary, as the local authority may determine.

(a) As to other grounds for forfeiture see s. 14, and as to appeals against forfeiture, see s. 15.

Penalty for obtaining pension, etc. by fraud.

14. If a person obtains or attempts to obtain for himself or for any other person—

(a) any pension, gratuity, or allowance under this Act, or any payment on account thereof; or

(b) the return of any rateable deductions from pay under this Act;

by means of any false declaration, false certificate, false representation, false evidence or personation, or by malingering or feigning disease or infirmity, or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty-five pounds, and where a person has been convicted of an offence under this section the local authority may direct that he shall forfeit, in whole or part, any pension, gratuity, allowance or other sum so obtained.

Appeal in case of forfeiture or refusal of pension, gratuity or allowance.

15.—(1) Where—

(a) a pension or allowance after being granted has subsequently in pursuance of this Act been declared to have been forfeited (a) or

(b) any person claims as of right a pension, allowance or gratuity under this Act, and the local authority do not admit the claim (b); or

(c) any person claims as of right a pension, allowance or gratuity under this Act larger than that granted to that person (c);

the person aggrieved may apply to the local authority for a re-consideration of the case, and, if aggrieved by the decision upon such re-consideration, may apply to the next practicable court of quarter sessions for the county or borough within which the professional firemen concerned last served, and that court, after inquiry into the case, may make such order in the matter as appears to the court just; but nothing in this section shall confer a right to appeal against the exercise of any discretion, or against any decision which is declared by this Act to be final (d).

(2) An appeal shall lie on a point of law from any decision of quarter sessions under this section to the High Court in accordance with rules of court, and the decision of the High Court shall be final, but in all other respects the decision of the quarter sessions shall be final.

(a) *I.e.*, under ss. 13 and 14, *ante*.

(b) Pensions are claimed as of right under ss. 2 and 3 *ante*, pp. 2886, 2887. Pensions may be refused on the same grounds as those on which they may be forfeited, *i.e.*, under ss. 13 and 14 (s. 19, *post*, p. 2894).

(c) Except in the case of a reduction in the amount of the pension under s. 11, *ante*, p. 2891, as to which the local authority have a discretion.

(d) All decisions of a local authority under s. 10, *ante*, p. 2890, are final, and therefore not open to appeal under this section.

Suspension of pension in case of service under a local authority.

16. Where a person in receipt of a pension from a local authority under this Act takes service under any local authority (a) in any capacity, his pension may be suspended by the first-mentioned authority in whole or in part so long as he remains in that service.

(a) See the definition of local authority in s. 23 (1), *post*, p. 2897.

RATEABLE DEDUCTIONS.

Rateable deductions from pay.

17. The local authority of every fire brigade (*a*) shall deduct from the pay of every professional fireman (*b*) sums at the rate of five per cent. of his pay (in this Act referred to as rateable deductions).

(*a*) This curious expression apparently means every local authority maintaining a fire brigade.

(*b*) See the definition in s. 23 (2), *post*, p. 2897.

Return of rateable deductions.

18.—(1) Where a professional fireman not having been dismissed or required to retire as an alternative to dismissal, leaves the brigade without a pension or gratuity, the local authority, except where he leaves it in such circumstances as will enable him to reckon his approved service in the fire brigade for the purpose of pension (*a*), shall pay him the whole of the rateable deductions (*b*) which have been made from his pay [together with any sum paid by him to the local authority under subsection (2) of section twenty-two (*c*) of this Act] (*d*).

(2) Where a professional fireman is required to retire as an alternative to dismissal, the local authority may, if they think fit, pay him the whole or any part of such rateable deductions [and sum] (*d*) as aforesaid, or apply the same in such manner as they think fit for the benefit of his wife or children (if any), and, where a professional fireman is dismissed, the local authority may, if they think fit, apply the whole or any part of such rateable deductions [and sum] (*d*) as aforesaid in such manner as they think fit for the benefit of his wife or children (if any).

[(3) Where a professional fireman while serving in the fire brigade, dies in such circumstances that no pension, allowance, or gratuity is payable under section three (*e*) of this Act at his death, the local authority shall pay to his widow or if he leaves no widow, to his personal representatives the whole of the rateable deductions which have been made from his pay, together with any sum paid by him to the local authority under subsection (2) of section twenty-two (*c*) of this Act.

Provided that, where the deceased leaves no widow the local authority may if in the circumstances of the case they consider it would be unreasonable to require probate or other proof of the title of his personal representatives pay or distribute the amount payable under this subsection to or among the persons appearing to the local authority to be beneficially entitled to the personal estate of the deceased or to or among any one or more of those persons as the local authority may think fit (*f*), and the local authority, and any officer of the local authority making the payment, shall be discharged from all liability in respect of any such payment or distribution (*d*).]

(*a*) *I.e.* by transfer to another brigade under s. 7, *ante*, p. 2889.

(*b*) This expression is defined in s. 17, *supra*.

(*c*) See this subsection at p. 2897, *post*.

(*d*) Words in square brackets added by the Fire Brigade Pensions Act, 1929, s. 1, *post*, p. 3033.

(*e*) See this section at p. 2887, *ante*.

(*f*) *Cf.* s. 12 (6), *ante*, p. 2892.

GENERAL.

Saving of right of dismissal and reduction in rank.

19. Nothing in this Act shall prejudice any existing right of dismissing a professional fireman, or requiring him to retire as an alternative to dismissal, or reducing him to any lower rank or lower rate of pay, or shall prevent his claim to pension from being refused on account of misconduct, or on account of any of the grounds on which his pension, if granted, would be liable to be forfeited and withdrawn (*a*).

(*a*) As to the grounds upon which a pension may be forfeited or withdrawn, see ss. 13 and 16, *ante*, pp. 2892, 2893.

Fire brigade pension fund.

20.—(1) Subject as hereinafter provided, the local authority shall establish and administer a fire brigade pension fund to which shall be carried and credited—

(*a*) the amounts deducted by the local authority under this Act from the pay of professional firemen (*a*);

(*b*) an equal amount transferred by the local authority from the district or other fund from which the other expenses of the fire brigade are defrayed;

(*c*) the dividends and interest arising out of the investment or use of the fire brigade pension fund, or any part thereof;

(*d*) any sums transferred by the local authority from any other pension or superannuation fund in pursuance of this Act (*b*);

(*e*) any sums paid to the local authority by professional firemen in pursuance of this Act (*a*); and

(*f*) any other sums which the local authority may resolve to carry to such fund from the district or other fund from which the expenses of the fire brigade are defrayed:

Provided that in the case of any local authority employing less than ten professional firemen the provisions of this Act with regard to the establishment of a fire brigade pension fund shall not apply unless the local authority so resolve, and where no such pension fund is established the payments mentioned in paragraphs (*a*), (*c*), (*d*), and (*e*) of this subsection shall be made to the district or other fund from which the expenses of the fire brigade are defrayed.

(2) Subject as hereinafter provided, all payments under this Act by a local authority to professional firemen, their widows, children, or dependants, or to another local authority, shall be made from the fire brigade pension fund or, if no such fund is established, from the district or other fund from which the other expenses of the fire brigade are defrayed.

(3) The local authority may use for the purpose of any statutory borrowing power possessed by them any moneys forming part of the fire brigade pension fund and not for the time being required for payments to be made under this Act, subject to the following conditions:—

(*a*) the moneys so used shall be repaid to the fire brigade pension fund within the period, under the conditions and out of the fund, rate, or revenue within, under, and out of which a loan raised under the statutory borrowing power would be repayable;

(*b*) interest shall be paid to the fire brigade pension fund on any moneys so used and for the time being not repaid to the fund, and shall be calculated at a rate per cent. per annum to be determined by the local authority and equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the statutory borrowing power, and shall be paid out of the fund, rate, or revenue which would be applicable to the payment of interest on a loan raised under the statutory borrowing power; and

(*c*) the statutory borrowing power for the purpose of which the moneys are so raised shall be deemed to be exercised by such use as fully in all respects as if a loan of the same amount had been raised in exercise of the power.

(4) The surplus of the annual income of the fire brigade pension fund above

the expenditure thereout shall from time to time be invested in securities in which trustees are by law authorised to invest trust funds (*d*), or be used in the manner hereinbefore provided, and the income arising from time to time from such investment or use shall be paid into that fund.

(5) If at any time the income of the fire brigade pension fund is insufficient to meet the sums payable out of the fund, the deficiency may be met by the sale of investments made under the preceding subsection, provided that the value of the investments sold in any one year ending on the thirty-first day of March shall not exceed one-tenth of the total capital assets of the fund at the commencement of that year, and the balance of the deficiency shall be met from the district or other fund from which the other expenses of the fire brigade are defrayed.

(*a*) *I.e.* under s. 17, *ante*, p. 2894.
(*b*) *I.e.* under s. 24 (3), *post*, p. 2898.
(*c*) *I.e.* under s. 22 (2) and (4), *post*, p. 2897.
(*d*) As to trustee securities, see the Trustee Act, 1925, s. 1 (*ante*, p. 2871).

Application to chief officers of fire brigades.

21. The provisions of this Act, unless otherwise expressly stated (*a*), shall apply to a chief officer of a fire brigade in like manner, so nearly as circumstances admit, as they apply to any other professional fireman, except that the certificate of approved service (*b*) and the sanction to removal from one brigade to another (*c*) may be given by the local authority.

(*a*) *E.g.* see s. 2 (3), *ante*, p. 2887.
(*b*) Under s. 6, *ante*, p. 2888.
(*c*) *I.e.* under s. 7, *ante*, p. 2889.

Application to serving professional firemen.

22.—(1) Save as hereinafter expressly provided, this Act shall apply to professional firemen (*a*) who were serving as such at the commencement of this Act (*b*), provided as follows :—

(*a*) Any such fireman serving at the commencement of this Act shall be entitled to reckon as approved service for the purpose of the grant of pensions, allowances and gratuities under this Act any past pensionable service as hereinafter defined, but so that any such period of past pensionable service which has not been contributory service (*c*) as hereinafter defined shall be reckoned as half that period of approved service ;

(*b*) " Past pensionable service " shall include any service before the commencement of this Act (after reaching the age of twenty years) which is—

(i) service as a professional fireman in the same fire brigade or previous service which was continuous or practically continuous therewith as a professional fireman in another fire brigade, if such service is certified by the chief officer of the fire brigade or by the local authority to have been diligent and faithful service ; or

53 & 54 Vict. c. 45.
11 & 12 Geo. 5, c. 31.

(ii) approved service as a whole-time fireman to whom, as being a member of a police force employed as a fireman, the Police Act, 1890, or the Police Pensions Act, 1921, applied, if such service was continuous or practically continuous with his service as a professional fireman ; or

(iii) any other previous service as a whole time fireman which the local authority may approve as past pensionable service for the purposes of this section :

Provided that nothing in this section shall be deemed to affect any agreement made between a professional fireman and the local authority as to the reckoning of any previous service as approved service :

Section 22.

(2) Notwithstanding the foregoing provisions of this section, the pension or gratuity granted to any professional fireman who is serving at the commencement of this Act and whose past pensionable service was not wholly contributory service (*d*), may be increased, at the discretion of the local authority, to an amount not exceeding the pension or gratuity to which such professional fireman would have been entitled if his past pensionable service had not been subject to any reduction in reckoning his approved service, if such professional fireman pays to the local authority such sum as the local authority may fix, not exceeding the amount of the rateable deductions (*e*) which would have been made from his pay during the period of his past pensionable service which was not contributory service if this Act had been in force during such non-contributory service and had been applicable thereto :

(3) Where, in pursuance of the provisions of the preceding subsection, the pension or gratuity granted to a professional fireman exceeds any pension or gratuity which might have been granted if he had been entitled to reckon only his contributory service for purposes of pension, any such excess shall be paid out of the district or other fund from which the other expenses of the fire brigade are defrayed and not out of the fire brigade pension fund :

(4) For the purposes of this section, "contributory service" means service in respect of which deductions from pay have been made under the Local Government and Other Officers' Superannuation Act, 1922 (*f*), or under the Police Act, 1890, or the Police Pensions Act, 1921, or other regular contributions have been made by the fireman under a superannuation scheme, provided that, if the deductions or other contributions in respect of any service have been returned, or a gratuity has been granted to the fireman on his retirement, such service shall be deemed to be contributory service only if the professional fireman pays to the local authority the amount of the gratuity granted to him, or of the deductions or other contributions returned to him, as the case may be :

12 & 13 Geo. 5 c. 59.

(5) The provisions of subsection (1) of section one of this Act as to the age of compulsory retirement shall not apply to any professional fireman so serving at the commencement of this Act unless and until he has completed twenty-five years' approved service.

23. For the purposes of this Act—

Interpretation.

(1) "Local authority" includes the council of any county, county borough, municipal borough, urban district, rural district or parish, and in relation to any particular professional fireman means the local authority employing such fireman :

(2) "Professional fireman" means any member of a fire brigade maintained by a local authority who is wholly and permanently employed on fire brigade duties, and to whom the Police Pensions Act, 1921, does not apply :

(3) "Chief officer" shall include "firemaster," "superintendent," or such other title as is given by the local authority to the chief officer of the fire brigade :

(*a*) See the definition in s. 23 (2), *infra*.
(*b*) *I.e.* on 1st April, 1926, s. 26 (2), *post*, p. 2899.
(*c*) This expression is defined in sub-s. (4).
(*d*) See as to contributory service, sub-s. (4).
(*e*) As to rateable deductions, see s. 17, *ante*, p. 2894.
(*f*) See this Act at p. 1335, *ante*.

Section 23.

(4) The expression "total disablement" means total loss of earning capacity in any employment, and, in the case of partial disablement, the degree of disablement shall be based upon the degree to which earning capacity is affected:

(5) Any injury suffered by a professional fireman while on duty or while proceeding to report for duty in response to a summons in that behalf shall be deemed to be an injury received in the execution of his duty:

(6) Any injury received while engaged in extinguishing a fire or while engaged in drill involving special risk, shall be deemed a non-accidental injury:

Act to supersede other Acts, &c.

24.—(1) The provisions of this Act shall have effect notwithstanding anything in any other Act, general or local, or charter, to the contrary, and as from the commencement of this Act all other provisions for the grant of pensions, allowances, or gratuities on the retirement or death of professional firemen shall cease to have effect as respects such firemen, subject however as follows:—

(*a*) None of the provisions of this Act excepting the provisions contained in section seven and subsections (2) and (3) of section eight shall apply to members of the London Fire Brigade, and section seven shall apply to a professional fireman removing to or from the London Fire Brigade;

(*b*) Where a local authority have in operation any scheme for the grant of pensions, allowances, or gratuities on the retirement or death of professional firemen, which is on the whole not less favourable than the provisions of this Act, that scheme shall, unless and until the local authority otherwise resolve, continue in operation, and any pension, allowance, or gratuity granted to a professional fireman or to his widow, children, or dependants shall be in accordance with that scheme and not as provided in this Act;

(*c*) In the event of any question arising as to whether any existing scheme is or is not less favourable than the provisions of this Act, the question shall be referred to an actuary nominated by the Secretary of State whose decision shall be final.

(2) Where any scheme for the grant of pensions, allowances, or gratuities on the retirement or death of a professional fireman, is superseded by the provisions of this Act, either wholly or as respects any professional fireman, the local authority shall give written notice of the provisions of this Act to any professional fireman then serving in the fire brigade, and if any professional fireman within one month after receiving such notice gives written notice to the local authority that he desires the scheme to continue to apply to him in lieu of the provisions of this Act, that scheme shall continue to apply to him accordingly, and the amount of any pension, allowance, or gratuity granted to him or to his widow, children, or dependants, and the amount of any deductions made from his pay or other contributions towards the cost of pensions shall be as provided in such scheme as aforesaid and in lieu of any grant or rateable deductions which would otherwise have been made in pursuance of this Act.

(3) Where any existing superannuation scheme is superseded by the provisions of this Act, either wholly or as respects any professional fireman, the following provisions shall apply:—

Section 24.

(a) If such scheme is wholly superseded, any assets of any fund established in connection with such scheme shall be carried to the fire brigade pension fund established as provided by this Act or, if no such fund is established, to the district fund or other fund from which the expenses of the fire brigade are defrayed;

(b) If such scheme is superseded not wholly but as respects any professional fireman, then there shall be transferred from the superannuation fund or other fund from which pensions are paid in pursuance of such scheme to the fire brigade pension fund or, if there is no such fund, to the district or other fund from which the expenses of the fire brigade are defrayed, a sum equal to the sum or sums which would have been payable to the professional fireman under such scheme if he had voluntarily retired from the fire brigade at the date when such scheme ceases to apply to him.

25. [*Application to Scotland.*]

Short title and commencement.

26.—(1) This Act may be cited as the Fire Brigade Pensions Act, 1925.

(2) This Act shall come into operation on the first day of April, nineteen hundred and twenty-six.

SCHEDULE.

Section 5.

SCALES OF PENSIONS, ALLOWANCES AND GRATUITIES.

PART I.

FIREMEN.

(a) *Ordinary Pensions.*

1. *On retirement with twenty-five years' approved service or over.*—Such proportion of the annual pay as is specified in scale number 1, set out in the subjoined Table I., but so, however, that the amount of such pension shall not exceed the proportion of the annual pay specified in Table II., according to the age of the professional fireman at the date of his retirement.

2. *On retirement with ten years' approved service or over with medical certificate.*—Such proportion of the annual pay as is specified in scale number 2, set out in Table I.

(b) *Special Pensions.*

3. *On total disablement from an injury in the execution of duty*—

(a) if the injury is non-accidental, such proportion of the annual pay as is specified in scale number 3 in Table I.;

(b) if the injury is accidental, such proportion of the annual pay as is specified in scale number 4 in the said table;

(c) if it is not possible to determine definitely whether the injury is accidental or non-accidental, such rate intermediate between the rates prescribed in the preceding paragraphs (a) and (b) as the local authority may determine.

4. *On partial disablement from an injury received in the execution of duty.*—Such proportion of the pension applicable in case of total disablement (a) as the degree of disablement bears to total disablement:

Provided that the pension shall not be less than such proportion of the annual pay as is specified, if the injury was non-accidental, in scale number 5 in Table I., and otherwise in scale number 6 in the said table.

(a) See the definition in s. 23 (4), *ante*, p. 2898.

Schedule.

TABLE I.

Scale of Pensions.

Completed years of approved service.	Proportion of Pension to Pay on Retirement.					
	Scale No. 1. On retirement with 25 years' approved service or over.	Scale No. 2. On retirement with 10 years' approved service or over with medical certificate.	Scale No. 3. On total disablement from non-accidental injury received in execution of duty.	Scale No. 4. On total disablement from accidental injury received in execution of duty.	Scale No. 5. On partial disablement from non-accidental injury.	Scale No. 6. On partial disablement from accidental injury.
	60ths	60ths.	60ths.	60ths.	60ths.	60ths.
1 or less	—	—	45	30	20	10
2 –	—	—	45	30	20	10
3 –	—	—	45	30	20	10
4 –	—	—	45	30	20	10
5 –	—	—	45	30	20	10
6 –	—	—	45	30	20	10
7 –	—	—	45	30	20	10
8 –	—	—	45	30	20	10
9 –	—	—	45	30	20	10
10 –	—	10	45	30	20	10
11 –	—	11	48	32	21	11
12 –	—	12	48	32	22	12
13 –	—	13	48	32	23	13
14 –	—	14	48	32	24	14
15 –	—	15	48	32	25	15
16 –	—	16	51	34	26	16
17 –	—	17	51	34	27	17
18 –	—	18	51	34	28	18
19 –	—	19	51	34	29	19
20 –	—	20	51	34	30	20
21 –	—	21	54	36	31	21
22 –	—	22	54	36	32	22
23 –	—	23	54	36	33	23
24 –	—	24	54	36	34	24
25 –	*25	25	54	36	35	25
26 –	*26	26	57	38	36	26
27 –	*27	27	57	38	37	27
28 –	*28	28	57	38	38	28
29 –	*29	29	57	38	39	29
30 –	*30	30	60	40	40	30
31 –	*32	32	60	40	40	32
32 –	*34	34	60	40	40	34
33 –	*36	36	60	40	40	36
34 –	*38	38	60	40	40	38
35 or over	*40	40	60	40	40	40

* Subject to the maximum limits specified in paragraph 1 of this Schedule and Table II., according to the age of the professional fireman at the date of his retirement.

TABLE II.

Maximum proportions of Pension to Pay, according to the Age of the Professional Fireman.

Age of firemen at retirement.	Maximum proportion of pension to pay at retirement.
Years	60ths.
55 and less than 56	30
56 ,, 57	32
57 ,, 58	34
58 ,, 59	36
59 ,, 60	38
60 or over	40

(c) *Gratuities.*

5. *On retirement with medical certificate with less than ten years' approved service.*—The gratuity shall be an amount equal to one-twelfth of the annual pay for each completed year of approved service, or, where a professional fireman has not completed one year of approved service, an amount equal to the rateable deductions which have been made from his pay.

PART II.

WIDOWS AND CHILDREN.

(a) *Widow's Pensions.*

6. *Widow's ordinary pension.*—The pension shall be the amount specified under (i) or (ii) of the following scales whichever is the greater, that is to say—

Scale (i)—if her husband was fireman or sub-officer at the time of his death or retirement, at the rate of 30*l.* a year;

if he was of a higher rank than sub-officer and of a lower rank than chief officer at the time of his death or retirement, at the rate of 40*l.* a year;

if he was a chief officer at the time of his death or retirement, at the rate of 50*l.* a year;

Scale (ii)—an amount ascertained according to the length of her husband's service and his pay at the time of his death or retirement as follows:—

Completed years of approved service.	Percentage of annual pay.
30 years or over	12½ per cent.
25 years and under 30	10 ,,
20 years and under 25	8 ,,
15 years and under 20	6 ,,
10 years and under 15	4 ,,

subject, however, in the case of the widow of a pensioner to a deduction equal to twenty-five per cent. of the amount for each complete year for which her husband's pension had been drawn.

7. *Widow's special pension.*—The pension shall be equal to one-third of her husband's annual pay at the time of his death or retirement.

(b) *Widow's Gratuities.*

8. The gratuity shall be of such amount as the local authority may determine, but not exceeding one-twelfth of her husband's annual pay for each completed year of approved service.

Schedule.

(c) *Children's Allowances.*

9. *Professional fireman or pensioner dying as the result of non-accidental injury received in the execution of duty.*—The allowance in respect of each child who has not attained the age of sixteen shall be an annual allowance, up to the time that child attains the age of sixteen, at the rate of one-fifteenth of the fireman's annual pay; and, if he leaves no widow or the widow dies before all the children attain the age of sixteen, the allowance may be increased up to two-fifteenths of such pay in respect of each child under sixteen; but in any case the allowance granted to any child shall not be less than the amount of the allowance to which that child would have been entitled under paragraph 10 of this Schedule if the professional fireman had died as a result of an accidental injury received in the execution of duty, and the aggregate amount paid in any year by way of children's allowances when added to the widow's pension, if any, shall not exceed two-thirds of such pay.

10. *Professional fireman or pensioner dying as a result of an accidental injury received in the execution of duty.*—The allowance in respect of each child who has not attained the age of sixteen shall be an annual allowance up to the time that child attains the age of sixteen at the rate of—

10*l.* in the case of a person who was a fireman or sub-officer at the time of his death or retirement;

12*l.* in the case of a person who was of a higher rank than sub-officer and of a lower rank than chief officer at the time of his death or retirement;

15*l.* in the case of a person who was a chief officer at the time of his death or retirement:

Provided the aggregate amount of such allowance in any year shall not exceed 30*l.*, 40*l.*, and 50*l.*, in the three cases respectively; but if he leaves no widow, or if the widow dies before all the children attain the age of sixteen, the actual allowance or allowances and the aggregate amount of any such allowances may be increased by fifty per cent. above the sums hereinbefore mentioned.

(d) *Children's Gratuities.*

11. The gratuity shall be of such amount as the local authority may determine, not exceeding one-sixtieth of the annual pay for each completed year of approved service of the fireman or pensioner, but so that the total amount of any gratuity or gratuities granted to the children or to the widow and children and any dependants does not exceed one-twelfth of the annual pay for each completed year of approved service, and the total amount of any gratuities granted to the children shall not, in any case, exceed the annual pay.

(e) *Dependants' Gratuities.*

12. The total amount of any gratuity or gratuities paid to a dependant or dependants of a professional fireman or pensioner shall not exceed the amount of the rateable deductions which have been made from his pay, or in the case of a professional fireman or pensioner who was serving at the commencement of this Act or who retired before the commencement of this Act, as the case may be, the amount of the rateable deductions which would have been made from his pay if this Act had been in force during the whole of his service and had been applicable thereto.

PART III.

General Rules.

13. The same person shall not be entitled to a gratuity in addition to a pension or allowance, or to both an ordinary pension and a special pension.

14. A gratuity shall be paid in one sum, except that in special cases it may be paid by instalments or applied on behalf of the grantee if the local authority consider that it would be to the advantage of a widow, child or dependant to do so; and a child's allowance or gratuity or a dependant's gratuity may be paid to a guardian or trustee if the local authority consider that it would be to the advantage of the child or dependant to do so.

Schedule.

15. If the widow of a professional fireman was at the time of his death living apart from her husband (not having been deserted by him), a pension or gratuity shall be paid to her only if the local authority are satisfied that he regularly contributed to her support; and the amount of a pension shall not, in such a case, exceed the amount which her husband contributed.

16. Subject to the provisions of this Act, the widow and children of a pensioner shall not receive any pension, allowance or gratuity unless the marriage took place before he retired on pension.

17. The payment of a widow's pension or the balance of a widow's gratuity shall, if at any time she re-marries, be suspended, but, in the event of her again becoming a widow, shall be resumed on proof to the satisfaction of the local authority that her circumstances are such that the pension or balance of gratuity is necessary for her support, and that she is of good character and deserving of bounty out of public funds.

18. A widow's pension or balance of a widow's gratuity shall be payable only so long as she is of good character.

19.—(*a*) In calculating any pension, gratuity or allowance for the purposes of this Act, " annual pay " means annual pay at the date of death or retirement as the case may require:

Provided that—

(i) where a professional fireman at the date of his death or retirement holds a rank to which he has been promoted within the three preceding years, his annual pay at the date of the death or retirement shall be deemed to be the average annual amount of pay received by him for the said three years, instead of the annual amount actually received by him at that date, so, however, that the pension allowance or maximum gratuity payable shall not be less than if he had continued in his former rank; and

(ii) where the pay at the date of death or retirement was weekly pay, the amount of the annual pay shall be deemed to be fifty-two times the amount of the weekly pay.

(*b*) For the purpose of the foregoing provisions of this rule, the following only shall be recognised as ranks in a fire brigade, that is to say, chief officers (including superintendents in charge), second officers, superintendents, district officers, station officers, sub-officers and firemen:

Provided that in Scotland firemaster and lieutenant shall be also recognised as ranks.

WIDOWS, ORPHANS AND OLD AGE CONTRIBUTORY PENSIONS ACT, 1925.

(15 & 16 GEO. 5, c. 70.)

An Act to make provision for pensions for widows, orphans, and persons between the ages of sixty-five and seventy, and for the payment of contributions in respect thereof; and to amend the enactments relating to health and unemployment insurance and old age pensions. (*a*) [7th August, 1925.]

(*a*) As pointed out in note (*a*) to the National Health Insurance Act, 1924, at p. 2867, *ante*, to which reference should be made, considerations of space prohibit any reference to the general administration of this Act. The only provisions set out here are those imposing specific powers and duties under the Act upon local authorities as such as distinct from the obligations of local authorities as employers of labour.

Special provisions as to additional allowances and orphans' pensions.

6.—(1) . . .

(2) Where a representation is made to the Minister by the local authority (*a*) or otherwise—

(*a*) with reference to an additional allowance (*b*) payable in respect of a child, that the widow or other person to whom the additional allowance is payable has deserted or abandoned or ceased to support the child, or has become disqualified for the time being from receiving a widow's pension (c), and that it would be in the interests of the child (d) that the additional allowance should be administered by the local authority or some other person for the benefit of the child;

(b) with reference to an orphan's pension (e) payable in respect of a child, that it would be in the interests of the child (f) that it should be administered by the local authority or some other person for the benefit of the child;

the Minister, if satisfied that the allegations of the representation are true, and that it would be in the interests of the child so to do, may direct that the additional allowance or orphan's pension shall be paid to the person having the charge of the child or to any other person approved by the Minister or to the local authority (g), to be administered by such person or by the local authority for the benefit of the child:

Provided that, where the widow or other person to whom the additional allowance or orphan's pension is payable has not had an opportunity of presenting her case personally, or through some person appointed by her, to the local authority or a person appointed for the purpose by the local authority, the Minister (except where the widow or other person cannot be found, or is in prison, or in an asylum or other similar institution) shall, before giving any such direction, give the widow or such other person as aforesaid an opportunity of so presenting her case to a person appointed by him.

(3) . . .

(a) Local authorities for the purpose of this Act are county and county borough councils, and the councils of non-county boroughs and urban districts which are both local education authorities and authorities for the purposes of the Maternity and Child Welfare Act, 1918 (s. 41 (1), *post*, p. 2906). County councils may also by agreement delegate their powers and duties under the Act to any sanitary authority whose area is wholly or partly within the county (s. 41 (2), *post*, p. 2907).

(b) An additional allowance is the amount payable to a widow in respect of each child under ss. 1 (1) (a) and 3 (3).

(c) Such disqualification arises when the recipient is an inmate of a workhouse or other poor law institution, or is detained in an asylum or imprisoned without the option of a fine (Sched. III.) or is cohabiting with any person as man and wife (s. 21).

(d) Note the interests of the child are a material consideration, but the recipient of the pension must be within the terms of the section before a representation can be made.

(e) An orphan's pension is, subject to this provision, payable to the guardian or other person having the charge of the child (s. 4 (3)).

(f) In the case of an orphan's pension, the interests of the child are the only material consideration upon which a representation can be made.

(g) The duty of administering allowances or pensions may thus devolve upon local authorities.

* * * * * *

Power to modify existing superannuation schemes.

27.—(1) Where at the commencement of this Act any pension scheme has been established otherwise than by Act of Parliament (a) (including a scheme established under powers conferred by Act of Parliament), whereby benefits are provided corresponding to any of the benefits secured by this Act, and the pension authority (b) are desirous, in consequence of the passing of this Act, to modify the scheme as respects insured persons who may become entitled to corresponding benefits under or by virtue of this Act, but under the instrument regulating the scheme are unable to do so either absolutely or without undue delay or expense, the pension authority may submit to the Chief Registrar of Friendly Societies (c) proposals for conferring on them the powers necessary for the purpose, and the Chief Registrar (c) may confirm the proposals, subject to such conditions, if any, as he thinks fit to impose, and

Section 27.

thereupon, subject to compliance with such conditions, if any, the pension authority may modify the scheme as respects such persons as aforesaid by reducing the amount of the benefits payable under the scheme and the contributions payable thereunder, and by making such other alterations in the scheme as may appear to them expedient in consequence of such reductions:

Provided that, where the pension authority is a local authority (*d*) this subsection shall have effect as if for references to the Chief Registrar of Friendly Societies there were substituted references to the Minister.

(2) Where at the commencement of this Act any pension scheme has been established by Act of Parliament (*a*) whereby benefits are provided corresponding to any of the benefits secured by this Act the pension authority (*b*) may submit to the Chief Registrar of Friendly Societies (*c*) an amending scheme for reducing, as respects insured persons who may become entitled to corresponding benefits under or by virtue of this Act, the benefits payable under the scheme, and the contributions payable thereunder, and may make such other alterations in the scheme as appear to them expedient in consequence of such reductions; and the Chief Registrar (*c*), after giving persons affected by the proposed scheme or their representatives the opportunity of objecting, and after considering any such objection, may confirm the scheme; and on any such amending scheme being so confirmed the Act by which the scheme is established shall have effect subject to the provisions of the amending scheme:

Provided that, where the pension authority is a local authority (*d*) this subsection shall have effect as if for references to the Chief Registrar of Friendly Societies there were substituted references to the Minister.

(3) Where by any public general Act in force at the commencement of this Act provision is made for the establishment of a general scheme of superannuation whereby persons in return for contributions payable thereunder become entitled to benefits corresponding to any of the benefits secured by this Act, any local authority or combination of local authorities which are at the commencement of this Act or have hereafter become or propose to become a pension authority to which the first-mentioned Act applies may submit to the Minister a scheme modifying the first-mentioned Act so far as it relates to insured persons who may become entitled to any of the benefits secured by this Act and who may also become entitled to receive from the pension authority corresponding benefits under the first-mentioned Act—

(*a*) by reducing the superannuation allowance payable under the first-mentioned Act to any such person by such amount as may be specified in the scheme, not exceeding the amount of the pension to which he and, if he is married, his wife may become entitled under or by virtue of this Act;

(*b*) by reducing the contributions payable under the first-mentioned Act by any such person by such amount as may be specified in the scheme;

and the scheme may make such financial adjustments (including any alteration in any annual charge payable by the pension authority which may have been fixed under the first-mentioned Act) as may be appropriate in the circumstances, and the Minister, after giving persons affected by the proposed scheme or their representatives an opportunity of objecting, and, after considering any such objections, may confirm the scheme, and upon any such scheme being so confirmed the first-mentioned Act, in relation to the pension authority and such persons as aforesaid, shall have effect subject to the provisions of the scheme.

(4) No alteration in any particular scheme, or in any general scheme in its application to any particular pension authority shall be made by a scheme

Section 27. under this section which will prejudicially affect the solvency of the particular scheme, or of the general scheme in its application to that authority, or increase the liability of the person (if any) liable for the solvency thereof.

(5) The powers conferred on a pension authority by a scheme under this section may include power to pay on behalf of any person in receipt of a superannuation allowance from the pension authority any contribution under this Act or the Insurance Act payable by such person, and, if they think fit, to deduct the amount thereof from the superannuation allowance payable to him.

(6) This section shall not, nor shall any scheme thereunder, except in such cases and to such extent as may be prescribed affect the benefits of or contributions by any person employed in an employment which is an excepted employment within the meaning of section fifteen of this Act.

(7) For the purposes of this section the expression "local authority" means the council of any county or municipal or metropolitan borough or urban or rural district, and any board of guardians (*e*), and any other local authority within the meaning of the Local Loans Act, 1875 (*f*), and the expression "pension authority" means any local authority or combination of local authorities or other body of persons administering a pension or superannuation scheme, and the expression "Act of Parliament" includes a Provisional Order confirmed by Act and an order having the effect of an Act.

(*a*) This includes provisional orders confirmed by Act, and having the force of an Act.

(*b*) See the definition in sub-s. (7), it includes any local authority or combination of local authorities administering a pension or superannuation scheme.

(*c*) In the case of local authorities, the Minister of Health is to be read for Chief Registrar of Friendly Societies.

(*d*) See the definition in sub-s. (7).

(*e*) Boards of Guardians are abolished and their functions transferred by the L. G. A., 1929, *ante*, p. 1860.

(*f*) See s. 34 of this Act at p. 2354, *ante*.

* * * * * *

39.— . . .

(3) In the case of persons to whom a special scheme made or approved under the Unemployment Insurance Acts, 1920 to 1924, applies, the provisions of this Act relating to unemployment insurance shall have effect subject to the following modifications, that is to say, references to liability to be insured and contributions under the said Acts, to unemployment benefit, and to the unemployment fund shall be respectively construed as references to liability to be insured, and to contributions and benefit, under the special scheme, and to the fund constituted thereunder.

Amendment of Old Age Pensions Acts in relation to persons in receipt of pensions.

40. Any person who is at the date on which he or she attains the age of seventy entitled to an old age pension or a widow's pension under this Act, or would have been so entitled but for the provisions of this Act relating to service dependants pensions, shall be entitled to an old age pension under the Old Age Pensions Acts, 1908 to 1924, at the rate of ten shillings a week, notwithstanding that any of the statutory conditions as to means, residence or nationality is not satisfied in the case of that person, and notwithstanding that the yearly means of that person exceed the amount entitling him or her to a pension at that rate.

General.

Local authorities.

41.—(1) The local authority for the purposes of this Act shall be, in the case of a county borough, the borough council, and elsewhere, the county council:

Provided that, where the council of any non-county borough or urban district is both a local education authority (*a*) and an authority for the purposes of the Maternity and Child Welfare Act, 1918 (*b*), that council shall, as respects that borough or urban district, be the local authority for the purposes of this Act to the exclusion of the county council.

(2) A county council may for the purposes of this Act make arrangements with any sanitary authority (*c*) whose area is wholly or partly situate within the county for the execution and performance by that sanitary authority of any of the powers and duties of the county council under this Act.

(3) A local authority for the purpose of this Act, or a sanitary authority with which a county council have made arrangements under the last preceding subsection, may, if the authority is a local education authority or an authority for the purposes of the Maternity and Child Welfare Act, 1918, delegate their powers and duties under this Act to the education committee or to the maternity and child welfare committee of the authority, or if the authority is both a local education authority and an authority for the purposes of the Maternity and Child Welfare Act, 1918, partly to one such committee and partly to the other, as they think fit; and such delegation may be made subject to such restrictions and conditions, if any, as the authority think fit (*d*).

(4) Any expenses incurred by a local education committee or a maternity and child welfare committee in the execution and performance of any powers and duties so delegated shall be defrayed as expenses incurred in aid of elementary education or under the Maternity and Child Welfare Act, 1918, as the case may be, and any expenses incurred by a local authority for the purposes of this Act in the execution and performance of their powers and duties which have not been delegated to a local education committee or a maternity and child welfare committee, and any similar expenses of a sanitary authority, so far as they are not met by payments by the county council, shall be defrayed as follows:—

(*a*) in the case of a county council, as expenses for general county purposes, or, if the Minister by order so directs, as expenses for special county purposes charged on such part of the county as may be provided by the order;

(*b*) in the case of the common council of the City of London, out of the general rate;

(*c*) in the case of a metropolitan borough council, as part of the general expenses of the council;

(*d*) in the case of a borough or district council, as part of the general expenses of the council in the execution of the Public Health Acts.

(5) For the purposes of this Act the Minister may refer to the local authority for investigation and report to him any matter relating to a widow or child to or in respect of whom a widow's or orphan's pension or additional allowance is payable.

(*a*) The council of an urban district with a population of over 20,000 is a local education authority (s. 3 (1), Education Act, 1921).

(*b*) As to what councils are authorities under the Maternity and Child Welfare Act, 1918, see the Act and notes thereto at p. 1240, *ante*.

In order that an urban district council should be a local authority under this Act, it must be both local education authority and maternity, etc. authority. See, however, sub-s. (2).

As to the exercise of such a council's powers under the Act by committee, see sub-s. (3), and as to defraying expenses incurred by such a committee, see sub-s. (4).

(*c*) If powers under the Act are exerciseable by a council under this subsection, they can only be delegated to a committee if the council is either a local education authority or an authority under the Maternity and Child Welfare Act, 1918 (sub-s. (3)). As to expenses see sub-s. (4).

(*d*) Delegation of powers and duties under this Act can only be made to either the education or the maternity and child welfare committee of a council, unless, therefore, the council can appoint such a committee delegation cannot take place.

* * * * * *

Section 1.

MARKETS AND FAIRS (WEIGHING OF CATTLE) ACT, 1926.

(16 & 17 Geo. 5, c. 21.)

An Act to amend the Markets and Fairs (Weighing of Cattle) Acts, 1887 *and* 1891 (*a*). [15th July, 1926.]

(*a*) These Acts are set out at pp. 2490 and 2534, *ante*.

Disclosure of weight of fat cattle on sale by auction.

1.—(1) Subject to the provisions of this Act an auctioneer shall not offer for sale in any market, fair, or mart, in or near which a weighing machine is provided for the purpose of complying with the provisions of the principal Acts (*a*), any cattle (*b*) which are fit for immediate slaughter (*c*) unless they have been weighed on the weighing machine and their weight as so ascertained is disclosed to intending purchasers at the time of the offer for sale, either by announcement made by the auctioneer or in some other manner calculated to bring it to their notice.

(2) Any auctioneer who offers for sale any cattle in contravention of this section shall be liable on summary conviction to a fine not exceeding forty shillings for each head of cattle so offered for sale.

(3) In this section the expression " cattle " means bulls, cows, oxen and heifers (*d*).

(4) The Minister may by order declare that the foregoing provisions of this Act shall not apply as respects any market, fair or mart (*e*).

(*a*) *I.e.* under s. 4, Markets and Fairs (Weighing of Cattle) Act, 1887, *ante*, p. 2491, ss. 2 (1) and 4 (1), Markets and Fairs (Weighing of Cattle) Act, 1891, *ante*, pp. 2534 and 2535.

(*b*) See the definition in sub-s. (3).

(*c*) In various orders made by the Ministry of Agriculture and Fisheries under the Diseases of Animals Acts, 1894 to 1925, fat cattle are described as cattle " intended for immediate slaughter," the definition in the text makes fitness for immediate slaughter the test. Fitness is a matter of opinion, but it would seem to be preferable to rely on the physical condition of the animals as to which expert opinion can be given than upon intentions known only to the vendor and purchaser.

(*d*) The definition does not extend to calves, as in s. 59, Diseases of Animals Act, nor to sheep and pigs, as in s. 3, Markets and Fairs (Weighing of Cattle) Act, 1887, *ante*, p. 2491.

(*e*) The Minister is by this subsection given a general power of exemption.

Extension of powers of Minister to grant exemption from provisions of principal Acts.

2. So much of section nine of the Act of 1887 as prevents the Minister from making an order under that section an any ground except that the sale of cattle at a market or fair is, or is likely to be, so small as to render it inexpedient to enforce the provision and maintenance of a place for weighing cattle and of a weighing machine under that Act, shall cease to have effect, and the power of the Minister under the said section to exempt any market or fair from the requirements of that Act as to the provision and maintenance of facilities for weighing cattle, and the power of the Minister under section four of the Act of 1891 to exempt an auctioneer from the requirements of that section in respect of the sale of cattle at a mart, may be exercised respectively with respect to any market or fair and with respect to any auctioneer where the circumstances are in the opinion of the Minister such as to render the enforcement of those requirements inexpedient (*a*).

(*a*) Under s. 9, Markets and Fairs (Weighing of Cattle) Act, 1887, *ante*, p. 2493, the power of granting exemption orders was limited to small markets. Section 4 of the Act of 1891 (*ante*, p. 2535) imposed no such limitation, but the provision in the text gives to the Minister a very wide discretion as to granting orders under either of those sections. In exercising this discretion the Minister will no doubt be guided by the size of the market or the frequency at which it is held.

Tolls for weighing cattle.

3. The Act of 1887 shall have effect as if for the Schedule to that Act (which prescribes tolls which may be demanded in respect of the weighing of cattle) there were substituted the Schedule to this Act (*a*).

(a) The tolls prescribed are treble those prescribed by the Act of 1887. See the Schedule to that Act at p. 2493, *ante*. The amount of these tolls may be varied by the Minister (s. 8 of the Act of 1887, *ante*, p. 2492).

Note to Section 3.

Interpretation, short title, commencement, citation and extent.

4.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"The Minister" means, as respects England and Wales, the Minister of Agriculture and Fisheries, and as respects Scotland, the Board of Agriculture for Scotland.

"The Act of 1887" means the Markets and Fairs (Weighing of Cattle) Act, 1887.

"The Act of 1891" means the Markets and Fairs (Weighing of Cattle) Act, 1891.

"The Principal Acts" means the Markets and Fairs (Weighing of Cattle) Acts, 1887 and 1891.

(2) This Act may be cited as the Markets and Fairs (Weighing of Cattle) Act, 1926, and shall come into operation on the first day of January, nineteen hundred and twenty-seven; and this Act and the principal Acts may be cited together as the Markets and Fairs (Weighing of Cattle) Acts, 1887 to 1926.

(3) This Act shall not apply to Northern Ireland.

SCHEDULE.

For every head of cattle other than sheep or swine –	Not exceeding sixpence.
For every five or less number of sheep or swine – –	Threepence.

ELECTRICITY (SUPPLY) ACT, 1926.

(16 & 17 GEO. 5, c. 51.)

An Act to amend the law with respect to the supply of electricity (a).

[15th December, 1926.]

(a) This Act is to be construed as one with the Electricity (Supply) Acts, 1882 to 1922 (s. 52, *post*). *I.e.* the Electric Lighting Act, 1882, *ante*, p. 2487, the Electric Lighting Act, 1888, *ante*, p. 2495, the Electric Lighting Act, 1909, *ante*, p. 2695, the Electricity (Supply) Act, 1919, *ante*, p. 2782, the Electricity (Supply) Act, 1922, *ante*, p. 2836, and the Electricity (Supply) Act, 1928, *post*, p. 3019. Reference may also be made to the Electric Lighting Clauses Act, 1899, *ante*, p. 2569. The object of this Act is to concentrate the generation of electricity in a comparatively small number of large stations interconnected by main transmission lines, and the responsibility for carrying out the schemes prepared by the Electricity Commissioners for this purpose, is entrusted to a new body set up by the Act called the Central Electricity Board. The Board is entrusted with the duty of supplying electricity generated at the selected stations to authorised undertakers who in turn will supply consumers. The purpose of the scheme is to reduce the cost of electrical energy, and provision is made in the Act for passing on any such advantage to consumers.

CONSTITUTION AND GENERAL POWERS OF CENTRAL ELECTRICITY BOARD.

Constitution of Central Electricity Board.

1.—(1) For the purposes of this Act there shall be established as soon as may be after the passing of this Act a body to be called the Central Electricity Board (in this Act referred to as the Board), consisting of a chairman and seven other members appointed by the Minister of Transport after consultation with such representatives or bodies representative of the following interests

Section 1. as the Minister thinks fit, that is to say, local government, electricity, commerce, industry, transport, agriculture, and labour.

(2) A person shall be disqualified for being appointed or being chairman or a member of the Board so long as he is a Member of the Commons House of Parliament.

(3) The chairman of the Board and any member of the Board who is, by the terms of his appointment, required to devote the whole of his time to the performance of his duties under this Act shall, within three months after his appointment, sell any securities which he may hold in his own name or in the name of a nominee for his own benefit in any company carrying on the business of supplying electricity or the manufacture or sale of machinery or plant for the generation or transmission of electricity; and it shall not be lawful for the chairman or any such member of the Board whilst he holds office to purchase for his own benefit any securities in any such company, and if the chairman or any such member of the Board under any will or succession becomes entitled for his own benefit to any securities in any such company, he shall sell them within three months after he has so become entitled thereto.

(4) Any member of the Board shall, if he is interested in any company with which the Board has or proposes to make any contract, disclose to the Board the fact and nature of his interest, and shall take no part in any deliberation or decision of the Board relating to such contract, and such disclosure shall be forthwith recorded in the minutes of the Board.

(5) Where the chairman or other member of the Board becomes disqualified for holding office or is absent from the meetings of the Board for more than six months consecutively, except for some reason approved by the Minister of Transport, or fails to comply with the foregoing provisions of this section, the Minister of Transport shall forthwith declare the office to be vacant, and shall notify the fact in such manner as he thinks fit, and thereupon the office shall become vacant.

(6) The Board shall be a body corporate with power to hold land without licence in mortmain and shall have power to regulate their own procedure:

Provided that the quorum of the Board shall not be less than one-third of the full number of the Board.

(7) The Board may act notwithstanding a vacancy in their number.

(8) A person appointed to be the chairman or to be a member of the Board shall hold office for such term not less than five years nor more than ten years as may be determined by the Minister before his appointment.

(9) The Board shall appoint a secretary and such other officers and servants as the Board may determine, and there shall be paid out of the fund hereinafter established (*a*) to the members of the Board, or any of them, such salaries or fees and allowances for expenses as the Minister of Transport may determine, and to the secretary, officers and servants of the Board such salaries and remuneration, and, on retirement or death, such pensions and gratuities, as the Board may determine; and any expenses incurred by the Board in the exercise and performance of their powers and duties under this Act shall be defrayed out of the said fund.

(10) The Board shall have a common seal, and the seal of the Board shall be authenticated by the signature of the chairman of the Board or some other member of the Board authorised by the Board to act in that behalf, and of the secretary, or some other person authorised by the Board to act in that behalf.

(11) Every document purporting to be an order or other instrument issued by the Board and to be sealed with the seal of the Board authenticated in manner provided by this section, or to be signed by the secretary or any person authorised to act in that behalf, shall be received in evidence and be

deemed to be such order or instrument without further proof unless the contrary is shown.

(*a*) Under s. 26, *post*, p. 2925.

General powers and duties of Board.

2.—(1) The Board shall be charged with the duty of supplying electricity to authorised undertakers (*a*) in accordance with the provisions of this Act, but shall not, save as hereinafter expressly provided (*b*), themselves generate electricity, and the Board shall have such further powers and duties as are provided by this Act.

(2) It shall be lawful for the Board to enter into arrangements with any authorised undertakers for the delegation to them of any of the powers of the Board under this Act which the Board think can more expediently be exercised locally.

(3) Where proposals are made to the Board by any association of owners of generating stations which, by virtue of this Act, become selected stations (*c*) within an area for which a scheme has been adopted under this Act for the delegation to the association of any powers and duties of the Board within that area, then, if the Board are satisfied that the association making the proposals is a fit and proper body to carry out those powers and duties, the Board shall comply with the proposals if and so far as they consider it practicable to do so without prejudice to the efficient discharge of the general duties of the Board, or to the efficient execution of the scheme within the area, but subject to such conditions as the Board may think fit to impose.

(4) The Board shall not delegate any of their powers with respect to selected stations without the consent of the owners of those stations, nor shall they delegate their power of adopting schemes or fixing a tariff under this Act.

(*a*) See the definition in s. 51, *post*, p. 2937, and note thereto.
(*b*) *I.e.* by ss. 5 (3) and 6 (3), *post*, pp. 2913, 2914.
(*c*) *I.e.* stations at which electricity will be generated for the purposes of the Board (s. 4 (1) (*a*), *infra*).

Appointment of consultative technical committees.

3.—(1) The Board may appoint one or more consultative technical committees consisting of engineers employed in connection with undertakings comprising generating stations which are by virtue of this Act for the time being selected stations.

(2) A consultative technical committee shall give advice and assistance on such matters as may be referred to the committee by the Board, and for that purpose the committee, shall meet from time to time as the Board may determine.

PROVISIONS AS TO SCHEME.

Preparation and carrying out of scheme.

4.—(1) The Electricity Commissioners shall, as soon as practicable, prepare and transmit to the Board a scheme or schemes relating to the respective areas specified therein—

(*a*) determining what generating stations (whether existing stations or new stations) shall be the stations (in this Act referred to as selected stations) at which electricity shall be generated for the purposes of the Board;

(*b*) providing for interconnection, by means of main transmission lines to be constructed or acquired by the Board, of selected stations with one another and with the systems of authorised undertakers, and, where the scheme relates to a specified area, for interconnection by means of such lines of the system of the Board in that area with the system of the Board in any other area with respect to which a scheme is then in force or may subsequently be made ;

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(c) providing for such standardisation of frequency as may be essential to the carrying out of the proposals for such interconnection as aforesaid;

(d) enabling or requiring temporary arrangements (to be in force during the carrying out of the works specified in the scheme) to be made between the Board and owners of generating stations (whether authorised undertakers or not) with respect to the giving and taking to and by the Board of supplies of electricity, and with respect to the working of generating stations (whether selected stations or not) by the owners thereof;

(e) containing such supplemental, incidental and consequential provisions as may appear necessary or expedient for any of the purposes aforesaid:

Provided that neither a railway generating station operated by a railway company at the date of the passing of this Act, nor a generating station belonging to any canal, inland navigation, dock or harbour undertakers, and operated by the owners thereof at the date of the passing of this Act, nor a private generating station, shall, without the consent of the owners thereof, be included in the scheme as a selected station, nor shall the owners of such a station be required to enter into any temporary arrangements under a scheme, and a scheme shall not authorise the acquisition of a main transmission line belonging to any such undertakers or the owners of a private generating station without the consent of the owners thereof.

(2) The Board shall cause every scheme to be published, and shall give public notice of the date (not being less than one month from the date of the notice) by which authorised undertakers and other persons interested (*a*) may make representations thereon, and the Board after considering the scheme and such representations, and after holding such inquiries (if any) as they think fit, may adopt the scheme either without modifications, or subject to such modifications as they think fit, and either generally or as respects any part of the area specified in the scheme, and shall publish the scheme as so adopted by them, and where the scheme has been adopted as respects part of the said area it may subsequently be adopted as respects other parts of the area.

(3) As soon as a scheme is so adopted and published either generally or as respects any part of the area specified therein, it shall be the duty of the Board to carry out and give effect to the scheme, or to carry out and give effect to the scheme within the said part of the area, as the case may be:

Provided that, if any authorised undertakers on whom obligations are imposed by the scheme consider that the carrying out of those obligations would be prejudicial to them they may, within one month after the publication of the scheme as adopted, by notice in writing, specifying the nature of the complaint and of the relief sought by them, require the Board to refer the matter complained of to the arbitration of a barrister (or in Scotland an advocate) qualified for appointment to judicial office appointed by the Minister of Transport from panels to be set up by the Lord Chancellor and the Lord President of the Court of Session respectively for the purpose, and the Board shall refer the matter accordingly, unless they amend the scheme by relieving the complainants of such obligations as aforesaid, and shall not, pending the determination of the complaint, unless the complaint is one with respect to which no relief other than pecuniary compensation can be awarded, carry the scheme into effect so far as it affects the complainants.

(4) The arbitrator to whom any such matter is so referred may, in any case in which he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the case wholly or partially with the assistance of such

assessors, and may, if satisfied as to the justice of the complaint, either order such pecuniary compensation to be made to the complainants as seems equitable in all the circumstances or order the scheme to be amended in such manner as he may direct:

Provided that the arbitrator shall not grant any relief other than pecuniary compensation in any case where the Board certify that the grant of such relief would conflict with the basic principles of the scheme or would prejudicially affect the efficiency of the scheme.

(5) A scheme may from time to time be altered or extended by a scheme made and adopted in like manner and subject to the like right of appeal as the original scheme:

Provided that a generating station included in a scheme as a selected station shall not cease to be a selected station without the consent of the owners thereof.

(a) This is the only opportunity afforded to "other persons interested" to object to a scheme. Authorised undertakers, on whom obligations are imposed by the scheme, may also object after the scheme has been adopted and published by the Board (sub-s. (3).

Existing selected stations.

5.—(1) The Board shall make arrangements with the owners of existing generating stations which by virtue of a scheme become selected stations for the stations being operated in accordance with the provisions of this Act (*a*), and for such extensions and alterations thereof as may be required by the scheme, and for such additional extensions and alterations as the Board, with the approval of the Electricity Commissioners, may from time to time direct:

Provided that, if the owners of any such station consider that any directions of the Board requiring additional extensions or alterations (*b*) impose upon them an unreasonable financial burden, the matter shall, if they so require, be referred to the arbitration of a barrister (or in Scotland an advocate) appointed by the Minister of Transport from the appropriate panel set up under section four of this Act, and the arbitrator may in any case in which he thinks it expedient to do so call in the aid of one or more qualified assessors and hear the case wholly or partially with the assistance of such assessors.

(2) If the owners of any such station are unwilling to enter into or fail to carry out any such arrangements to the satisfaction of the Board, the Minister of Transport may by order empower any authorised undertakers or other company or person approved by the Board, or, failing such authorised undertakers, company or person, the Board, to acquire the generating station at a price to be determined in accordance with the provisions of the First Schedule (*c*) to this Act, but where the generating station is situate in an electricity district for which a joint electricity authority has been constituted that authority shall be given first opportunity to acquire the station, and on payment or tender of such price the Minister of Transport may make an order vesting the generating station in the authorised undertakers, company or person, or the Board:

Provided that an order under this subsection authorising the acquisition of a generating station shall not come into force until it has been laid before each House of Parliament for a period of not less than thirty days on which that House has sat and if either House of Parliament before the expiration of that period presents an address to His Majesty no further proceedings shall be taken thereon.

(3) Where the Board acquire a generating station under this section, they may carry out such extensions or alterations thereof as are required by the scheme or as they think fit, and may either operate it themselves or make arrangements with any authorised undertakers or other company or person to operate it:

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Provided that the Board shall not themselves operate such a generating station unless they satisfy the Electricity Commissioners that they are unable to enter into an arrangement with any authorised undertakers or other company or person to operate it on reasonable terms, and where the generating station is situate in an electricity district for which a joint electricity authority has been constituted, the Board shall first endeavour to enter into arrangements with that authority to operate the station.

(*a*) See s. 7, *infra*.
(*b*) The right to go to arbitration under this proviso is limited to directions requiring additional extensions or alterations; in so far as extensions or alterations are required by the scheme, the right of the owners to object is limited to the remedies provided by s. 4, sub-s. (2) and (3), *ante*, p. 2912.
(*c*) See this Schedule at p. 2938, *post*.

New selected stations.

6.—(1) The Board may make arrangements with any authorised undertakers in whose area of supply, or in the neighbourhood of whose area of supply, any new generating station required by a scheme is to be situated, for the provision of such station (*a*).

(2) If the Board satisfy the Electricity Commissioners that they are unable to enter into an arrangement with any such authorised undertakers for the provision of any such new station on reasonable terms, the Commissioners may by a special order under section twenty-six of the Electricity (Supply) Act, 1919 (*b*), authorise the Board or any company or person to provide the station.

9 & 10 Geo. 5, c. 100.

(3) Where the Board themselves provide a new generating station, they may operate it themselves, or make arrangements with any authorised undertakers or other company or person to operate it:

Provided that the Board shall not themselves operate such a generating station unless they satisfy the Electricity Commissioners that they are unable to enter into an arrangement with any authorised undertakers or other company or person to operate it on reasonable terms.

(*a*) The approval of the commissioners under s. 11 of Electricity (Supply) Act, 1919, *ante*, p. 2786, will be necessary to the establishment of a new station (s. 18, *post*, p. 2922).
(*b*) See this section at p. 2799, *ante*.

Obligations and rights of owners of selected stations.

7.—(1) As from such date as may be fixed by the Board, the owners of a selected station shall be under the obligation—

(*a*) to operate the station so as to generate such quantity of electricity, at such rates of output, and at such times as the Board may direct, and to conduct such operations with due regard to economy and efficiency;

(*b*) to sell to the Board all electricity generated at the station at such price as is hereinafter mentioned (*a*).

(2) The owners of a selected station shall (subject to the provisions of this Act enabling the Board to require authorised undertakers to take the whole of their supply from the Board (*b*) and without prejudice to the powers of such owners to demand a supply under the other provisions of this Act (*c*)) be entitled to be supplied by the Board from that station at such price as hereinafter mentioned with such amount of electricity as they may require for the purposes of their undertaking not exceeding the amount generated at the station.

(3) The price to be paid by the Board to the owners of a selected station for electricity generated thereat shall, unless otherwise agreed, be the cost of production to be ascertained in accordance with the rules contained in the Second Schedule to this Act (*d*).

(4) The price at which electricity shall be supplied by the Board from a

selected station to the owners of that station shall unless otherwise agreed be either—

(*a*) the cost of production ascertained in manner provided by subsection (3) of this section adjusted according to the load factor (*e*) and power factor (*f*) of the supply given to the owners of the selected station, together with a proper proportion of the Board's expenses other than those incurred by the Board in the purchase or generation of electricity; or

(*b*) according to the tariff fixed under this Act (*g*) for the supply of electricity by the Board;

whichever is the lower (*h*).

(5) Where the price to be paid for electricity by or to the Board is to be calculated in accordance with this section (*i*), the amount to be paid by or to the Board for a supply in any year shall be ascertained as soon as practicable after the end of the year of account, but the Board shall make to the owners of each selected station monthly payments on account of the net amounts due from the Board to those owners under this section in accordance with estimates made for the purpose, subject to adjustment as soon after the end of the year of account as the actual liability can be ascertained.

(6) If any question between the Board and the owners of a selected station arises under this section, then, if it relates to the cost of production, it shall be determined by an auditor appointed by the Minister of Transport, and in any other case it shall be determined by the Electricity Commissioners:

Provided that, pending the determination of the question by the auditor or Commissioners, the owners of the station shall comply with any requirements which may be lawfully made by the Board.

(7) For the purposes of the agreements contained in the Third Schedule to the London Electricity (No. 1) Act, 1925, and the London Electricity (No. 2) Act, 1925, the Board, in relation to the electricity purchased by the Board from the owners of selected stations in pursuance of this section shall not be deemed to be a consumer within the meaning of paragraph three of the schedule to those agreements.

15 & 16 Geo. 5, c. lxii.
15 & 16 Geo. 5, c. lxiii.

(*a*) See sub-s. (3), and Sched. II., p. 2939, *post*.
(*b*) *I.e.* under s. 10 (3), *post*, p. 2918, or s. 14, *post*, p. 2920.
(*c*) *I.e.* under s. 10 (1), *post*, p. 2917.
(*d*) See this Schedule at p. 2939, *post*. If the price is fixed in accordance with the Schedule, the amount due will not be ascertainable until the end of the year, and to meet this difficulty arrangement is made by sub-s. (5) for monthly payments on account based upon estimates and subject to adjustment.
(*e*) As to "adjustment according to load factor," see s. 51 (3), *post*, p. 2937.
(*f*) "Adjustment according to power factor" is to be made in accordance with Regulations of the Commissioners (s. 51 (4), *post* p. 2938).
(*g*) *I.e.* under s. 11, *post*, p. 2919.
(*h*) A limitation is also imposed on the price to be charged to owners of selected stations by s. 13, *post*, p. 2920.
(*i*) Where the price has been agreed under sub-s. (3) and (4) between the owners and the Board, the necessity for this provision will not arise.

Construction and acquisition of main transmission lines.

8.—(1) As soon as may be after a scheme under this Act has been adopted as respects any area or part of an area, the Board shall construct and lay down the main transmission lines (*a*) required for the interconnection of selected stations with one another and with the systems of authorised undertakers in accordance with the scheme so far as it relates to that area or part of an area.

(2) Where a scheme provides for the acquisition by the Board of any main transmission line belonging to any authorised undertakers, such transmission line shall, on notice being given by the Board to the undertakers and on payment or tender to the undertakers of the price to be determined in accordance

with the First Schedule (*b*) to this Act, vest in the Board upon an order to that effect being made by the Minister of Transport (*c*).

(3) Where the Board have so acquired a main transmission line and, by reason of the user thereof by the Board, the alteration or replacement of switch gear or other apparatus of any authorised undertakers connected with the line becomes necessary, the Board shall defray the reasonable expenses incurred by the undertakers in effecting such alteration or replacement, and any question as to whether such alteration or replacement is necessary, or as to the expenses thereof, shall in default of agreement be determined by an arbitrator appointed by the Minister of Transport (*d*).

(*a*) "Main transmission lines" are defined by s. 36 of the Electricity (Supply) Act, 1919, *ante*, p. 2803, see s. 51 (1), *post*, p. 2937.

(*b*) See this Schedule at p. 2938, *post*.

(*c*) See also s. 22, *post*, p. 2924, which enables the Board to use a main transmission line by agreement with the authorised undertaker to whom it belongs.

(*d*) *I.e.* presumably under s. 28 of the Electric Lighting Act, 1882, *ante*, p. 2452.

Standardisation of frequency (*a*).

9.—(1) The Board may require any authorised undertakers or the owners of any selected station to amend or alter the frequency employed in their undertaking or station, if and so far as such amendment or alteration is required to effect the standardisation of frequency provided by a scheme, or to effect such standardisation of frequency as the Board with the approval of the Electricity Commissioners may think expedient, subject to the payment to the authorised undertakers or owners of any expenses which they may properly incur in carrying such requirements into effect (including the cost of altering or replacing plant belonging to consumers), and the Board shall, if required, advance free of interest such sums as may be necessary to enable the said authorised undertakers and owners to effect such amendment or alteration, and it shall be the duty of the undertakers or owners to comply with such requirements and they are hereby authorised to do so notwithstanding anything in any special Act or Order relating to their undertaking.

(2) The payment of any such expenses and the making of such advances shall be purposes for which the Board may borrow under this Act (*b*) but such part of the revenue of the Board as is required to meet the interest on and sinking fund charges in respect of money so borrowed shall be excluded in any computation of receipts made in estimating for the purposes of rating the net annual value of hereditaments (*c*), or the yearly rent or value of lands and heritages in Scotland, occupied by the Board for the purposes of their undertaking.

(3) The Board shall be entitled to be repaid by the Electricity Commissioners in each year the sums required to meet the interest and sinking fund charges in respect of money so borrowed, and the payment of such sums shall be treated as part of the expenses of the Electricity Commissioners, but shall be shown as a separate item in their accounts and in their demand notes for contributions towards their expenses:

Provided that the apportionment of the expenses of the Electricity Commissioners under this subsection, instead of being made in accordance with section seven of the Electricity (Supply) Act, 1922 (*d*), shall be made on the basis of the revenue received from the sale of electricity, other than electricity sold in bulk to authorised undertakers.

(4) Any question of the amount of the expenses properly incurred by authorised undertakers or owners in carrying out any such requirement shall in default of agreement be determined by the Electricity Commissioners or at the option of the authorised undertakers or owners be referred to the arbitration of a barrister (or in Scotland an advocate) appointed by the Minister of Transport from the appropriate panel set up under section four

of this Act, and the arbitrator may, if he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the case wholly or partially with the assistance of such assessors:

Provided that nothing in this section shall prevent the Board and the authorised undertakers or owners concerned from entering into an agreement fixing the sum to be taken in discharge of the liability of the Board to the undertakers or owners under this section.

(5) Notwithstanding anything in this section—

(*a*) a railway company shall not be required to alter the frequency employed by them in their undertaking or generating station except by an order made in accordance with the provisions of section sixteen of the Railways Act, 1921;

(*b*) no authorised undertaker from whom any railway company derives a supply of electricity for the purposes of haulage or traction shall be required by the Board to alter the frequency of such supply delivered by them to a railway company unless and until an order as aforesaid has been previously made in respect of the railway company concerned.

(6) Where a scheme under section four of this Act has come into force as respects any area, the powers of the Electricity Commissioners under section twenty-four of the Electricity (Supply) Act, 1919 (*e*), so far as they relate to the amendment or alteration of frequency, shall not be exercisable within that area.

(*a*) The Electricity Commissioners also have power to require a change of frequency (s. 24, Electricity (Supply) Act, 1919, *ante*, p. 2798), and where the requirement is made under their powers the undertakers have to bear the expense of the change. These powers continue in force, but will not be exercisable in respect of any area in respect of which a scheme has been made under this Act (sub-s. (6)). Where an alteration in frequency is made under this Act, the authorised undertakers are to be repaid the expenses of the change by the Board (sub-s. (1)).

(*b*) The borrowing powers of the Board are contained in s. 27, *post*, p. 2925.

(*c*) The effect of this provision is that the sum required to meet interest and sinking fund charges in respect of the cost of standardisation of frequency, is to be omitted from the calculations necessary for estimating for rating purposes the net annual value of property occupied by the Board.

(*d*) See this section at p. 2839, *ante*.

(*e*) See note (*a*), *supra*. The section referred to in the text is set out at p. 2798, *ante*.

Obligation of Board to supply electricity to authorised undertakers.

10.—(1) As soon as the Board, as respects any area or part of an area, notify that they are in a position to supply electricity, the Board shall, subject to the provisions of this Act, be under an obligation to supply either directly or indirectly (*a*) to any authorised undertakers in that area or part thereof demanding such a supply such an amount of electricity as they require for their undertaking at a price ascertained in accordance with the provisions of this Act (*b*).

Provided that, subject to the provisions of this Act relating to the rights of owners of selected stations (*c*), the Board shall not—

(*a*) supply electricity directly to authorised undertakers situated in the area of supply of a power company without the consent of the power company unless the undertakers have an absolute right of veto (*d*) on any right of the power company to supply electricity within the area of supply of those undertakers or any part thereof, or unless the power company are unable or unwilling to supply electricity to such authorised undertakers on reasonable terms and conditions, to be determined in case of dispute by the Electricity Commissioners;

(*b*) without the consent of the joint electricity authority, supply electricity directly to any authorised undertakers in the district of a joint

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electricity authority which the joint electricity authority are authorised to supply;

(c) supply electricity directly to any authorised undertakers in the Edinburgh and Lothians electricity district without the consent of the corporation of Edinburgh.

(2) Where any authorised undertakers have demanded such a supply from the Board, and it appears to the Board that the outlay incurred in providing the main transmission lines required for the supply would, having regard to the supply required, entail unreasonable expense on the Board, they may represent the case to the Electricity Commissioners, and the Commissioners may, if it seems to them to be just, authorise the Board to impose such terms and conditions as the Commissioners think fit, on the giving of the supply.

(3) Where any authorised undertakers owning a generating station, not being a selected station, demand a supply of electricity from the Board, then, whether or not those undertakers are also the owners of a selected station (e), the Board may make it a condition of furnishing such a supply that the undertakers shall take the whole quantity of electricity required for their undertaking, directly or indirectly, from the Board, and where any such authorised undertakers demand a supply from any other undertakers who themselves receive a supply from the Board (f), the last-mentioned undertakers shall, if the Board so require, impose the like condition (which condition those undertakers are, if so required, authorised to impose notwithstanding anything in the special Act or order relating to the undertaking):

Provided that—

(a) The Board shall not impose or require the imposition of such a condition unless satisfied that the cost per unit to the undertakers of taking the whole of their supply directly or indirectly from the Board (including any expenditure necessarily incurred by the undertakers in the provision of any plant or apparatus to enable them to use the supply) will for a period of not less than seven years (g) be less than the cost per unit at which electricity is then being produced at the generating station of the undertakers, and in determining such cost of production no account shall be taken of capital charges in respect of capital expended on the station; and

(b) where the authorised undertakers feel aggrieved by the imposition of such a condition as aforesaid, they may appeal to the Electricity Commissioners, who, if and so far as the ground of appeal is that the cost of taking the supply from the Board will not be less than the cost at which electricity is being produced by the undertakers, shall, if so requested by the undertakers, refer that question to the arbitration of a barrister (or in Scotland an advocate) appointed by the Minister of Transport from the appropriate panel set up under section four of this Act, and the arbitrator may, if he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the case wholly or partially with the assistance of such assessors; and

(c) where the Board imposes or requires the imposition of such a condition, the Board shall take over the obligations of any such authorised undertakers to receive supplies of electricity in bulk:

Provided that the Board shall not be obliged to take over any such obligation arising under a contract made after the passing of this Act unless the contract has been approved by the Electricity Commissioners.

(4) The Board may, before the carrying out of the works specified in a scheme in any area is completed, if they think fit, enter into arrangements with any authorised undertakers in the area (being undertakers to whom the Board on the completion of the scheme would be entitled to give a direct supply) for giving those undertakers, pending the completion of the works, a supply of electricity of such amount and upon such terms as may be agreed between them.

(a) An "indirect supply" is defined by s. 51 (2), *post*, p. 2937.

(b) The provisions as to the price of "direct supply" are contained in s. 11, *infra*, but in the case of the owners of a "selected station" alternative methods of arriving at the price to be paid are given by s. 7 (4), *ante*, p. 2914, and a limitation on the price is imposed by s. 13, *post*, p. 2920. The price of "indirect supply" is governed by s. 12, *infra*.

(c) *I.e.* under s. 7, *ante*, p. 2914.

(d) See the definition of this expression in s. 51 (1), *post*, p. 2937.

(e) As to the supply of owners of selected stations, see s. 7 (2), *ante*, p. 2914.

(f) The price of such a supply is regulated by s. 12, *infra*.

(g) As to the calculation of cost of supply by the Board over a number of years, see s. 51 (5), *post*, p. 2938.

As to the cost of direct and indirect supplies, see ss. 11 and 12, *infra*, and note (b), *supra*.

Tariff for electricity supplied directly by Board to authorised undertakers.

11.—(1) Subject to the provisions of this Act as to the sale of electricity to the owners of selected stations (a), the price to be charged by the Board for electricity supplied directly by them to authorised undertakers shall be in accordance with such tariff as may be fixed by the Board from time to time, and the tariff shall be fixed so that over a term of years to be approved by the Electricity Commissioners the receipts on income account shall be sufficient, to cover the expenditure on income account, including interest and sinking fund charges, with such margin as the Electricity Commissioners may allow.

(2) The tariff shall be so framed as to include as part of the charge and show separately—

(a) a fixed kilowatt charges component (b);

(b) a running charges component (b);

and for this purpose the fixed kilowatt charges component and the running charges component shall be ascertained in accordance with such principles as may be approved by the Electricity Commissioners; or the tariff may be framed in such other manner (c) as may be determined by an order of the Electricity Commissioners, but such an order shall not come into force until it has been laid before each House of Parliament for a period of not less than thirty days on which that House has sat, and if either House of Parliament before the expiration of that period presents an Address to His Majesty no further proceedings shall be taken thereon.

(3) The tariff fixed under this section may, if the Board think fit, be different for different areas.

(a) As to prices to be charged to owners of "selected stations," see ss. 7, *ante*, p. 2914, and 13, *post*, p. 2920.

(b) Note that these components are to be ascertained in accordance with principles to be approved by the Commissioners, and that the definitions of the expressions in s. 51 (3), *post*, p. 2937, apply only to s. 7, *ante*, p. 2914, and not to this section.

(c) This provision enables the Commissioners to frame the tariff on a different basis; note also that the tariff may vary in different areas (sub-s. (3)).

Price of indirect supply in bulk.

12. Where any authorised undertakers take a supply of electricity directly or indirectly (a) from the Board, the price charged by them for the supply of electricity in bulk (b) to any other authorised undertakers, or for a supply for haulage or traction purposes to a railway company, shall, notwithstanding anything in the special Act or Order relating to their undertaking, be on the same terms as those on which the undertakers receive the supply directly or

Section 12. indirectly from the Board, together with such charges and allowances in respect of any transmission line or part thereof used by the undertakers giving the supply in bulk for the purpose of that supply as are mentioned in the Third Schedule to this Act (*c*), and if any question arises as to the amount of the price to be so charged, it shall be determined by the Electricity Commissioners:

Provided that this section shall not affect the price charged for any supply of electricity given in pursuance of a contract made before the passing of this Act (*d*).

(*a*) See the definition of an "indirect supply" in s. 51 (2), *post*, p. 2937.

(*b*) This expression is defined in s. 25, Electric Lighting Act, 1909, *ante*, p. 2703.

(*c*) See this Schedule at p. 2939, *post*. The effect of the provision is to pass on to the purchasers of the bulk supply any reduction in the cost of current effected by the operations of the Board. The price fixed by this section does not, however, affect the price fixed by a contract made before December 15th, 1926.

(*d*) The Act received the Royal Assent on December 15th, 1926.

Limitation on price to be charged to owners of selected stations.

13. Where any authorised undertakers, being the owners of an existing generating station which by virtue of this Act becomes a selected station (*a*), who take a supply of electricity from the Board prove to the satisfaction of the Electricity Commissioners that the cost of taking that supply from the Board on the terms provided by this Act (*b*) in any year exceeds the cost which they would have incurred had this Act not been passed in themselves generating the like quantity of electricity, then the charges by the Board to those undertakers for the supplies of electricity furnished to them shall be so adjusted that the amount charged in that year does not exceed the cost which, in the opinion of the Electricity Commissioners, the undertakers would have incurred in themselves generating the electricity.

(*a*) As to selected stations, see s. 4 (1) (*a*), *ante*, p. 2911.

(*b*) As to the price to be charged for supplies to the owners of selected stations, see ss. 7 (4) and 11, *ante*, pp. 2914, 2919.

Power to close generating stations in certain events.

14.—(1) Where the Board notify to any authorised undertakers owning a generating station (*a*), not being a selected station (*b*), that the Board are in a position to supply directly or indirectly to those undertakers such quantity of electricity as the undertakers would require for the purposes of their undertaking if the station were closed, and undertake to give such a supply for a period of not less than seven years on specified terms ascertained in accordance with the provisions of this Act (*c*), and are satisfied that the cost of the supply on those terms is below the then prevailing cost to those undertakers of generating electricity at the station, and those undertakers refuse, or within three months after such notification fail to agree, to take such supply directly or indirectly from the Board, then, if the Electricity Commissioners are satisfied (*d*) as respects the next subsequent year that the cost of production of electricity generated by those undertakers (*e*) at the station substantially exceeded the cost they would have incurred had they purchased the like quantity of electricity directly or indirectly from the Board on the specified terms ascertained as aforesaid, the Electricity Commissioners may, if in their opinion it is expedient that the station should cease to be used as a generating station, by order require the authorised undertakers within such time as the Electricity Commissioners may allow (not being less than six months from the date of the order) to take a supply of electricity in bulk from the Board and shut down the generating station as such.

(2) If any question arises under this section as to whether the cost of production of electricity generated by any undertakers substantially exceeded the cost they would have incurred had they purchased the like quantity of

electricity directly or indirectly from the Board on the specified terms, the question shall, if those undertakers so require, be referred to the arbitration of a barrister (or in Scotland an advocate) appointed by the Minister of Transport from the appropriate panel set up under section four of this Act, and the arbitrator may, in any case in which he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the case wholly or partially with the assistance of such assessors.

(3) In calculating for the purposes of this section the cost of production of electricity generated by the authorised undertakers, no account shall be taken of capital charges in respect of capital expended on the generating station.

(4) For the purposes of this section, any authorised undertakers owning a generating station not being a selected station shall on being so required by the Electricity Commissioners furnish them with a statement showing the cost of production of electricity at that station for such period and certified in such manner as the Commissioners may direct.

(*a*) This expression is defined by s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802 (s. 51 (1), *post*, p. 2937).

(*b*) The power to close generating stations does not extend to "selected stations." See the definition of this expression in s. 4 (1) (*a*), *ante*, p. 2911.

(*c*) *I.e.* under ss. 11 and 12, *ante*, p. 2919.

(*d*) An appeal is given from a decision of the commissioners (sub-s. (2)).

(*e*) In estimating the cost no account shall be taken of capital charges in respect of capital expended on the generating station (sub-s. (3)).

Compensation for deprivation of employment.

15. Section sixteen of the Electricity (Supply) Act, 1919 (*a*), as amended by section twenty-one of the Electricity (Supply) Act, 1922 (*b*), shall, with the necessary adaptations, apply to any officer or servant of any authorised undertakers affected by the closing (permanent or temporary) or restrictions imposed by the Board or by or under a scheme on the working or use of, or the acquisition of, a generating station, or by the acquisition of a main transmission line or any part thereof, under or in consequence of this Act, and for that purpose that section as so amended shall have effect as set out and adapted in the Fourth Schedule to this Act (*c*).

(*a*) See this section and notes thereto at p. 2791, *ante*.

(*b*) See this section at p. 2845, *ante*.

(*c*) See the Schedule at p. 2940, *post*.

Powers of authorised undertakers.

16.—(1) Where under this Act the Board is authorised or required to enter into arrangements (*a*) with authorised undertakers for any purpose, then, notwithstanding anything in any Special Act or Order, or any other instrument regulating the constitution or powers of the undertakers, it shall be lawful for the authorised undertakers, whether a joint electricity authority a local authority or a company, to enter into and carry out any such arrangements.

(2) The carrying out of any such arrangements shall be a purpose for which authorised undertakers, being a local authority or a joint electricity authority may borrow under the Electricity (Supply) Acts, 1882 to 1922 (*b*).

(3) Where the carrying out of any such arrangement by authorised undertakers, being a company, involves capital expenditure, and owing to limitations on the powers of the company to raise capital the company cannot raise the necessary capital without the authority of an Act of Parliament, the company may submit to the High Court (or in Scotland the Court of Session), a scheme providing for increasing all or any of the existing classes of loan or share capital of the company, or creating new classes of loan or share capital, with such rights, priorities and conditions as may be specified in the scheme; and if the scheme is approved by the Court, then, notwithstanding anything in any special Act affecting the company or the holders

Section 16. of any class of loan or share capital in the company, the additional capital of each class shall form part and rank pari passu with the existing capital of that class, and any new class of capital may with the consent of the majority in value of the holders of any class of security affected rank before any existing class of capital.

(*a*) Arrangements may be made under ss. 2, 5, 6 and 9, *ante*, and 22, *post*.

(*b*) The borrowing powers referred to are contained in s. 8, Electric Lighting Act, 1882 (*ante*, p. 2443), s. 20, Electricity (Supply) Act, 1919 (*ante*, p. 2794), and s. 1, Electricity (Supply) Act, 1922 (*ante*, p. 2835).

Provisions consequent on acquisition by the Board of generating station or main transmission line.

17.—(1) Where a generating station (*a*) acquired under this Act (*b*) by any authorised undertakers, company, or person, or by the Board, or a main transmission line (*c*) acquired under this Act (*d*) by the Board, is in course of construction, extension, or repair, the rights and liabilities of the former owners thereof under any contract for such construction, extension, or repair, shall be transferred to the body so acquiring the generating station or main transmission line (in this Act referred to as "the acquiring authority").

(2) Where any generating station acquired by an acquiring authority under this Act contains any plant which forms an essential part of the distribution system of the former owners of the generating station, that plant shall, notwithstanding such acquisition, remain the property of such former owners who shall, so long as electricity is supplied for distribution from that station, at all times have the right of access thereto.

(*a*) See this expression defined in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802 (s. 51 (1), *post*, p. 2937).

(*b*) *I.e.* under s. 5, *ante*, p. 2913.

(*c*) See the definition in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2803 (s. 51 (1), *post*, p. 2937).

(*d*) *I.e.* under s. 8, *ante*, p. 2915.

Saving for necessity of obtaining certain consents.

18.—(1) Where the carrying out of any part of a scheme, or any arrangement or requirement in connection therewith, would involve any operation for which any consent or approval of the Minister of Transport or the Electricity Commissioners would be necessary under the Electricity (Supply) Acts, 1882 to 1922 (*a*), nothing in the foregoing provisions of this Act shall relieve the Board or any authorised undertakers or other persons concerned from the necessity of obtaining such consent or approval.

(2) Where an application is made by any authorised undertakers to the Minister of Transport or the Electricity Commissioners for their consent or approval under the Electricity (Supply) Acts, 1882 to 1922, in any case where such consent or approval is by those Acts required (*a*), the Minister or Commissioners, in determining whether to give or withhold the consent or approval, shall have regard to the provisions of this Act and the effect of any scheme or proposed scheme thereunder (*b*).

(*a*) Provisions requiring the consent or approval of the Minister or Commissioners are included in s. 10, Schedule, Electric Lighting Clauses Act, 1899, *ante*, p. 2754, ss. 11, 19, 20, 21, and 22, Electricity (Supply) Act, 1919, *ante*, pp. 2786, 2793, 2794 and 2795. For the purpose of these provisions and any others requiring such approval or consent, the Board are put in the position of authorised undertakers (see also s. 20, *post*, p. 2923).

(*b*) *I.e.* under s. 4, *ante*, p. 2911.

Special provisions as to London.

19. Where any obligation to carry out any technical scheme imposed on a joint electricity authority, local authority, company or body by or under the London and Home Counties Electricity District Order, 1925, or the London Electricity (No. 1) Act, 1925, or the London Electricity (No. 2) Act, 1925, conflicts with any obligation arising out of a scheme under section four of this Act which is imposed by or under this Act on any such authority, company or body, the last mentioned obligation shall prevail.

Subsidiary Provisions as to the Board.

Application of Electricity Supply Acts to Board.

20.—(1) Subject to the provisions of this section, the Board shall be deemed to be undertakers (*a*) and authorised undertakers (*b*) within the meaning of the Electricity (Supply) Acts, 1882 to 1922 (*c*), and this Act in relation to the Board shall be deemed to be a special Act for the purposes of those Acts, and for the purposes of this section there shall be incorporated with this Act the provisions of the Schedule to the Electric Lighting (Clauses) Act, 1899, subject to such exceptions and modifications as may be prescribed by regulations made by the Electricity Commissioners (*d*):

62 & 63 Vict. c. 19.

Provided that section thirteen of the Electric Lighting Act, 1882 (*e*) (which relates to the breaking up of private streets, railways and tramways), and sections two and three of the Electric Lighting Act, 1888 (*f*) (which relate to the purchase of undertakings by local authorities), shall not apply to the undertaking of the Board, and that section twenty of the Schedule to the Electric Lighting (Clauses) Act, 1899 (*g*), in its application to the Board, shall have effect as if after the words " electric signalling communication " wherever they occur, there were inserted the words " or electrical control of railways."

45 & 46 Vict. c. 56.

(2) Before any such regulations come into force they shall be laid before each House of Parliament for a period of not less than thirty days on which that House has sat, and if either House of Parliament, before the expiration of that period, presents an address to His Majesty no further proceedings shall be taken thereon.

(3) The Board shall not supply electricity directly to persons not being authorised undertakers (*b*) except that—

(*a*) they may supply the owners of selected stations (*h*) not being authorised undertakers, to the extent to which those owners are entitled to demand a supply under this Act (*j*).

(*b*) with the consent of the Electricity Commissioners, they may supply electricity to any company, body, or person requiring a supply for power purposes in any area not forming part of the area of supply of any authorised undertakers, but where electricity is supplied by the Board to a company, body or person requiring a supply for power purposes it may be used by that company, body or person for lighting any premises in any part of which the power is utilised.

Acquisition of land by the Board.

21.—(1) The Board may acquire land or any easements or servitudes or other rights in or over land by agreement, or may be authorised to acquire land or any such right compulsorily, for the purpose of any of their powers and duties under this Act (including the construction of main transmission lines) in like manner as a local authority being authorised undertakers may acquire or be authorised to acquire land under the Electricity (Supply) Acts, 1882 to 1922, for the purpose of a generating station, and those Acts and the Acts incorporated therewith shall apply accordingly (*a*); and the Board shall be

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(*a*) See the definition in s. 25, Electric Lighting Act, 1909, *ante*, p. 2703.

(*b*) This expression is defined in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802.

(*c*) See note (*a*), *ante*, p. 2909.

(*d*) See the regulations in App. II, *post*, p. 3276.

(*e*) See the section at p. 2446, *ante*.

(*f*) See the section s. at pp. 2495, 2496, *ante*. The effect of this provision is to avoid the power of a local authority to purchase that part of the Board's undertaking which is situate in its area.

(*g*) See this section at p. 2582, *ante*, and set out as modified in its application to the Board at p. 3284, *post*.

(*h*) See the definition in s. 4 (1) (*a*), *ante*, p. 2911.

(*j*) *I.e.* unders 7 (2), *ante*, p. 2914.

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deemed to be a public authority for the purposes of the Acquisition of Land (Assessment of Compensation) Act, 1919 (*b*):

9 & 10 Geo. 5, c. 57.

Provided that the Electricity Commissioners shall not make and the Minister of Transport shall not confirm any special order authorising the Board to acquire land or a right in or over land compulsorily for the purposes of a main transmission line unless satisfied that the objects sought to be attained cannot consistently with efficiency and economy be attained by the acquisition of a wayleave in accordance with the provisions of section twenty-two of the Electricity (Supply) Act, 1919 (*c*).

(2) Nothing in this section shall authorise the compulsory acquisition by the Board of land held by the owners or lessees of any railway, canal, inland navigation, dock, or harbour for the purposes of their undertaking, or enable the Board to acquire compulsorily any easement, servitude, or other right in or over such land otherwise than in accordance with the provisions of section twenty-two of the Electricity (Supply) Act, 1919 (*c*), and section eleven of the Electricity (Supply) Act, 1922 (*d*).

(*a*) *I.e.* under s. 1, Electric Lighting Act, 1909, *ante*, p. 2695.
(*b*) See this Act at p. 1271, *ante*.
(*c*) See this section at p. 2795, *ante*.
(*d*) See this section at p. 2841, *ante*.

Power of Board to use main transmission lines by agreement.

22. The Board may, by agreement with any authorised undertakers or other persons, use, subject in the case of authorised undertakers to the Acts and Orders relating to the undertaking, any main transmission lines (*a*) of those undertakers or persons for such time and upon such terms as may be agreed.

(*a*) See the definition in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2803 (s. 51 (1), *post*, p. 2937).

Power of Board to purchase surplus electricity.

23.—(1) The Board and any local authority company or person producing electricity by means of the utilisation of water power, waste heat, or otherwise, may enter into arrangements for the purchase by the Board of any surplus electricity which the local authority company or person may be able to dispose of on such terms as may be agreed, and the Board may be authorised by order of the Electricity Commissioners to exercise such powers (including the power to break up roads, railways, and tramways) as may be necessary for the purpose of conveying the electricity so purchased.

(2) The provisions of subsection (2) of section fifteen of the Electricity (Supply) Act, 1919 (*a*), shall apply to the Board in like manner as they apply to a joint electricity authority.

(*a*) See this section at p. 2790, *ante*.

Protection of Government observatories, &c.

24.—(1) The Board shall not provide, construct, equip, or alter or use any generating station, sub-station, transformer station, building, plant, machinery, electric main, appliance work or apparatus, or use or permit to be used, transmit, convert, or transform any electrical energy either under this Act or otherwise in such a manner as to affect injuriously in any respect whatever either by vibration or obstruction or smoke or by electric or electromagnetic action or influence, or by any means whatsoever whether similar to those enumerated or not any Government observatory or laboratory existing at the passing of this Act (*a*) or any instrument or apparatus in or adjacent thereto, and used in or in connection therewith.

(2) Section twenty-six of the Electric Lighting Act, 1882 (*b*), and any enactments incorporated by that section, as amended by section twenty-five of the Electricity (Supply) Act, 1919 (*c*) (which contain provisions for the

protection of the Postmaster-General) shall, in their application to the Board, have effect as if references therein to the Postmaster-General included references to any other Government Department.

(a) *I.e.* on December 15th, 1926.

(b) See this section at p. 2451, *ante*, and note the extension of the section to other government departments.

(c) See this section at p. 2798, *ante*.

Annual report, statistics and returns.

25.—(1) The Board shall annually, at such date and in such form as the Minister of Transport may prescribe, make to him a report of their proceedings under this Act during the preceding year, and such report shall be laid before both Houses of Parliament.

(2) The Board shall furnish to the Electricity Commissioners at such times and in such form and manner as the Commissioners may direct such statistics and returns as they may require.

Financial Provisions.

Expenses of the Board.

26. All sums received by the Board shall be paid into a separate fund, and out of that fund the salaries, fees and allowances of the members of the Board and the salaries, remuneration, pensions and gratuities of the secretary officers and servants of the Board, and all expenses incurred by the Board, shall be paid, including repayment to the Electricity Commissioners of any expenses incurred by those Commissioners in the preparation of any schemes under this Act, and payment to the Minister of Transport of any expenses and liabilities incurred by him before the commencement of this Act preliminary to the preparation of such schemes, together with interest in either case at the rate of five per cent. per annum.

Power of Board to borrow.

27.—(1) For the purposes hereinafter mentioned the Board may with the consent of the Electricity Commissioners and subject to regulations to be made by the Minister of Transport with the approval of the Treasury, borrow money, in such manner and subject to such provisions as to the repayment thereof, and with such powers as to re-borrowing for the purpose of paying off a loan previously raised, as may be prescribed by the regulations, and the regulations may empower the Board to borrow temporarily by the issue of bonds or otherwise and to make arrangements with bankers, and may apply with or without modifications any enactments relating to borrowing by local authorities (*a*), including provisions as to the enforcement of the security by the appointment of a receiver or otherwise.

(2) Such powers of borrowing as aforesaid may be exercised for all or any of the following purposes:—

(*a*) the construction or acquisition of such main transmission lines, generating stations, and other works as the Board are authorised by this Act to construct or acquire;

(*b*) any other payment or any permanent work or other thing which the Board are authorised to execute or do, the cost of which ought, in the opinion of the Electricity Commissioners, to be spread over a term of years (including the payment of interest on money borrowed for capital expenditure for such period as may be determined by the Electricity Commissioners after consultation with the Treasury to be the period during which the expenditure remains unremunerative);

(*c*) the provision of working capital;

(*d*) any other purpose for which the Board are under this Act authorised to borrow.

(3) Any money borrowed under this section, and the interest thereon,

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may be charged on the undertaking and all the revenues of the Board, or on any specific property forming part of that undertaking, and shall be repaid within such period not exceeding sixty years as the Electricity Commissioners may determine.

(4) The maximum amount which may be borrowed by the Board under this section shall be thirty-three and a half million pounds, and the Board shall not have power to borrow any sums in excess of that amount, otherwise than for the purpose of paying off loans previously raised, unless authorised to do so by a special order under section twenty-six of the Electricity (Supply) Act, 1919 (*b*).

(5) It shall be lawful for any annual provision required to be made by the Board for the repayment of money borrowed for any of the purposes of this Act, to be suspended whilst the expenditure out of such moneys remains unremunerative, for such period and subject to such conditions as the Electricity Commissioners after consultation with the Treasury may determine:

Provided that such suspension shall not be for a longer period than five years from the commencement of the financial year next after that in which such expenditure is incurred.

(*a*) See s. 20 of the Electricity (Supply) Act, 1919, and notes thereto at p. 2794, *ante*.
(*b*) See this section at p. 2799, *ante*.

Power to authorise issue of stock.

28.—(1) The Board may, for the purpose of raising money which they are authorised to borrow under this Act, issue stock (to be called Central Electricity Stock).

(2) All such stock, and interest thereon, shall be charged on the undertaking, and on all the revenues of the Board.

(3) Subject to the provisions of this Act, any stock created by the Board under the powers of this Act shall be issued, transferred, dealt with, and redeemed, according to regulations made by the Minister of Transport with the approval of the Treasury, and any such regulations may apply for the purpose of this section, with or without modifications, any provisions of the Local Loans Act, 1875 (*a*), the Public Health Acts Amendment Act, 1890 (*b*), and the Acts amending those Acts, and of any Act relating to stock issued by any local authority (*c*).

38 & 39 Vict. c. 83.
53 & 54 Vict. c. 59.

(*a*) This Act is set out at p. 2343, *ante*.
(*b*) The material part (Part V) of this Act is set out at p. 914, *ante*.
(*c*) See the Public Authorities and Bodies (Loans) Act, 1916, *ante*, p. 1235, as amended by s. 8, Housing (Additional Powers) Act, 1919, *ante*, p. 1291.

Power to Treasury to guarantee loans to Board.

29.—(1) Subject to the provisions of this section, the Treasury may guarantee in such manner as they think fit, the payment of the interest and principal of any loan proposed to be raised by the Board, or of either the interest or the principal:

Provided that the aggregate amount of the loans, the principal or interest of which may be so guaranteed, shall not exceed thirty-three and a half million pounds.

(2) Such sums as may from time to time be required by the Treasury for fulfilling any guarantees given under this section shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof.

(3) The repayment to the Treasury of any sums so issued out of the Consolidated Fund, together with interest thereon at such rate as the Treasury may fix, shall be a charge on the undertaking and all the revenues of the Board next after the principal and interest of the guaranteed loan, and any

sinking fund payments for the repayment of the principal thereof, and in priority to any other charges not existing at the date on which the loan is raised.

(4) All sums paid from time to time in or towards the repayment of any sum issued out of the Consolidated Fund under this section shall be paid into the Exchequer.

(5) The Treasury shall so long as any such guarantees are in force, lay before both Houses of Parliament in every year within one month after the thirty-first day of March a statement of the guarantees (if any) given during the year ended on that date, and an account up to that date of the total sums (if any) which have been either issued out of the Consolidated Fund under this section or paid in or towards repayment of any money so issued.

Accounts and audit.

30.—(1) The Board shall cause proper books of account and other books in relation thereto to be kept, and shall prepare an annual statement of accounts in such form and containing such particulars as may be prescribed by the Minister of Transport.

(2) The accounts of the Board and their officers shall be audited by auditors appointed by the Minister of Transport, and the audit shall be conducted in accordance with such regulations as may be prescribed by the Minister of Transport.

(3) As soon as the accounts of the Board have been audited the Board shall send a copy thereof to the Minister of Transport together with a copy of any report of the auditor thereon, and shall publish the accounts in such manner as the Minister of Transport may direct, and shall place copies thereof on sale at a price not exceeding one shilling a copy.

MISCELLANEOUS PROVISIONS.

Charges for electricity supplied by power companies.

31.—(1) On a power company commencing to receive a supply of electricity from the Board (*a*), the Minister of Transport may revise the maximum prices authorised under the special Act of the company to be charged by the company for supplies, other than supplies in bulk to authorised undertakers, and may revise the standard prices fixed by such Act and on such revision in determining the maximum and standard prices regard shall be had to any change in the cost of electricity to the company attributable to this Act.

(2) Where a special Act passed before the passing of this Act authorises such a power company to make good any deficiency in any previous dividends which have fallen below the prescribed standard rate of dividends, the Electricity Commissioners may, after such inquiry as they think fit, by special order made under section twenty-six of the Electricity (Supply) Act, 1919 (*b*), make provision for the repeal or limitation of any such authorisation, and where such an order is made the special Act shall have effect subject to the provisions of the order.

(*a*) *I.e.* under s. 7 (2) or s. 10, *ante*, pp. 2914, 2917.
(*b*) See this section at p. 2799, *ante*.

Relation of charges to dividends.

32.—(1) Where any company, being authorised undertakers and not being a power company, receive a supply of electricity either directly or indirectly (*a*) from the Board, the Electricity Commissioners may, if, having regard to any change in the cost of electricity to the company attributable to this Act (*b*), they think it expedient, by a special order under section twenty-six of the Electricity (Supply) Act, 1919 (*c*), make provision as to the relation between the charges to be made for electricity and the dividends to be paid by the company, and the order shall have effect as if the provisions contained therein were in substitution for the provisions (if any) contained in the Act or order relating to the undertaking of the company as to the relation of charges to dividend:

Provided that where any such company carries on two or more separate undertakings one or more of which receive a supply from the Board, any such order shall regulate the charges to be made for electricity in the case of the undertaking or each of the several undertakings receiving such a supply in relation to the divisible profits on the capital attributable to that undertaking.

(2) The provisions of this section shall not apply to any company which is a London company within the meaning of the London and Home Counties Electricity District Order, 1925, or to any company which may be formed under the agreement set out in the Fourth Schedule to the London Electricity (No. 1) Act, 1925, or to any company formed for the purpose of such an amalgamation of undertakings as is provided for by section eight of the London Electricity (No. 2) Act, 1925.

(a) As to "indirect supplies," see s. 51 (2), *post*, p. 2937.

(b) Note the power of the Commissioners only arises where the change in price is attributable to this Act.

(c) See this section at p. 2799, *ante*.

Adoption of Local Government and Other Officers' Superannuation Act, 1922. 12 & 13 Geo. 5. c. 59.

33. The Board and any Joint Electricity Authority respectively may (without prejudice in the case of any such authority to the provisions contained in subsection two of section eight of the Electricity (Supply) Act, 1919 (*a*) if they think fit, adopt the provisions of the Local Government and Other Officers' Superannuation Act, 1922 (*b*), in the same manner as if the Board or such Joint Electricity Authority, as the case may be, were a local authority within the meaning of the said Act of 1922 (*c*), and upon that Act being so adopted by the Board or a joint electricity authority the Act shall apply as if the Board or the authority, as the case may be, were such a local authority as aforesaid.

(a) See this section at p. 2785, *ante*.

(b) This Act is set out at p. 1335, *ante*.

(c) See the definition of "local authority" in s. 3, Local Government and Other Officers' Superannuation Act, 1922, at p. 1336, *ante*.

Power to lop trees and hedges obstructing electric lines.

34.—(1) Where any tree or hedge obstructs or interferes with the construction, maintenance, or working of any main transmission line (*a*) or other electric line (*b*) which is being constructed or is owned by any authorised undertakers (*c*), or will interfere with the maintenance or working of such a line, the authorised undertakers may give notice to the owner or occupier of the land (*d*) on which the tree or hedge is growing requiring him to lop or cut it (*e*) so as to prevent the obstruction or interference, subject to the payment to him by the authorised undertakers of the expenses reasonably incurred by him in complying with the notice (*f*):

Provided that, in any case where such a notice is served upon a person who, although the occupier of the land on which the tree or hedge is growing, is not the owner thereof, a copy of the notice shall also be served upon the owner thereof, if known.

(2) If within twenty-one days from the giving of such notice the requirements of the notice are not complied with, and neither the owner nor occupier of the land gives such a counter notice as is hereinafter mentioned, the authorised undertakers may cause the tree or hedge to be lopped or cut so as to prevent such obstruction or interference as aforesaid (*g*).

(3) If, within twenty-one days from the giving of such notice, the owner or occupier of the land (*h*) on which the tree or hedge is growing gives a counter

notice to the authorised undertakers objecting to the requirements of the notice, the matter shall, unless the counter notice is withdrawn, be referred to the Minister of Transport, who, after giving the parties an opportunity of being heard (*j*), may make such order as he thinks just, and any such order may empower the authorised undertakers (after giving such reasonable previous notice to any person by whom such counter notice was given of the commencement of the work as the order may direct) to cause the tree or hedge to be lopped or cut so as to prevent such obstruction or interference as aforesaid, and may determine any question as to what compensation (if any) and expenses are to be paid.

(4) The authorised undertakers shall issue instructions to their officers and servants with a view to securing that trees and hedges shall be lopped or cut in a woodmanlike manner and so as to do as little damage as may be to trees, fences, hedges, and growing crops, and shall cause the boughs lopped to be removed in accordance with the directions of the owner or occupier, and shall make good any damage done to the land.

(5) Any compensation or expenses payable to the owner or occupier by the authorised undertakers under this section shall be recoverable summarily as a civil debt.

(6) Where for the purpose of the construction or maintenance of a transmission line it is necessary to fell any trees, this section shall apply to the felling of trees in like manner as it applies to the lopping of trees.

(7) This section shall apply to main transmission lines owned or to be constructed by the Board in like manner as it applies to lines owned or to be constructed by authorised undertakers.

(*a*) See the definition is s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2803.

(*b*) See the definition in s. 32, Electric Lighting Act, 1882, *ante*, p. 2454.

(*c*) This expression is defined by s. 36, of the Electricity (Supply) Act, 1919, *ante*, p. 2802. It now also includes the Central Electricity Board (s. 20 (1), *ante*, p. 2923, see also sub-s. (7)).

(*d*) Note that the proviso renders it necessary to serve a notice upon the owner *and* the occupier, if they are not the same person. A right of giving a counter notice is given to the owner or occupier by sub-s. (3).

(*e*) Felling is only permissible in the case of main transmission lines (sub-s. (6)).

(*f*) The amount of these expenses if in dispute is to be determined by the Minister (sub-s. (3)).

(*g*) Apparently no compensation is payable unless a counter notice is given under the next subsection; the work is, however, to be done in a woodmanlike manner, and damage done to the land is to be made good (sub-s. (4)).

(*h*) The owner or occupier may give a counter-notice under this section. Notice under sub-s. (1) must be given to both owner and occupier unless they are the same person.

(*j*) Under other enactments giving a right of appeal to a Government Department it has been held that there is no right to be heard orally, see, *R.* v. *Local Government Board, Ex parte Arlidge*, [1915] A. C. 120; 79 J. P. 97; *R.* v. *Housing Tribunal of Appeal*, [1920] 3 K. B. 334; 84 J. P. 252; *Wilson* v. *Esquimalt and Nanaimo Rly. Co.*, [1922] 1 A. C. 202. Here the right given is " an opportunity of being heard " and it might be open to argument whether these words do not give a right to an oral hearing. It is, however, to be gathered from the above-mentioned cases that a " hearing " may be on written representations.

Protection of county bridges (*a*).

35.—(1) Unless and except so far as may be otherwise agreed between any county council (in this section referred to as " the county council ") and the Board, the following provisions shall have effect (that is to say)—

(*a*) Nothing in this Act shall in any way limit or affect the powers of the county council to rebuild, alter, widen or repair the structure of any bridge upon which any work by this Act authorised shall be constructed, or impose upon the county council any liability which was not by law imposed upon them prior to the commencement of this Act;

(*b*) If at any time the county council require to carry out works for rebuilding, altering, widening or repairing any bridge which might involve interference with any portion of the undertaking by this Act authorised they shall prior to the commencement of such works give the Board one month's notice in writing of their intention to carry out such works and if in order to avoid interruption to the supply by the Board of electrical energy, it is in the opinion of the county council necessary temporarily to remove the mains and other electrical appliances belonging to the Board from such bridge, then the Board shall (and they are hereby authorised so to do) at their own expense temporarily carry their cables and wires across such bridge overhead or at the side thereon in such a manner as will not be a danger or inconvenience to the public, or unreasonably interfere with the works to be carried out by the county council;

(*c*) When the rebuilding, altering, widening or repairing of such bridge shall have been completed the Board shall have the same rights and powers with regard to such bridge and its approaches as they had before the works were carried out;

(*d*) If any dispute arises between the county council and the Board with regard to this section the same shall be determined by an arbitrator to be appointed on the application of either party by the Minister of Transport.

(2) In the application of this section to Scotland, the county council shall mean the county road board, or if the bridge is not wholly situated within one county, the joint bridge committee if such committee has been appointed.

(*a*) The effect of this section is to cast upon the Board the cost of altering cables and wires belonging to them when such alteration is necessitated by the rebuilding, alteration, widening or repairing of a county bridge by the county council, and so to overrule the provisions of s. 15, Electric Lighting Act, 1882, *ante*, p. 2447, in so far as county bridges are concerned.

As to what are " county bridges " see the definition in s. 134, L. G. A., 1929, and notes thereto, *ante*, p. 1996.

AMENDMENTS OF THE ELECTRICITY SUPPLY ACTS.

Schemes for constitution of electricity districts, and the organisation of supply therein.

36. For section five of the Electricity (Supply) Act, 1919, as amended by section nineteen of the Electricity (Supply) Act, 1922 (*a*), the following section shall be substituted :—

" (1) Where it appears to the Electricity Commissioners that with respect to any areas the existing organisation for the supply of electricity therein should be improved, and that a joint electricity authority should be established therefor, the Commissioners shall give notice of their intention to constitute those areas a separate electricity district, and to formulate a scheme for effecting such improvement in the district, and for the establishment of a joint electricity authority for the district:

Provided that, in considering what areas are to be included in a district, areas shall be grouped in such manner as may seem to the Commissioners most conducive to the efficiency and economy of the supply of electricity and the convenience of administration.

(2) After such a notice has been published, the Electricity Commissioners, after consultation with the authorised undertakers (*b*) in the proposed district, shall formulate such a scheme as aforesaid, and publish the scheme in such manner as they think best adapted for insuring its publicity, and hold a local inquiry (*c*) thereon, and shall give to authorised undertakers, county councils, local authorities, railway companies using or proposing to use electricity for traction purposes, large consumers of electricity, and other associations or bodies within the proposed district which appear to the Commissioners to be interested, an opportunity of

making representations to the Commissioners on the proposed scheme, and with respect to the inclusion in or exclusion from the proposed district of any area."

(a) The superseded provision as amended is set out at p. 2783, *ante*.
(b) See the definition in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802.
(c) As to inquiries, see s. 33, Electricity (Supply) Act, 1919, *ante*, p. 2801.

Contents of schemes.

37. A scheme constituting a joint electricity authority may, in addition to the matters for which provision may be made under section six of the Electricity (Supply) Act, 1919 (*a*), contain provisions—

(*a*) for the carrying out by the joint electricity authority of any works for the development of the supply of electricity within the district; and

(*b*) for the subsequent alteration of the constitution of the joint electricity authority.

(*a*) See this section at p. 2784, *ante*.

Amendment of schemes.

38.—(1) The power under section seven of the Electricity (Supply) Act, 1919 (*a*); to make orders altering previous orders shall include power by such subsequent order to constitute a joint electricity authority in any case where the original order did not provide for the constitution of such an authority.

(2) Where any such amending order constitutes a joint electricity authority in lieu of an advisory committee or other body constituted under the original order, the amending order shall provide for the application to officers and servants of the advisory committee or other body of the provisions of section sixteen of the Electricity (Supply) Act, 1919, as amended by section twenty-one of the Electricity (Supply) Act, 1922 (*b*), subject to the necessary modifications.

(*a*) See this section at p. 2785, *ante*.
(*b*) The section was further amended by the Electricity (Supply) Act, 1928, *post*, p. 3019. See the section as amended at p 2791, *ante*.

Provisions as to companies with large area of supply.

39.—(1) Where after the commencement of this Act a special order (*a*) is made authorising a company to supply electricity, and the area of supply consists of or includes the whole of the districts of two or more local authorities and is, in the opinion of the Electricity Commissioners, adequate in extent, the following provisions shall have effect with respect to the right of purchasing their undertaking (*b*)—

(*a*) The purchasing authority may within six months after the expiration of a period of fifty years (*c*) from the date of the confirmation of the special order, or such shorter period as may be specified in that behalf in the special order, and within six months after the expiration of every subsequent period of ten years, or such shorter period as may be specified in that behalf in the special order, by notice in writing, require the company to sell, and thereupon the company shall sell to them their undertaking upon the terms of the payment to those undertakers of a sum equal to the capital properly expended for the provision of the land, buildings, works, material, and plant of the undertakers in use or available and suitable for use at the time of the purchase for the purposes of their undertaking, less depreciation according to such scale as may be determined by special order (*d*).

(*b*) The Minister of Transport shall determine any questions which may arise in relation to such purchase and may fix the date from which the purchase is to take effect, and as from the date so fixed, or such other date as may be agreed, all lands, buildings, works, material and plant so purchased as aforesaid, shall vest in the purchasing authority, freed from the debts, mortgages, or similar obligations of the undertakers or attached to the undertaking, and the powers of the undertakers in relation to the supply of electricity under the Electricity (Supply) Acts, 1882 to 1926, or such special order as aforesaid, shall absolutely cease and determine, and shall vest in the purchasing authority (*e*):

(*c*) The purchasing authority (*f*)—

(i) where the area of supply is situate wholly or mainly within the district of a joint electricity authority, shall be the joint electricity authority: Provided that, if the area of supply is situate partly within the district of one joint electricity authority and partly in that of another, the right of purchase shall be exerciseable by such one of those authorities, or shall be divisible between them as the Electricity Commissioners may determine;

(ii) in any other case, shall be the local authorities for the districts in which any part of the area of supply is situate, acting through a joint committee or joint board constituted under section eight of the Electric Lighting Act, 1909 (*g*).

(*d*) Sections two and three of the Electric Lighting Act, 1888 (*h*), shall not apply.

(2) The special order in any case to which subsection (1) of this section applies may make provision as to the relation between the price charged for electricity and the divisible profits on the capital attributable to the undertaking authorised by the special order.

(*a*) A special order is made under s. 26, Electricity (Supply) Act, 1919, *ante*, p. 2799.

(*b*) This section materially affects the rights of local authorities to purchase an undertaking any part of whose area of supply is included in their district, conferred by s. 2 of the Electric Lighting Act, 1888, *ante*, p. 2495. Attention is directed in the notes to the material differences which exist in cases where this section applies.

(*c*) Under s. 2, Electric Lighting Act, 1888, *ante*, p. 2495, the maximum period is forty-two years.

(*d*) The section provides a specific formula for ascertaining the purchase price; under s. 2 of the Electric Lighting Act, 1888, *ante*, p. 2495, the amount payable was "the then value," an amount sometimes very difficult to assess.

(*e*) The undertakers' powers vest in the purchasers by virtue of this provision and not as a result of any transfer from the undertakers (*Edinburgh Street Tramways Co.* v. *Lord Provost of Edinburgh*, [1894] A. C. 456).

(*f*) Under s. 2 of the Electric Lighting Act, 1888, any local authority within whose jurisdiction any part of the area of supply was situated was the purchasing authority; under the provision in the text no single local authority can be the purchasing authority. If, however, there is no joint electricity authority for any part of the area of supply, all the local authorities in whose districts any part of the area of supply is situate, acting through a joint committee or joint board constituted under s. 8, Electric Lighting Act, 1909, *ante*, p. 2699, may be the purchasing authority.

(*g*) See this section at p. 2699, *ante*.

(*h*) These sections which govern the purchase of undertakings by local authorities are set out at pp. 2495, 2496, *ante*.

Terms of purchase of a company taking a bulk supply.

40. Where a company, being authorised undertakers (*a*), have ceased to generate electricity themselves, and in lieu thereof are taking a supply of electricity in bulk directly or indirectly (*b*) from the Board, or, with the approval of the Electricity Commissioners, from any other source, and the undertaking of the company is purchased by a local authority under section two of the Electric Lighting Act, 1888 (*c*), or under any local Act or Order on terms based on the same principle as those contained in the said section two, the following provisions shall have effect notwithstanding anything contained in that Act:

(1) In addition to the sum payable to the company by the local authority in respect of plant and other assets under the said Act of 1888 (*d*),

or under the said Act as varied by any order, or under any such local Act or Order as aforesaid, there shall be paid a sum representing the capital properly expended upon plant and other assets rendered unsuitable for use by reason of the taking of such bulk supply as aforesaid, after deducting such amount as the company, in the opinion of the Electricity Commissioners, ought properly to have written off in respect of such assets:

(2) Any question arising under this provision shall be determined by the Electricity Commissioners, whose decision shall be final.

(a) See the definition in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802, and s. 51 (1), *post*, p. 2937.

(b) As to "indirect supplies," see s. 51 (2), *post*, p. 2937.

(c) See this section at p. 2495, *ante*. This section provides that the purchase price shall be "the then value of all lands, buildings, works, materials and plant of such undertakers suitable to and used by them for the purposes of their undertaking." The effect of the undertakers taking a supply in bulk might be to render a whole or part of their plant, etc. useless, and so reduce the amount which the local authority would have to pay, the provisions contained in the text provide for the purchase price under such conditions.

(d) Except as regards plant rendered unsuitable for use by reason of the taking of the bulk supply, the basis laid down by s. 2 of the Electric Lighting Act, 1888, will be applicable.

Power to alter terms of purchase by agreement.

41. Where under the Electricity (Supply) Acts, 1882 to 1922, or under any order made thereunder, or under any deed of transfer executed in pursuance of powers conferred by any such order, or under any special or local Act, any right to purchase the whole or any part of the undertaking of any authorised undertakers is vested in a local authority (including a joint electricity authority) the authorised undertakers may at any time within ten years before the date of purchase next occurring after the passing of this Act, or within ten years of any subsequent date of purchase enter into a contract with the local authority to amend, vary or alter the terms of purchase on the next occurring date upon which they may purchase upon conditions to be agreed between the parties with the approval of the Electricity Commissioners, and the terms of such agreement shall be binding upon the parties (*a*).

(a) *Quære*, whether an agreement under this section can provide for the postponement of the date on which purchase is to be made (*cf*. s. 14, Electricity (Supply) Act, 1922, *ante*, p. 2842).

Methods of charge.

42.—(1) The charge made by authorised undertakers (*a*) to any ordinary consumer, may, if duly authorised (*b*), and notwithstanding anything in any Act or Order to the contrary, consist of a periodical fixed or service charge and in addition a charge for the actual quantity of energy supplied to the consumer or for the electrical quantity contained in the supply.

Where the undertakers have power to provide meters, electric lines, fittings, apparatus and appliances, the periodical fixed or service charge may include a rent, charge or remuneration in respect of any meter and any electric lines, fittings, apparatus and appliances provided by the undertakers in or upon the premises of the consumer whether let on hire or hire purchase terms to the consumer or otherwise (*c*).

(2) A method of charge as aforesaid may be authorised by Special Order (*d*) or by an approval under the provisions of section thirty-one of the Schedule to the Electric Lighting (Clauses) Act, 1899 (*e*), or corresponding provision contained in any Act or Order, and such Special Order or approval may provide, where expedient, for an option to ordinary consumers to be charged by an authorised alternative method.

(a) See the definition in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802, and s. 51 (1), *post*, p. 2937.

(b) As to methods of charge authorised by the Electricity Supply Acts, see s. 31, Schedule

Note to Section 42.

to the Electric Lighting (Clauses) Act, 1899, *ante*, p. 2587, and s. 22, Electricity (Supply) Act, 1922, *ante*, p. 2845. As to the authorisation of charges under the provision in the text, see sub-s. (2).

(*c*) Joint electricity authorities and local authority undertakers have power to let for hire or sell fittings, etc. (s. 23, Electricity (Supply) Act, 1919, *ante*, p. 2798, and s. 48, *post*, p. 2935).

(*d*) As to special orders, see. s. 35, Electricity (Supply) Act, 1919, *ante*, p. 2801.

(*e*) See this provision at p. 2587, *ante*.

Amendment (*a*) of Schedule to 62 & 63 Vict. c. 19.

43.—(1) The Schedule to the Electric Lighting (Clauses) Act, 1899, as incorporated with any special Act or Order passed or confirmed whether before or after the commencement of this Act, shall have effect subject to the amendments specified in the Fifth Schedule to this Act.

(2) Any special Act or Order relating to the supply of electricity passed or confirmed before the commencement of this Act which does not incorporate the provisions of the Schedule to the Electric Lighting (Clauses) Act, 1899, which are amended by the Fifth Schedule to this Act, but contains corresponding provisions, shall have effect as if the like amendments were made in those corresponding provisions.

(*a*) Note that the amendments are to affect not only Acts and Orders in force prior to the passing of this Act, but also Acts and Orders containing provisions similar to those in the Schedule to the Electric Lighting (Clauses) Act, 1899. The amendments have been incorporated in the text of the Act which is set out at pp. 2569, *et seq.*

Amendment of s. 21 of the Electricity (Supply) Act, 1919.

44.—(1) Where applications made by any authorised undertakers for consent to the placing of any electric line above ground and wayleaves have not been agreed with the owners or occupiers of any land proposed to be crossed by a line, the undertakers may serve notice in accordance with the provisions of section twenty-two of the Electricity (Supply) Act, 1919, of their proposal to place the line, and the Minister of Transport may proceed concurrently under sections twenty-one and twenty-two of the Electricity (Supply) Act, 1919 (*a*).

(2) Where the Board or any authorised undertakers have in pursuance of powers conferred on them under section twenty-two of the Electricity (Supply) Act, 1919, erected on any land supports for an electric line above ground, the Board or undertakers shall, for the purposes of section eight of the Mines (Working Facilities and Support) Act, 1923, be deemed to be persons having an interest in the land on which such supports are erected.

(3) Where an application has been made to the Minister of Transport for his consent to the placing of any electric line above ground, and representations are made that the line will prejudically affect any ancient monument within the meaning of the Ancient Monuments Consolidation and Amendment Act, 1913, the Minister of Transport, in determining whether to give or withhold his consent, or to impose conditions, shall take into consideration any recommendations made to him by the Commissioners of Works with a view to preventing the ancient monument being prejudicially affected.

(*a*) See these sections at pp. 2794, 2795, *ante*. Section 22 which provides for the obtaining of compulsory way leaves could not be put into operation until the Minister had given his consent to the placing of a particular overhead line under s. 21. Circumstances might arise in which two local inquiries in respect to the same line might have been necessary, and the provision in the text, therefore, makes for dispatch and the avoidance of expense.

Power to recover charge for reconnection.

45. Any expenses reasonably incurred by any authorised undertakers in reconnecting any electric line or other work through which electricity may be supplied which may have been lawfully cut off or disconnected by reason of any default of the consumer may be recovered by the authorised undertakers in like manner as expenses lawfully incurred by them in such cutting off or disconnecting (*a*).

Note to Section 45.

(*a*) An undertaker may disconnect a supply on the default of a consumer under s. 21, Electric Lighting Act, 1882, *ante*, p. 2450, and recover the costs of such cutting off or disconnection summarily as a civil debt or in any court of competent jurisdiction (ss. 40 and 41, Gasworks Clauses Act, 1871, *ante*, p. 2325, and s. 12, Electric Lighting Act, 1882, *ante*, p. 2446). The provision in the text enables the undertakers to recover the cost of reconnecting a supply so cut off, in the same manner.

Supply of electricity by railways, &c.

46.—(1) It shall be lawful for the owners of any railway generating station to supply electricity therefrom to the owners of any other railway generating station upon such terms and conditions as may be respectively agreed between them: Provided that no such supply shall be given under the powers conferred by this section without the consent of the Electricity Commissioners.

(2) The Electricity Commissioners may, subject to the provisions of the Electricity (Supply) Acts, 1882 to 1922, and to the Schedule to the Electric Lighting (Clauses) Act, 1899, by order authorise the breaking up of such roads, railways, and tramways as may be necessary for the purpose of such a supply.

(3) The provisions of the Electricity (Supply) Acts, 1882 to 1922, and of the Schedule to the Electric Lighting (Clauses) Act, 1899, so far as they relate to the protection of the Postmaster-General, shall apply to any works for the supply of electricity under this section and in the application of those provisions the owners giving the supply of electricity under the provisions of this section shall be deemed to be undertakers, and nothing in this section shall affect any right or remedy of the Postmaster-General under the Telegraph Acts, 1863 to 1925.

Supply of electricity to railway companies, &c.

47. Where any authorised undertakers may supply and are supplying within their district or area of supply electricity for haulage or traction to any company or authority being the owners or lessees of a railway, dock, harbour or canal undertaking situate partly within and partly without that district or area, such authorised undertakers may, subject to the consent of the Minister of Transport and to such limitations and conditions (if any) as he may prescribe either generally or in any particular case, so supply electricity to be used for any purposes of such undertaking, whether within or without such district or area of supply, and such company or authority may, subject to the consent of the Minister of Transport and to such limitations and conditions (if any) as he may prescribe either generally or in any particular case, use the electricity so supplied for any purposes of their undertaking for which they are entitled to use electricity:

Provided that the Minister of Transport shall not in any case give any such consent until notice of the application for the consent has been given by advertisement or otherwise in such manner as the Minister may direct, and an opportunity has been given to any person who appears to the Minister to be affected of making representations thereon (*a*).

(*a*) This section enables the Minister by consent to do what was formerly only possible by means of a special order under s. 5 (2), Electric Lighting Act, 1909, *ante*, p. 2697.

Sale of fittings (*a*).

48.—(1) Subject to the provisions of this section a joint electricity authority and any local authority (*b*) authorised by special Act or by Order to supply electricity may sell electric lines, fittings, apparatus, and appliances for lighting, heating, and motive power, and for all other purposes for which electricity can or may be used (in this section called "electric fittings"), and may instal, connect, repair, maintain, and remove the same, and with respect thereto may demand and take such remuneration or rents and charges, and may make such terms and conditions as may be agreed upon.

(2) The exercise of the powers of this section shall be subject to the following restrictions:—

(*a*) The joint electricity authority or local authority shall not manufacture

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electric fittings unless expressly authorised to do so by special Act or Order;

(*b*) The joint electricity authority or local authority shall not sell electric fittings except—

(i) to a consumer (*c*) or a person who intends to be a consumer of electricity supplied by them; or

(ii) to a contractor (*d*) who requires such fittings to enable him to supply them to a person who is, or intends to be, a consumer of electricity supplied by the joint electricity authority or local authority;

(*c*) The prices charged by a joint electricity authority or a local authority for the sale of any electric fittings shall not be less than the recognised retail prices (*e*), unless the sale is to a contractor, in which case the prices shall not be less than the recognised trade prices (*e*), and if any question shall arise as to what are the recognised retail or trade prices of any electric fittings, that question shall be determined by the committee appointed as hereinafter provided;

(*d*) Every such joint electricity authority or local authority shall so adjust the charges to be made by them under this section as to meet any expenditure incurred by them in the exercise of the powers of this section (including interest upon and sinking fund charges in respect of money borrowed for the purposes of this section);

(*e*) The total sums received and expended by any such joint electricity authority or local authority under this section in each year, including interest upon and sinking fund charges in respect of money borrowed for the purposes of this section, shall be shown separately in the published accounts of the electricity undertaking of such joint electricity authority or local authority.

(3) The Electricity Commissioners shall appoint a committee comprising representatives of associations representing local authorities who are authorised undertakers, contractors, and persons engaged in the business of making and persons engaged in the business of selling electric fittings, such committee to be appointed after consultation with those associations, and that committee shall determine any question which may be raised under this section as to the recognised retail or trade prices of any electric fittings and shall advise and assist the persons concerned as to the method of giving effect to the provisions of this section.

(4) The purposes of this section shall be deemed to be purposes for which the joint electricity authority or the local authority may borrow money (*f*).

(5) In this section the expression "contractor" means a person engaged in the business of selling and installing electric fittings.

(*a*) This section extends the powers of local authority undertakers, originally granted by s. 23, Electricity Supply Act, 1919, *ante*, p. 2798. That section permitted a local authority undertaker to provide, let or hire fittings, etc., but not to sell or manufacture them. This section grants a power of sale and of installing and repairing, etc., subject to the proviso that a sale shall only be to a consumer supplied by them, or to a contractor for the use of a consumer or would-be consumer. The restriction on the power of manufacture continues. As to charges for the hire or sale of fittings supplied, see sub-s. (2) of this section, and s. 42, *ante*, p. 2933.

(*b*) See the definition in s. 51 (1), *post*, p. 2937.

(*c*) "Consumer" is defined in s. 1, Schedule, Electric Lighting (Clauses) Act, 1899, *ante*, p. 2570.

(*d*) See the definition in sub-s. (5).

(*e*) As to these prices, see sub-s. (3).

(*f*) The borrowing powers of a joint electricity authority are contained in s. 1 of the Electricity Supply Act, 1922, *ante*, p. 2835, and those of local authority undertakers in s. 8 of the Electric Lighting Act, 1882, *ante*, p. 2443.

Special provisions as to gas undertakers. 15 & 16 Geo. 5, c. 44.

49. Where the owners of a gas undertaking apply, under the provisions of the Electricity (Supply) Acts, 1882 to 1922 or the Statutory Gas Companies (Electricity Supply Powers) Act, 1925 (*a*), for a Special Order, and the Electricity Commissioners decide that they are unable or unwilling to make the Order, the Commissioners shall refer the matter to the Minister of Transport, and thereupon the Minister, subject to compliance with the requirements of the Electricity (Supply) Act, 1919, as to the procedure applicable to the confirmation of Special Orders, may, if he thinks fit, make the Order, and any Order so made shall have effect as if it had been made by the Electricity Commissioners and confirmed by the Minister of Transport.

(*a*) See this Act at p. 2885, *ante*.

Minor amendments.

50. The amendments specified in the second column of the Sixth Schedule to this Act (which relate to minor details) shall be made in the provisions of the Electricity (Supply) Acts, 1882 to 1922, specified in the first column of that Schedule.

GENERAL.

Interpretation.

51.—(1) For the purposes of this Act, unless the context otherwise requires—

The expression "generating station" has the meaning given thereto by section thirty-six of the Electricity (Supply) Act, 1919 (*a*), and not the meaning given thereto by section twenty-five of the Electric Lighting Act, 1909;

The expression "transmission line," when used with reference to a line which is a main transmission line within the meaning of the Electricity (Supply) Act, 1919 (*b*), shall include all such works as are mentioned in that definition, and, when used with reference to a line which is not such a main transmission line, shall include any works necessary to and used for the control of the transmission line and the transmission of electricity thereby and the buildings or such part thereof as may be required to accommodate those works.

The expression "owners" in relation to a generating station includes lessees or occupiers of the station operating the station;

The expression "authorised undertakers" includes a joint electricity authority (*c*);

The expression "local authority" shall include a joint board or a joint committee constituted in pursuance of section eight of the Electric Lighting Act, 1909, or by a special Act passed for the like purpose;

The expression "absolute right of veto" means any unqualified right vested in an authorised undertaker in any Act or Order whereby a power company is restricted from supplying electricity (exclusive of any right of supply for the purposes of any railway, tramway, canal, navigation, dock or harbour, or of any water undertaking) without the consent of such authorised undertaker in any specified area.

(2) Where electricity is supplied to any authorised undertakers by other authorised undertakers who themselves receive a supply from the Board, the first-mentioned undertakers shall for the purposes of this Act be deemed to receive a supply indirectly from the Board, and references in this Act to an indirect supply from the Board shall be construed accordingly.

(3) If and so far as the price for a supply of electricity is under this Act to be the cost of production adjusted according to the load factor, the adjusted price shall be the sum of the following items:—

Section 51.

(*a*) the number of kilowatts of maximum demand in each month of the year of account multiplied by the fixed kilowatt charges component;

(*b*) the number of units supplied to the undertakers during the year of account multiplied by the running charges component.

For the purposes of this subsection—

The number of kilowatts of maximum demand for any month shall be deemed to be twice the largest number of units of electricity supplied to the undertakers during any consecutive thirty minutes in that month: Provided that, if the number of kilowatts of maximum demand so ascertained shall be less than the number of kilowatts of maximum demand in any previous month of the same year of account, payment shall be made on the higher number; and

The "fixed kilowatt charges component" and "running charges component" shall be ascertained in accordance with the rules contained in the Seventh Schedule to this Act.

(4) If and so far as the price for a supply of electricity is under this Act to be adjusted according to power factor or otherwise ascertained, such adjustment or ascertainment shall be made in accordance with regulations to be prescribed by the Electricity Commissioners in that behalf.

(5) Where for the purposes of this Act it is necessary to calculate what the cost of taking a supply of electricity from the Board over a number of years will be, then in making the calculation it shall be assumed that the price of fuel and the rates of wages remain constant.

(*a*) See this section at p. 2802, *ante*.

(*b*) A "main transmission line" is defined in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2803.

(*c*) This is an addition to the definition in s. 36, Electricity (Supply) Act, 1919, *ante*, p. 2802. Note that the Board are, subject to the provisions of s. 20, *ante*, p. 2923, also authorised undertakers for the purposes of the Electricity (Supply) Acts.

Short title, construction and extent.

52.—(1) This Act may be cited as the Electricity (Supply) Act, 1926, and shall be construed as one with the Electricity (Supply) Acts, 1882 to 1922, and those Acts and this Act may be cited as the Electricity (Supply) Acts, 1882 to 1926:

(2) This Act shall not extend to Northern Ireland.

SCHEDULES.

Sections 5 and 8.

FIRST SCHEDULE.

PROVISIONS AS TO THE ACQUISITION OF GENERATING STATIONS AND MAIN TRANSMISSION LINES.

The price of a generating station or main transmission line shall be such sum as may be certified by an auditor appointed by the Electricity Commissioners to have been the amount of the expenses properly incurred on and incidental to the provision of the generating station or main transmission line, less depreciation on a scale fixed by special order:

Provided that, if the owners of the generating station or main transmission line or the Board are dissatisfied with the sum so certified, the matter in dispute shall, in default of agreement, be determined by the arbitration of a barrister (or in Scotland an advocate) appointed by the Minister of Transport from the appropriate panel set up under section four of this Act, and the arbitrator may, if he thinks it expedient to do so, call in the aid of one or more qualified assessors and hear the case wholly or partially with the assistance of such assessors.

SECOND SCHEDULE.

Sched. II.

Section 7.

Rules for Determining Cost of Production of Electricity at Selected Stations.

The cost of production of electricity at any selected station, shall be ascertained by calculating the following costs, charges and allowances in respect of the year of account:

(*a*) the sums expended for fuel, oil, water, and stores consumed, for salaries and wages, and any contributions for pensions superannuation and insurance of officers and servants, for repairs and maintenance, and for renewals not chargeable to capital account;

(*b*) sums paid as rents, rates and taxes (other than taxes on profits) and for insurance, in respect of the station;

(*c*) The proper proportion of management and general establishment charges attributable to the station;

(*d*) any other expenses on revenue account attributable to the station;

(*e*) interest (exclusive of interest payable out of capital), on money properly expended for capital purposes (whether defrayed out of capital or revenue) and attributable to the generating station and the plant suitable to and used for the purpose of generating electricity therein, and interest on working capital properly attributable to the station and the production of electricity therein.

The rate of interest for the purposes of this paragraph shall be—

(i) where the owners of a selected station are a joint electricity authority or a local authority, the average rate payable on the money raised by the authority for the purpose;

(ii) where the owners of the station are a company, the average rate of dividends and interest paid by the company on their share and loan capital during the preceding year; so, however, that the rate shall in no case be less than five nor more than six and a half per cent. per annum.

(*f*) an allowance for depreciation of the following amount—

(i) where the owners of the selected station are a joint electricity authority or a local authority an amount equal to the sinking fund charges properly attributable to the station and the plant thereof:

Provided that where part of the expenditure was defrayed otherwise than by means of loans the allowance for depreciation shall be increased by such amount as the Electricity Commissioners think just.

(ii) where the owners of the station are a company, an amount determined in accordance with a scale fixed by special order:

Provided that in the case of any company which is a London company within the meaning of the London and Home Counties Electricity District Order, 1925, the amount of such allowance for depreciation shall not be less than the contributions for the year of account which the company is required to make to the sinking funds under the provisions of the London Electricity (No. 1) Act, 1925, or the London Electricity (No. 2) Act, 1925.

THIRD SCHEDULE.

Section 12.

Authorised Charges and Allowances in respect of Transmission Lines used for giving Bulk Supply to Authorised Undertakers.

The following are the charges and allowances which may be made in respect of a transmission line used by authorised undertakers for giving a supply in bulk to other authorised undertakers:—

(1) The actual cost of the maintenance of the transmission line including renewals thereof not chargeable to capital account:

(2) Sums paid as rents, rates and taxes (other than taxes on profits) and for insurance in respect of the transmission line:

(3) A proper proportion of management and general establishment charges attributable to the transmission line:

(4) The cost of units lost in transmission from the station or sub-station from

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which the supply is given to the station or sub-station at which the supply is taken:

(5) Any other expenses on revenue account attributable to the transmission line:

(6) Interest on money properly expended for capital purposes (whether defrayed out of capital or revenue) and attributable to the transmission line and on such working capital as is properly attributable to the transmission line at the following rate, that is to say:—

(*a*) where the authorised undertakers owning the transmission line are a joint electricity authority or a local authority, the average rate payable on the money raised by the authority for the purpose of constructing the line;

(*b*) where the authorised undertakers owning the transmission line are a company, the average rate of dividends and interest paid by the company on their share and loan capital during the preceding year; so, however, that the rate shall in no case be less than five nor more than six and a half per cent. per annum.

(7) An allowance for depreciation of the following amount:—

(*a*) where the authorised undertakers owning the transmission line are a joint electricity authority or a local authority, an amount equal to the sinking fund charges properly attributable to the line:

Provided that, where part of the cost of the construction of the transmission line was defrayed out of revenue, the allowance for depreciation shall be increased by such amount as the Electricity Commissioners think just:

(*b*) where the authorised undertakers owning the transmission line are a company, an amount determined in accordance with a scale fixed by special order:

Provided that, in the case of any company which is a London company within the meaning of the London and Home Counties Electricity District Order, 1925, the amount of such allowance for depreciation shall not be less than the contributions for the year of account which the company is required to make to the sinking funds under the provisions of the London Electricity (No. 1) Act, 1925, or the London Electricity (No. 2) Act, 1925.

If a transmission line is used for giving a supply in bulk to two or more authorised undertakers, or if a transmission line is used partly for giving a supply in bulk and partly for other purposes, the charges and allowances shall be the proper proportion of such charges and allowances as aforesaid.

Section 15.

FOURTH SCHEDULE.

ADAPTATION OF SECTION 16 OF THE ELECTRICITY (SUPPLY) ACT, 1919, AS AMENDED BY SECTION 21 OF THE ELECTRICITY (SUPPLY) ACT, 1922.

If within five years from the date when under or in consequence of this Act a generating station has been closed or acquired or restrictions on the working or use thereof imposed, or a main transmission line or any part thereof has been acquired, any officer or servant who before the closing, acquisition, or imposition of the restrictions was regularly employed by any authorised undertakers, proves to the satisfaction of a referee or board of referees appointed by the Minister of Labour that in consequence of such closing, acquisition or restriction, he—

(i) has suffered loss of employment, or diminution of salary, wages or emoluments, otherwise than on grounds of misconduct, incapacity, or superannuation; or

(ii) has relinquished his employment in consequence of being required to perform duties such as were not analogous or were an unreasonable addition to those which before such closing or acquisition or imposition of restrictions he had been required to perform; or

(iii) had been placed in any worse position in respect to the conditions of his service (including tenure of office, remuneration, gratuities, pension, superannuation, sick or other fund, or any benefits or allowances, whether obtaining legally or by customary practice);

and, in the case of a generating station being closed, or restrictions on the working or use thereof being imposed, the authorised undertakers to whom the station belonged or belongs, or in the case of the acquisition of a generating station or a

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main transmission line, or any part thereof, the acquiring authority, do not show to the satisfaction of the referee or board of referees that equivalent employment on the like conditions as those obtaining with respect to him at the date when the generating station was closed or restrictions on the working or use thereof were imposed, or the generating station or main transmission line or part thereof was acquired, was available, there shall be paid to him by those undertakers, or the acquiring authority, such compensation as the referee or board of referees may award, including any expenses which the officer or servant necessarily incurs in removing to another locality:

Provided that, where loss or relinquishment of employment is involved, such compensation shall, in the case of an officer employed on an annual salary, be based on, but not exceed, the amount which would have been payable to a person on abolition of office under the Acts and rules relating to His Majesty's Civil Service in force at the date of the passing of the Local Government Act, 1888, but, in computing the period of service of any officer, service under any authorised undertakers shall be reckoned as service under the authorised undertaker in whose employment he is at the time when the loss or relinquishment of employment occurs; and where any such officer or servant was temporarily absent from his employment whilst serving in or with His Majesty's Forces or the forces of the Allied or Associated Powers, or in any other employment of national importance during the war, such service shall be reckoned as service under the authorised undertakers in whose employment he was immediately before and after such temporary absence.

Any question whether a generating station has been closed or whether any restriction on the working or use thereof has been imposed under or in consequence of this Act shall be determined by the Electricity Commissioners.

The Minister of Labour may make rules as to the procedure before the referee or board of referees under this Schedule and may by those rules provide—

(*a*) for limiting the amount of costs and providing for the taxation thereof;

(*b*) for fixing the fees to be paid to the referee or the members of the board of referees and for determining by whom such fees are to be paid.

FIFTH SCHEDULE.

AMENDMENTS OF SCHEDULE TO THE ELECTRIC LIGHTING (CLAUSES) ACT, 1899.

Section 43.

S. 7 - - - In paragraph (1) for the words from "The undertakers shall "carry" to the words "maximum rate of profit" there shall be substituted the following words:

"The undertakers shall apply the net surplus remaining in any year and the annual proceeds of the reserve fund when amounting to the prescribed limit—

"(*a*) in reduction of the charges for the supply of energy; or

"(*b*) in reduction of the capital moneys borrowed for electricity purposes; or

"(*c*) with the consent of the Electricity Commissioners in payment of expenses chargeable to capital; or

"(*d*) in aid of the local rate:

Provided that—

(i) the amount which may be applied in aid of the local rate in any year shall not exceed one and a-half per cent. of the outstanding debt of the undertaking; and

(ii) after the thirty-first day of March, nineteen hundred and thirty, no sum shall be paid in aid of the local rate unless the reserve fund amounts to more than one-twentieth of the aggregate capital expenditure on the undertaking.

S. 14 - - - In paragraph 1 (*a*) after the words "one month" there shall be inserted "or in the case of service lines, seven days."

Sched. VI.

Section 50.

SIXTH SCHEDULE.

MINOR AMENDMENTS OF ELECTRICITY (SUPPLY) ACTS, 1882–1922.

Enactment to be amended.	Nature of Amendment.
Electric Lighting Act, 1882 (45 & 46 Vict. c. 56):—	
s. 3	In paragraph (5), the words "until after the expiration of a period of three months from the date "of the first publication of such advertisement "nor" shall be repealed.
Electricity (Supply) Act, 1919 (9 & 10 Geo. 5, c. 100):—	
s. 1	In subsection (7), after the words "on retirement," there shall be inserted the words "or death."
s. 13	In subsection (2), after the words "comprising the "area of the local authority" there shall be inserted the words "or by any amending order "under section seven of this Act."
s. 15	After paragraph (*c*) of subsection (1) the following paragraph shall be inserted:— (*cc*) No order authorising the abstraction of water from any reservoir or other works used by any statutory water undertaker for the purposes of the undertaking shall be made without the consent of such undertaker (which consent shall not be unreasonably refused) and if any question arises as to the reasonableness of any refusal or of the terms sought to be imposed as a condition of giving consent, the question shall be referred to a single arbitrator nominated by the Lord Chief Justice, or in Scotland by the Lord President of the Court of Session, and in any such order there shall be inserted such provisions as the Minister of Health (or, in the case of Scotland the Scottish Board of Health) may consider proper for safeguarding the interests of the water consumers.
s. 21	After the words "local authority" where they first occur, there shall be inserted the words "(including a county council)," and after the second "local authority" there shall be inserted the words "and (where it is proposed to place the line "along or across any county bridge or any main "road vested in a county council) the county "council."
s. 32	In subsection (3), the words "unless it is an order "made under section seven of this Act, shall be "a special order and" shall be omitted.
Electricity (Supply) Act, 1922 (12 & 13 Geo. 5, c. 46):—	
s. 21	In subsection (1), for the words "not made under "the principal Act was in consequence of that "Act," there shall be substituted the words "was "made under or in consequence of the principal "Act."

Enactment to be amended.	Nature of Amendment.
Electricity (Supply) Act, 1922 (12 & 13 Geo. 5, c. 46):—	
s. 24	The following proviso shall be inserted:— Provided that such supply shall be used in such manner as not to cause or be likely to cause any interference (whether by induction or otherwise) with any telegraphic line belonging to or used by the Postmaster-General or with telegraphic communication by means of such line. This provision shall not apply to an undertaking or part thereof in respect of which any company or authority is authorised to use electricity by Act of Parliament or by an Order confirmed by or having the effect of an Act of Parliament containing provisions for the protection of the telegraphic lines of the Postmaster-General in respect of the use of electricity. In this section "telegraphic line" has the same meaning as in the Telegraph Act, 1878.

SEVENTH SCHEDULE.

Section 51.

Rules for determining the Fixed Kilowatt Charges Component, and the Running Charges Component.

1. The cost of production shall be ascertained in accordance with the Second Schedule to this Act.

2. The costs so ascertained shall be allocated as between fixed costs and running costs in accordance with such regulations as may be prescribed by the Electricity Commissioners for the purpose.

3. One-twelfth of the amount of the fixed costs in the year of account, divided by the average of the monthly maximum demands in that year, shall, subject to such variations whether by way of decrease or increase as the Electricity Commissioners may by regulations prescribe, according to the magnitude of the maximum demands of supplies furnished, be the fixed kilowatt charges component.

For the purposes of this provision the "maximum demand in respect of any "month" shall be deemed to be twice the largest number of units of electricity supplied from the generating station during any consecutive thirty minutes in that month:

Provided that, if the number of kilowatts of maximum demand so ascertained for any particular month shall be less than the number of kilowatts of maximum demand for any previous month of the same year of account the higher number shall be taken as the maximum demand for the first-mentioned month.

4. The amount of the running costs divided by the number of units supplied from the generating station during the year of account shall be the running charges component.

TRADE DISPUTES AND TRADE UNIONS ACT, 1927.

(17 & 18 GEO. 5, C. 22.)

An Act to declare and amend the law relating to trade disputes and trade unions, to regulate the position of civil servants and persons employed by public authorities in respect of membership of trade unions and similar organisations to extend section 5 *of the Conspiracy and Protection of Property Act,* 1875, *and for other purposes connected with the purposes aforesaid* (*a*).

[29th July, 1927.]

(*a*) The only section of this Act affecting local authorities is s. 6. The remainder of the Act is, therefore, not printed as being outside the scope of this work.

* * * * * *

Provisions as to persons employed by local and other public authorities.

6.—(1) It shall not be lawful for any local or other public authority (*a*) to make it a condition of the employment or continuance in employment of any person that he shall or shall not be a member of a trade union (*b*), or to impose any condition upon persons employed by the authority whereby employees who are or who are not members of a trade union are liable to be placed in any respect either directly or indirectly under any disability or disadvantage as compared with other employees (*c*).

(2) It shall not be lawful for any local or other public authority (*a*) to make it a condition (*c*) of any contract made or proposed to be made with the authority, or of the consideration or acceptance of any tender in connection with such a contract, that any person to be employed by any party to the contract shall or shall not be a member of a trade union (*b*).

(3) Any condition imposed in contravention of this section shall be void.

(4) There shall be added to section five of the Conspiracy and Protection of Property Act, 1875 (*d*), the following provision, that is to say :—

> " If any person employed by a local or other public authority (*a*) " wilfully breaks a contract of service with that authority, knowing or " having reasonable cause to believe that the probable consequence of " his so doing, either alone or in combination with others, will be to cause " injury or danger or grave inconvenience to the community, he shall " be liable, on summary conviction, to a fine not exceeding ten pounds " or to imprisonment for a term not exceeding three months."

* * * * * *

(*a*) The Act contains no definition of either local or public authority. "Local authority " usually means any body of persons who receive and expend any local rate. See the definitions in the District Auditors Act, 1879, s. 8, *ante*, p. 2406, and in the Local Government (Emergency Provisions) Act, 1916, s. 21, *ante*, p. 1233. A definition of "public authority" is contained in s. 12 (2), Acquisition of Land (Assessment of Compensation) Act, 1919, *ante*, p. 1278.

(*b*) A resolution requiring certain employees to be members of trade unions passed before this Act came into operation need not, it seems, be expressly revoked, but a declaration will be granted that the terms of the resolution are illegal (*Att.-Gen.* v. *Birkenhead Corporation* (1929), 93 J. P. 33 ; 27 L. G. R. 192). " Trade union " is defined by s. 23 of the Trade Union Act, 1871 (34 & 35 Vict. c. 31).

(*c*) Any condition imposed in contravention of this provision is void (sub-s. (3)).

(*d*) Section 5 of the Conspiracy and Protection of Property Act, 1875, makes it an offence to break a contract of service, knowing or having reasonable cause to believe that injury to persons or property may result from such breach. The offence contained in the provision in the text is, however, quite distinct.

LANDLORD AND TENANT ACT, 1927.

(17 & 18 GEO. 5, c. 36.)

An Act to provide for the payment of compensation for improvements and goodwill to tenants of premises used for business purposes, or the grant of a new lease in lieu thereof; and to amend the law of landlord and tenant (*a*).

[22nd December, 1927.]

(*a*) The provisions of this Act are outside the scope of the present work. Local authorities as landlords of business premises will be subject to the provisions of the Act, except as provided in the sections set out here.

PART I.

COMPENSATION FOR IMPROVEMENTS AND GOODWILL ON THE TERMINATION OF TENANCIES OF BUSINESS PREMISES.

* * * * * *

Compensation for goodwill.

4.—(1) The tenant of a holding to which this Part of this Act applies shall, if a claim for the purpose is made in the prescribed manner—

(i) in the case of a tenancy terminated by notice, within one month after the service of the notice on the tenant; and

(ii) in any other case, not more than thirty-six nor less than twelve months before the termination of the tenancy;

be entitled, at the termination of the tenancy on quitting the holding, to be paid by his landlord compensation for goodwill if he proves to the satisfaction of the tribunal that by reason of the carrying on by him or his predecessors in title at the premises of a trade or business for a period of not less than five years goodwill has become attached to the premises by reason whereof the premises could be let at a higher rent than they would have realised had no such goodwill attached thereto:

Provided that—

* * * * * *

(*g*) where any government department, or a local or public authority (*a*), or a charity, or a statutory or public utility company have, in pursuance of the powers contained in the lease (*b*), terminated the lease by resuming possession of the premises for the purpose of the department or any other government department, or of the authority (*c*), or of the charity or of the undertaking of the company, or where premises the tenancy whereof has expired by effluxion of time (*d*) are required for any such purpose no compensation shall be payable under this section.

* * * * * *

(*a*) The Act contains no definition of a local or public authority. "Local authority" usually means any body of persons who receive and expend any local rate. See the definitions in the District Auditors Act, 1879, s. 8, *ante*, p. 2406, and the Local Government (Emergency Provisions) Act, 1916, s. 21, *ante*, p. 1233. A definition of "public authority" is contained in s. 12 (2), Acquisition of Land (Assessment of Compensation) Act, 1919, *ante*, p. 1278.

(*b*) *I.e.* where there is an express provision either in the original lease or in a renewed lease under s. 5 (6), *post*, p. 2496.

(*c*) This provision will chiefly apply to premises purchased by a local authority in anticipation of future requirements, *e.g.* for the extension of sewage farm, etc., or for street widening. Reference may be made to note (*c*) to s. 175, P. H. A., 1875, *ante*, p. 431.

(*d*) Where a lease expires by effluxion of time, the tenant can apply for a renewal of the lease under s. 5. No lease can be granted if the landlord requires the premises for occupation by himself or vacant possession of the premises to carry out a scheme of re-development, no lease would, therefore, be granted if the premises were immediately required by the local authority, and if the use of the premises for the purpose for which they were acquired is reasonably imminent. See the special protection afforded to local authorities by s. 5 (6), *infra*.

Right to new lease in certain cases.

5.—(1) Where the tenant alleges that, though he would be entitled to compensation under the last foregoing section, the sum which could be awarded to him under that section would not compensate him for the loss of goodwill he will suffer if he removes to and carries on his trade or business in other premises, he may in lieu of claiming such compensation, at any time within the period allowed for making a claim under the said section, serve on the landlord notice requiring a new lease of the premises at which the trade or business is carried on to be granted to him.

(2) Where such a notice is so served, the tribunal, on application being made for the purpose either by the landlord or by the tenant not less than nine months before the termination of the tenancy, or, where the tenancy is terminated by notice, within two months after the service of the notice, may, if it considers that the grant of a new tenancy is in all the circumstances reasonable, order the grant of a new tenancy for such period (being a term of years absolute) not exceeding fourteen years and on such terms as the tribunal may determine to be proper, but if the tribunal is precluded on any of the grounds mentioned in paragraph (*b*) of the following subsection from making such an order the tribunal may award such compensation as is provided under the last foregoing section (*a*):

Provided that the rent fixed by the tribunal as the rent payable under the new tenancy shall be such rent as the tribunal may determine to be the rent which a willing lessee other than the tenant would agree to give and a willing lessor would agree to accept for the premises, having regard to the terms of the tenancy, but irrespective of any goodwill which may have become attached to the premises by reason of the tenant or his predecessors in title having carried on thereat a particular trade or business.

(3) Where the tenant is the applicant, the grant of a new lease under this section shall not be deemed to be reasonable—

(*a*) unless the tenant proves that he is a suitable tenant and that he would be entitled to compensation under the last foregoing section, but that the sum which could be awarded to him under that section would not compensate him for the loss he would suffer if he removed to and carried on his trade or business in other premises; or

(*b*) if the landlord proves (*b*)—

(i) that the premises are required for occupation by himself, or, where the landlord is an individual, for occupation by a son or daughter of his over eighteen years of age; or

(ii) that he intends to pull down or remodel the premises; or

(iii) that vacant possession of the premises is required in order to carry out a scheme of re-development; or

(iv) that for any other reason the grant of such a lease of the premises would not be consistent with good estate management, and for this purpose regard shall be had to the development of any other property of the same landlord:

* * * * * *

(6) Where the landlord is a Government department or a local or public authority (*c*) or a statutory or public utility company and it is proved to the satisfaction of the tribunal that the premises, though not required immediately for the purposes of the department or of any other Government department or of the authority or of the undertaking of the company, may be so required

at some future time, the tribunal shall not order the grant of a lease unless the lease is made subject to a condition that the landlord may at any time on giving not less than six months' notice in writing resume possession of the premises if he requires them for any such purpose (*d*).

* * * * * *

(10) Where an order for a new lease is made under this section, the landlord shall be bound to grant, and the tenant shall be bound to accept, a lease in accordance with the order:

Provided that, before making an order binding any superior landlord, the tribunal shall satisfy itself that notice of the application to the tribunal for a new lease has been served on him and that he has had an opportunity of appearing before the tribunal.

* * * * * *

(12) A new lease under this section shall, if the landlord so requires, contain a covenant prohibiting the carrying on of any trade or business and the doing of any act prohibited by the original lease, unless the landlord has by licence or otherwise consented to a variation of the original terms of the lease in this respect.

(13) Where it appears to the tribunal that proceedings under this section cannot be completed and a new lease in accordance with the order of the tribunal entered into before the termination of the tenancy of the tenant, and that the delay is not due to any default on the part of the tenant, the tribunal may make an interim order authorising the tenant to continue in possession of the premises for such time after the termination of his tenancy and on such terms as the tribunal may allow.

(*a*) No compensation is payable by a local authority if the premises are required for the purpose for which they were acquired, or for any other purpose to which they may be lawfully appropriated. As to the appropriation of property, see s. 95 of the P. H. A., 1907, *ante*, p. 1161, and the other statutes referred to in the note to s. 175, P. H. A., 1875, at p. 436, *ante*.

(*b*) A requirement of the property for the purposes of the local authority would always fall under one of these heads.

(*c*) See note (*a*) to s. 4, *ante*, p. 2945.

(*d*) No compensation will be payable on such resumption.

* * * * * *

ROAD TRANSPORT LIGHTING ACT, 1927.

(17 & 18 GEO. 5, c. 37.)

An Act to regulate further the lighting of vehicles (*a*). [22nd December, 1927.]

(*a*) This Act is outside the scope of this work, but s. 11 (2) is printed as it repeals certain powers of local authorities.

* * * * * *

11. . . .

Repeals and rescission of orders and byelaws.

(2) The powers of any local or other authority under any Act to make orders, byelaws, or regulations with respect to the carrying of lights by vehicles on roads (*a*) (other than lights carried for the purposes of internal illumination or for illuminating taximeters (*b*)) shall cease and determine, and any Act or order having the force of an Act, and any regulations made under such an Act or order, and any byelaw made under the powers conferred by any Act, so far as the same relates to the carrying of lights by vehicles on roads (other than as aforesaid), and any order made under sections three or four of the Lights on Vehicles Act, 1907 (*c*), shall cease to have effect, but

Section 11. without prejudice to the validity of anything done thereunder, or of the commencement or continuation of any proceedings in respect of any offence thereunder whilst the Act, order, regulation or byelaw was in force.

(*a*) This power was in general limited to borough and county councils. See s. 26 Municipal Corporations Act, 1882, s. 16, L. G. A., 1888, and s. 5 (3), Lights on Vehicles Act, 1907. Some local authorities, however, had power under local Acts. Any such powers will cease to be operative, and any byelaws made thereunder will cease to have effect.

(*b*) Byelaws for the purposes mentioned would normally be made in respect of hackney carriages only under s. 68, Towns Police Clauses Act, 1847, *ante*, p. 2250, though it is possible that byelaws as to internal illumination might be made under s. 23, M. C. Act, 1882, or s. 16, L. G. A., 1888, *i.e.* "good rule and government." The power to make byelaws for these purposes is unaffected by the Act.

(*c*) These sections gave power to county and borough councils to exempt specified vehicles from the operation of the 1907 Act.

FOOD AND DRUGS (ADULTERATION) ACT, 1928.

(18 & 19 GEO. 5, C. 31.)

An Act to consolidate the Sale of Food and Drugs Acts (*a*). [3rd August, 1928.]

(*a*) This Act consolidates the Sale of Food and Drugs Acts of 1875, 1879, 1899, and 1927, the Margarine Act, 1887, and the Butter and Margarine Act, 1907. In the notes to this Act the consolidated Acts are referred to by their date alone. As to the construction of consolidation Acts, see the notes to P. H. A., 1875, s. 1, *ante*, p. 1.

Reference should also be made to the Artificial Cream Act, 1929, *post*, p. 3029.

PART I.

GENERAL PROVISIONS

Restrictions on mixing food and drugs with other ingredients.

1. (*a*)—(1) No person shall mix, colour, stain, or powder or order or permit any other person to mix, colour, stain, or powder—

(*a*) any article of food (*b*) with any ingredient or material so as to render the article injurious to health (*c*);

(*b*) any drug (*d*) with any ingredient or material so as to affect injuriously the quality or potency of the drug;

with the intent that the article of food or drug may be sold in that state (*e*).

(2) No person shall sell any article of food or drug so mixed, coloured, stained or powdered as aforesaid (*e*).

(3) If any person contravenes any of the provisions of this section, he shall be guilty of an offence and shall—

(*a*) in the case of a first offence in relation to an article of food, or a drug, be liable on summary conviction to a fine not exceeding fifty pounds (*f*) and

(*b*) in the case of any offence in relation to an article of food after conviction for a first offence in relation to an article of food, or in the case of any offence in relation to a drug after conviction for a first offence in relation to a drug, be liable on conviction on indictment to imprisonment for a term not exceeding six months:

Provided that a person shall not be liable to be convicted under this section in respect of the sale of any article of food or of any drug if he shows to the satisfaction of the court before whom he is charged that he did not know, and could not with reasonable diligence have ascertained, that the article of food or drug sold by him was so mixed, coloured, stained or powdered as aforesaid.

Section 1.

7 Edw. 7. c. 32.

(4) Where any regulations made under the Public Health (Regulations as to Food) Act, 1907 (*g*) (as amended by any subsequent enactment), and the enactments mentioned in that Act, prohibit or restrict the addition of any preservative or other ingredient or material to an article of food (*h*), the addition of any such ingredient or material—

(*a*) if made in contravention of the regulations, shall for the purposes of this Part of this Act be deemed to render the article injurious to health;

(*b*) if made to an amount not exceeding the limit (if any) specified by the regulations, shall not for the purposes of this Part of this Act be deemed to render the article injurious to health.

(*a*) This section consolidates, ss. 3, 4 and 5 of the 1875 Act, and s. 1 of the 1927 Act.

(*b*) See the definition in s. 34, *post*, p. 2986.

(*c*) As to mixtures, etc. to be deemed to be injurious to health, see sub-s. (4). As to bottled peas coloured with three grains of sulphate of copper, see *Summers* v. *Grist* (1896), 60 J. P. 346; or with sulphate of copper in a harmless quantity, *Friend* v. *Mapp* (1904), 68 J. P. 589; 2 L. G. R. 1317. To justify a conviction under this section it must be found that the article of food has been rendered injurious to health by the admixture of the ingredient. A finding that the added ingredient is in itself injurious to health is insufficient. It is not, however, necessary that the analyst's certificate on which the proceedings under the section are founded should state that the article is injurious to health (*Hull* v. *Horsnell* (1904), 68 J. P. 591; 21 T. L. R. 32). An offence has been committed under the section if the article in question is injurious to the health of a substantial portion of the community, *e.g.* of infants and invalids (*Cullen* v. *McNair* (1908), 72 J. P. 376; 99 L. T. 358). The appellant, an inspector under the Sale of Food and Drugs Act, asked for, and was supplied by the respondents with, a shilling's worth of "preserved cream." On analsyis this was found to be cream with which boric acid had been mixed. "Preserved cream," that is to say, a mixture of cream and boric acid, is sold as a well-known commodity, but it was found that cream containing boric acid in any quantity is injurious to health, more particularly in the case of children and invalids. It was held that although the article was sold as a mixed article, namely "preserved cream," the respondents had within the meaning of s. 3 of the Sale of Food and Drugs Act, 1875, sold an article of food, namely, cream, with which an ingredient, namely, boric acid, had been mixed which rendered the cream injurious to health, and therefore that they were liable to the penalty imposed by that section (*Haigh* v. *Aerated Bread Co., Ltd.*, [1916] 1 K. B. 878; 80 J. P. 284).

(*d*) See the definition in s. 34, *post*, p. 2986.

(*e*) It is a defence in the case of offences under this section to prove want of knowledge (*per* Smith, J. in *Betts* v. *Armstead, post*, p. 2952). See proviso to sub-s. (3).

(*f*) As to proceedings for penalties, see s. 27, *post*, p. 2977, and as to applications of fines see s. 32, *post*, p. 2985.

(*g*) See this Act and notes thereto at p. 1098, *ante*.

(*h*) See the P. H. (Preservatives, etc. in Food) Regulations, 1925, as amended by the amending Regulations of 1926 and 1927 in App. II., *post*, p. 3326.

Prohibition against sale of articles of food and drugs not of the nature, substance or quality demanded.

2. (*a*)—(1) No person (*b*) shall sell to the prejudice of the purchaser (*c*) any article of food (*d*) or any drug (*d*) which is not of the nature, or not of the substance, or not of the quality, of the article demanded by the purchaser (*e*).

(2) If any person contravenes the provisions of this section, he shall be guilty of an offence (*f*):

Provided that an offence (*g*) under this section shall not be deemed to have been committed (*h*)—

(*a*) where any ingredient or material not injurious to health has been added to the article of food or drug because it is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the article of food or drug, or to conceal the inferior quality thereof (*j*);

(*b*) where the food or drug is the subject of a patent in force, and is supplied in the state required by the specification of the patent, or is a proprietary medicine;

(*c*) where the food or drug is unavoidably mixed with some extraneous matter in the process of collection or preparation (*k*);

(*d*) where the article being whisky, brandy, rum or gin, is not adulterated otherwise than by the admixture of water, and it is proved that such admixture has not reduced the spirit more than thirty-five degrees under proof (*l*).

(3) In any prosecution under this section it shall be no defence to allege that the purchaser, having bought only for analysis, is not prejudiced.

(4) Where any regulations made under the Public Health (Regulations as to Food) Act, 1907 (*m*) (as amended by any subsequent enactment), and the enactments mentioned in that Act, prescribe the composition of any article of food intended for sale, or prohibit or restrict the addition of any preservative or other ingredient or material to any such article, the purchaser of such article shall, unless the contrary is proved, be deemed for the purposes of this section to have demanded an article complying with the provisions of the regulations as regards the presence or amount of any constituent ingredient or material specified in the regulations.

(*a*) This section reproduces s. 6 of the 1875 Act as amended by s. 2 of the 1879 Act, s. 10 of the Licensing Act, 1921, and s. 1 of the 1927 Act.

(*b*) H., who was a servant of the F. Dairies Company, and acting as such, sold milk containing 12 per cent. of added water :—*Held*, that he was properly convicted as the person selling (*Hotchin* v. *Hindmarsh*, [1891] 2 Q. B. 181; 55 J. P. 775). But the employer is also responsible. The servant of B., in selling B.'s milk, mixed water with it contrary to the directions of B. :—*Held*, that B. was properly charged as the person selling, and that the question whether B. connived at the servant's act was only material for the purpose of determining the amount of the penalty (*Brown* v. *Foot* (1892), 61 L. J. M. C. 110; 56 J. P. 581). And see a similar case where a servant sold butter contrary to his master's directions, and where the master was convicted (*Houghton* v. *Mundy* (1910), 74 J. P. 377; 103 L. T. 60). If a servant fraudulently add water to milk which he is employed to sell, in order to increase the bulk, and appropriate the surplus price, and the milk is thereby damaged, he may be convicted of wilful damage under s. 52 of the Malicious Damage Act, 1861, although he has no malice towards or intention to injure his employer, the owner of the milk (*Roper* v. *Knott*, [1898] 1 Q. B. 868; 62 J. P. 375, overruling *Hall* v. *Richardson* (1890), 54 J. P. 345; 6 T. L. R. 71). The defendant employed his father to carry milk to a creamery under a contract by which he was to be paid according to the quality of the milk supplied. The father had no authority to sell to any one else, but in fact did sell to an inspector, who took proceedings against the defendant for selling adulterated milk to the prejudice of the creamery. It was held that the defendant should be convicted, and that the father's authority to sell was immaterial (*Keenan* v. *Costelloe* (1910), 44 Ir. L. T. 218). But in *Lindsay* v. *Dempster*, [1912] S. C. (J.) 110, a dairyman was prosecuted for selling, by the hand of his servant, milk which was not genuine, and it was proved that the servant who sold the milk had no authority to do so, his duty being merely to deliver the milk to his master's customers. It was held that as the servant had exceeded his authority in selling the milk there had been no sale by the accused, and that he must therefore be acquitted. A servant who had no authority to sell milk to other than specified persons sold to some one (an inspector) who was not one of those persons. It was held that as the servant had a limited authority to sell, which he had misused, the master was liable (*Elder* v. *Bishop Auckland Co-operative Society* (1917), 81 J. P. 202). In a later case it was held that where milk had been sold by a principal to a customer and had been entrusted by that principal to an agent for delivery only, and the agent having no authority to sell the principal was not liable (*Whittaker* v. *Forshaw* (1919), 83 J. P. 210). The "complaint" must give fair notice to the accused that the sale in question was effected by his servant (*Wilson* v. *Fleming* (1913), 51 Sc. L. R. 72). A joint stock company incorporated under the Companies Acts can be convicted of an offence under this section (*Pearks, Gunston and Tee, Ltd.* v. *Ward*; *Hennen* v. *Southern Counties Dairies Co.*, [1902] 2 K. B. 1; 66 J. P. 774). But see *Booth* v. *Helliwell* (1914), 78 J. P. 223. As to the procedure on charge of offences against corporations, see the Criminal Justice Act, 1925, s. 33. See further, generally, as to the liability of a master for acts of a servant, *Buckingham* v. *Duck* (1918), 83 J. P. 20; *Mousell Bros.* v. *L. & N. W. Rail. Co.*, [1917] 2 K. B. 836; *Pearks Dairies, Ltd.* v. *Tottenham Food Control Committee* (1919), 83 J. P. 36, and *Warrington* v. *Windhill Industrial Co-operative Society, Ltd.* (1918), 82 J. P. 149.

(*c*) These words are an essential averment on a summons under the section (*R.* (*Sullivan*)

Note to Section 2.

v. *Clare County Court Judges* (1904), 38 I. L. T. 254; but see *Nimmo* v. *Lees*, [1910] S. C. (J.) 75). It is not now a defence that the article was purchased for analysis. See sub-s. (3). By s. 2 of the 1879 Act, it was provided that it shall not be a good defence that the article of food or drug in question, though defective in nature or in substance or in quality, was not defective in all three respects, in order to meet the decision in *Davidson* v. *Macleod* (1878), 42 J. P. 43, 50. The effect of that section was that in s. 6 of the 1875 Act, the words "nature, substance, and quality" were to be read distributively, and a penalty incurred if the article sold, although unadulterated, was not of the quality demanded (*Belfast Guardians* v. *Jones*, [1916] 2 Ir. R. 269; *cf. Few* v. *Robinson*, [1921] 3 K. B. 504, *post*, p. 1406). The words now used in the text make the distributive reading clear. As to sale of spirits, see sub-s. (2) (d), and as to special provisions with respect to milk, see Sched. II., *post*, p. 2988. It is not necessary for an inspector to prove at the hearing that he is a duly authorised officer; so held by Channell and Avory, JJ., in *Ross* v. *Helm* (1912), 77 J. P. 13; 107 L. T. 829. It is no defence that the article was purchased with money belonging to the authority (*Hoyle* v. *Hitchman* (1879), 4 Q. B. D. 233; 43 J. P. 430). Sale of sample on a Sunday affords no defence (*Elder* v. *Kelly*, [1919] 2 K. B. 179; 83 J. P. 166). The word "quality" means commercial quality of the article sold and not merely its description (*Anness* v. *Grivell*, [1915] 3 K. B. 685). See also sub-s. (4). When the seller of an article brings to the purchaser's knowledge the fact that the article sold to him is not of the nature, quality, or substance of the article which he demands, the sale is not to his prejudice within this section (*Sandys* v. *Small* (1878), 3 Q. B. D. 449; 42 J. P. 550); and he may purchase the article by an agent (*Horder* v. *Scott* (1880), 5 Q. B. D. 552; 44 J. P. 520; *Stace* v. *Smith* (1881), 45 J. P. 141; *Macaulay* v. *McKirdy* (1893), 20 Ct. of Sess. Cas. (4th ser.) (J. C.) 58; *Garforth* v. *Esam* (1892), 56 J. P. 521; *Massey* v. *Kelso* (1903), 4 F. (Just. Cas.) 73. See 67 J. P. 111). Thus, in *Bundy* v. *Lewis* (1908), 72 J. P. 489; 99 L. T. 833, the servant of the respondent, who was a chemist, was asked by the appellant for paregoric, and sold him a substance deficient in alcohol and opium according to the formula given in the British Pharmacopœia. The substance was labelled "Poison" after the word "Paregoric," but the word "poison" had been struck out in pencil and the word "substitute" added. It was held that on the facts there was no sale to the prejudice of the purchaser. See also *Gage* v. *Elsey*, *post*, p. 2955; *Collett* v. *Walker* (1895), 64 L. J. M. C. 267; 59 J. P. 600; *Palmer* v. *Tyler* (1897), 61 J. P. 389; *Sandys* v. *Rhodes* (1903), 67 J. P. 352. Where a purchaser has notice that the article is mixed with an ingredient, though he is not told the exact nature or effect of that ingredient, and chooses to buy the article so mixed, the sale is not to his prejudice within the meaning of the section (*Williams* v. *Friend*, [1912] 2 K. B. 471; 76 J. P. 301). The notice must, however, be a notice to the individual purchaser, and it is not enough to show that the average purchaser would see and read a notice to the effect that a certain article is diluted (*Preston* v. *Grant*, [1925] 1 K. B. 177; 88 J. P. 198). See also the cases cited in note (*b*) to s. 4, *post*, p. 2956. A sale may be to the prejudice of the purchaser within this section although the purchaser had special knowledge not derived from information given by the seller that the article sold was not of the nature, substance and quality demanded by him. The test is, whether the sale would have been to the prejudice of a purchaser who had not that special knowledge (*Pearks, Gunston and Tee, Ltd.* v. *Ward*, *ante*, p. 2950). It is not to the prejudice of the purchaser if he asks for part of the contents of a particular vessel and is served with what he asks for, although the contents are adulterated. So where an inspector asked for a sample from a particular churn of milk without saying that it was milk he required, the sale was held not to constitute an offence although the contents of the churn were adulterated (*Sandys* v. *Jackson* (1905), 69 J. P. 171; 92 L. T. 646).

The appellant sold milk to the respondent from a can to which a label was attached, there being on the label a notice that all milk sold from the can was diluted. Before the respondent made the purchase, his attention was drawn by the appellant to the label. On a summons against the appellant under the above section the certificate of analysis stated that the milk sold to the respondent contained 18·5 per cent. of extraneous water and had been deprived of 14 per cent. of its fat. There was no other evidence of adulteration. The justices convicted the appellant on the ground that the notice was only a notice of dilution and was not a notice of the abstraction of fat:—*Held*, that the conviction must be quashed as there was no evidence of the abstraction of fat, the deficiency in fat being entirely accounted for by the addition of water (*Dearden* v. *Whiteley* (1916), 80 J. P. 215).

"Demerara sugar" is a generic term referring to a process and not a place (*Anderson* v. *Britcher* (1913), 78 J. P. 65; 30 T. L. R. 78).

(*d*) See the definition in s. 34, *post*, p. 2986.

(*e*) Proof of *mens rea* is not necessary. See *Fitzpatrick* v. *Kelly* (1873), L. R. 8 Q. B. 337; *Mullins* v. *Collins* (1874), L. R. 9 Q. B. 292; *Roberts* v. *Egerton* (1874), *ibid.* 494. The provisions of the Bread Act, 1836, as to using alum in the manufacture of bread, may be referred to and compared with the text; also the cases decided on that Act

Note to Section 2.

(*R.* v. *Dixon* (1814), 3 M. & S. 11; *Core* v. *James* (1872), L. R. 7 Q. B. 135; 35 J. P. 740). It has now been decided that an offence against this section is committed, although the seller did not know that the article sold was not of the nature, substance and quality demanded (*Betts* v. *Armstead* (1888), 20 Q. B. D. 771; 52 J. P. 471). And see *Pain* v. *Boughtwood* (1890), 24 Q. B. D. 353; 54 J. P. 469; *Brown* v. *Foot*, and *Houghton* v. *Mundy*, *ante*, p. 2950; *Roper* v. *Knott*, [1898] 1 Q. B. 868; 62 J. P. 375; overruling *Hall* v. *Richardson* (1890), 54 J. P. 345; 6 T. L. R. 71; *R.* v. *Field* (1895), 64 L. J. M. C. 158; 11 T. L. R. 240; *Parker* v. *Alder*, [1899] 1 Q. B. 20; 62 J. P. 772; *Andrews* v. *Luckin* (1917), 82 J. P. 31. And *cf. Kearley* v. *Tyler* (or *Tonge*), cited in the note to s. 4, *post*, p. 2956.

Where no standard of purity has been fixed by regulation *e.g.*, brandy, the question whether the article supplied is of the nature, quality, and substance demanded is one of fact to be decided on the evidence (*Wilson and McPhee* v. *Wilson* (1905), 6 F. (Just. Cas.) 10). See now as to brandy sub-s. (2) (d), and the notes to s. 4, *post*, p. 2956. And see *Rudd* v. *Skelton Co-operative Society, Ltd.*, *infra*.

As to the sale of an article of food to which regulations under the P. H. (Regulations as to Food) Act, 1907, apply, see sub-s. (4).

Where there is no fixed standard of quality for an article, the justices must form a standard of their own based on the evidence before them, and in the absence of evidence to the contrary should accept the statements of fact in the analyst's certificate, and also (*per* SHEARMAN, J.) his expressions of opinion therein (*Bowker* v. *Woodroffe*, [1928] 1 K. B. 217; 91 J. P. 118).

On a charge of aiding and abetting a sale to the prejudice of the purchaser, a wholesaler who supplied the article to the vendor cannot be convicted in the absence of evidence that, having supplied it for the purpose of sale, he also knew that it was not what it purported to be, that it was to be retailed to the purchaser without warning, and that he was present at the time of the sale, aiding and abetting (*Bowker* v. *Premier Drug Co., Ltd.*, [1928] 1 K. B. 227; 91 J. P. 120).

Proceedings may properly be taken under this section against a person who sells to the prejudice of the purchaser a compounded drug not of the nature, substance or quality demanded by him (*Beardsley* v. *Walton*, [1900] 2 Q. B. 1; 64 J. P. 436). See also *Houghton* v. *Taplin* (1897), 13 T. L. R. 386. On asking for a compounded drug, which is one of the medicines mentioned in the British Pharmacopœia, the purchaser must be taken to have demanded that it should be compounded of the proportions therein prescribed. See *White* v. *Bywater* and *Dickins* v. *Randerson*, *post*, p. 2955.

Lard adulterated with 15 per cent. of water is not the article demanded by a purchaser who asks for lard (*Rook* v. *Hopley*, *post*, p. 2982). In the case of "lardine" which is a substitute for lard, and for which there is no statutory standard, it is a fact for the justices to determine whether the article is adulterated or not—so held by Lord ALVERSTONE, C.J., and RIDLEY, J. (BRAY, J., *dissentiente*), in *Rudd* v. *Skelton Co-operative Society, Ltd.* (1911), 75 J. P. 326; 104 L. T. 919. See also *Preston* v. *Redfern* (1912), 76 J. P. 359; 107 L. T. 410. Where the purchaser asked for cream, and was supplied with cream at one penny per gill, which was found on analysis to have been diluted with 34 per cent. of skimmed milk, and it was proved that the seller had for sale a superior quality of cream diluted with less skimmed milk, which he sold at a higher price, it was held that the seller had not committed an offence in selling the inferior cream at a lower price (*Morton* v. *Green* (1881), 8 Ct. of Sess. Cas. (4th ser.) 36).

For about twenty years past there had been sold throughout Ireland in large quantities, as Indian meal for human food, a preparation derived from genuine pure crushed Indian corn, by removing "offal," that is, all foreign matter such as husk, bran, and woody fibre; and lastly, the germ of the corn and with it more than half the natural oil contained in the berry. The public preferred this refined preparation for human food, but they were generally ignorant of its composition and nutritive value. The unrefined Indian meal used principally as cattle food is more nutritious; but the normal man would not eat it if he could get the refined preparation, as the latter is far more palatable and also keeps longer. The appellant, a shop-keeper, was prosecuted for having sold to the prejudice of a purchaser Indian meal deficient in natural oil to the extent of at least 62 per cent. The purchaser had required the meal for human food, and had been supplied with the refined meal. It was held, that the article sold was of the nature, substance, and quality demanded, notwithstanding the removal from it of more than half the natural oil; that the sale was not to the prejudice of the purchaser; and that no offence had been committed under this section (*Hughes* v. *Traynor*, [1916] 2 Ir. R. 275).

Where the only evidence was the report of the public analyst that milk had been diluted with 27 per cent. of added water, and the magistrate dismissed the charge, the court refused to interfere, expressing the opinion that the magistrate was not bound to convict unless he was satisfied in the whole circumstances of the case that the article was not of the nature, quality and substance demanded (*Macleod* v. *O'Neil* (1882), 9 Ct. of Sess. Cas. (4th ser.) (J. C.), 32). This decision is apparently contrary to that in *Harrison* v. *Richards* (1881), 45 J. P. 552, which was followed in *Elder* v. *Dryden* (1908), 72 J. P. 355; 99 L. T.

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20. And see *Kings* v. *Merris* (1920), 85 J. P. 68, and *Robinson* v. *Newman* (1917), 81 J. P. 187. An inspector who asked for "milk" was supplied with skimmed milk, which by reason of being skimmed, was deficient in butter fat:—*Held*, that no offence had been committed under this section (*Lane* v. *Collins* (1885), 14 Q. B. D. 93; 49 J. P. 89). But see as to condensed skimmed milk, s. 12 (1) (c), *post*, p. 2964. When a purchaser asks for hot milk at a restaurant and is supplied with adulterated milk to which heating has been applied an offence is committed (*Herrington* v. *Slater* (1921), 85 J. P. 83). Milk taken direct from the cow and not tampered with or adulterated, but which in consequence of the time which has elapsed since the cow has last been milked, has become deficient in fat to the extent of 30 per cent., is not of the nature, substance and quality of the article demanded by a purchaser who demands new milk (*Smithies* v. *Bridge*, [1902] 2 K. B. 13; 66 J. P. 740). The decision in this case was criticised, and the dissenting judgment of DARLING, J., concurred in, in *Scott* v. *Jack*, [1912] S. C. (J.) 87, where a farmer was charged with selling milk which was not genuine, in that it did not contain the quantity of milk fat and solids required by the Sale of Milk Regulations, 1901; it was proved that the milk had not been tampered with after being taken from the cow, but that the deficiency of quality was due to the method in which the cows were fed. The accused was acquitted, and on appeal it was held that the acquittal was right. If under similar circumstances the deficiency in milk fat is not so large, the vendor need not be convicted, though the 3 per cent. prescribed by the Sale of Milk Regulations, 1901, is not present (*Wolfenden* v. *McCulloch* (1905), 69 J. P. 228; 92 L. T. 857; *O'Driscoll* v. *Dolan* (1911), 45 Ir. L. T. 144). But see *Marshall* v. *Skett* (1913), 108 L. T. 1001; 77 J. P. 173; in which the defence was raised that the milk in question came straight from the cow, but the case was sent back to the magistrates to convict unless there was further evidence given before them that the difference in the quantity of fat in two consignments of milk from the same cows was consistent with there having been ordinary milking. A farmer contracted to sell new milk each morning to a purchaser who was a retail dealer. The milk was delivered in churns. Nothing was added to or abstracted from the milk. The herbage on which the cows producing the milk were fed was in a watery condition owing to heavy rain in previous months. As a consequence the milk produced was copious but inferior. To maintain the quantity of milk the cows were also fed on green maize. They were given in addition such an amount of cake each day as was usual under normal conditions. On analysis the milk in a churn delivered to the purchaser was found to contain less than 3 per cent. of milk fat. The farmer was summoned before a court of summary jurisdiction under s. 6 of the 1875 Act (now s. 2 of the Act in the text), for selling to the prejudice of the purchaser milk which was not of the nature, substance and quality of the article demanded by the purchaser. The justices found that milk taken from a healthy herd should show not less than 3 per cent. of milk fat, and that the deficiency was due to the manner in which the farmer fed his cows with the object of obtaining a very large supply of milk without regard to the quality thereof, and they convicted the farmer. On a case stated for the opinion of the King's Bench Division it was held by DARLING, LAWRENCE, and AVORY, JJ. (BRAY and SCRUTTON, JJ. dissenting) that the conviction should be quashed on the ground that there was no evidence of an offence under s. 6 of the Act of 1875:—*Held*: by BRAY and SCRUTTON, JJ., that the case should be sent back to the justices. By BRAY, J., that they might find whether the milk supplied was new morning milk of merchantable quality, that being presumably the quality demanded by the purchaser. By SCRUTTON, J., that they might find (1) what quality, if any, was demanded by the purchaser, and (2) whether the milk supplied was of that quality. The decisions in *Wolfenden* v. *McCulloch*, and *Scott* v. *Jack*, *supra*, were approved, and that in *Smithies* v. *Bridge*, [1902] 2 K. B. 13, was commented on (*Hunt* v. *Richardson*, [1916] 2 K. B. 447; 80 J. P. 305, followed and applied in *Grigg* v. *Smith* (1917), 82 J. P. 2; and see *Williams* v. *Rees* (1917), 82 J. P. 97; *cf. Bowen* v. *Jones* (1917), 81 J. P. 178, where the evidence of non-interference with the milk after milking was incomplete and a conviction followed. In *Few* v. *Robinson*, [1921] 3 K. B. 504, a farmer, being under contract to supply milk containing a specified percentage of fat, delivered milk which contained a less percentage. The milk was in the same condition as that in which it came from the cow. On a prosecution under s. 6 of the 1875 Act (now s. 2 in the text), it was held that as the milk was not adulterated either by the addition of something to, or the abstraction of something from, the natural product of the cow, the mere fact that it was not of the quality contracted for by the purchaser did not make the sale an offence against the section; *cf. Belfast Guardians* v. *Jones*, [1916] 2 Ir. R. 269. In *Knowles* v. *Scott*, [1918] S. C. (J.) 32, it was proved that milk sold contained less than 3 per cent. milk fat, but that it had not been tampered with in any way, the deficiency being due to the milk having stood for some hours in a can and to the sample having been drawn from a tap at the bottom, after the cream had risen. It was held that while the failure to restore milk to its original condition by redistribution of the milk fat might in some circumstances constitute an "abstraction of milk fat" within the meaning of the Sale of Milk Regulations, 1901, the offence of selling milk which was not genuine in respect that it was deficient in milk fat had not been proved, there being no

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finding to the effect that there was some well-known method of redistribution, which the defendant had failed to adopt. The last-mentioned case was distinguished in a case where a recognised method of redistribution had not been adopted by a servant in disregard of instructions (*Penrice* v. *Brandon*, [1921] S. C. (J.) 63, followed and applied in *Bridges* v. *Griffin*, [1925] 2 K. B. 233; 89 J. P. 122, and *McCullum* v. *Brooks*, [1926] S. C. (J.) 39; [1926] S. L. T. 80). See also *Dyke* v. *Gower*, in notes to s. 5, *post*, p. 2957.

In a prosecution for unlawfully selling to the prejudice of the purchaser milk which is not of the nature, substance, and quality demanded by him, evidence as to the circumstances connected with a sample and its nature, substance, and quality taken on the day succeeding that on which the offence is alleged to have been committed is admissible on behalf of the prosecution for the purpose of showing that the milk sold on the day that the offence is alleged to have been committed could not have been in the condition in which it came from the cow.

But it is a condition precedent to the admissibility of the evidence (1) that the sample taken on the succeeding day was from the same cow if the milking on the two days was from one cow, or from the same herd of cows if the milking was the product of a mixture; (2) that the sample taken on the succeeding day was from the same milking, *e.g.* the morning milking as distinguished from the evening milking; (3) that there is *primâ facie* proof that the cows were milked in the same way, *i.e.* by some experienced person who undertstands the milking of cows.

The evidence would not be admissible on behalf of the prosecution for the purpose of showing that the sample taken on the succeeding day was below the standard required by the Regulations made under the Acts, and that therefore the accused had on the succeeding day committed an offence of the same nature as that which is the subject of the charge. See *Wilkinson* v. *Clark*, [1916] 2 K. B. 636; 80 J. P. 334. In a later case (*Smith* v. *Philpott*, [1920] 1 K. B. 222) evidence as to an analysis of a sample of milk obtained three days after the date of the alleged offence was held to be admissible, but only subject to the conditions pointed out by the Court in *Wilkinson* v. *Clark*, *supra*.

Where an excess of water in butter was proved to be due to the butter having been kept in water at a time of great heat, and the magistrate held that no offence was committed inasmuch as the water was not added fraudulently, a Divisional Court *held* that fraud is not a necessary ingredient to the offence (*Hutchinson* v. *Curran* (1905), 40 I. L. T. 22).

Butter made in the ordinary way and afterwards mixed with milk, for the purpose of increasing its weight, by a process having the effect of retaining the water in the milk so as to cause an excessive quantity of water in the butter is not the article demanded by a purchaser who asks for butter (*Pearks, Gunston and Tee, Ltd.* v. *Knight*, [1901] 2 K. B. 825; 65 J. P. 822); and see now as to the sale of milk-blended butter, the provisions of Part II., *post*, p. 2957. As to margarine, the fact that the article sold was margarine as defined by the Act of 1887, did not preclude a conviction if it was not genuine margarine (*Roberts* v. *Leeming* (1905), 69 J. P. 417; 3 L. G. R. 1031). As to the dilution of beer with beer of inferior quality, see *Crofts* v. *Taylor* (1887), 3 T. L. R. 844; and as to arsenic in beer, see *Goulder* v. *Rook*, [1901] 2 K. B. 290; 65 J. P. 646; as to glucose in marmalade, *Smith* v. *Wisden* (1902), 66 J. P. 150; 85 L. T. 760; *Wilson* v. *McCutcheon* (1903), 40 Sc. L. R. 31; and as to the presence of a small quantity of dirty debris in milk, *Kenny* v. *Cox* (1920), 85 J. P. 70. See 67 J. P. 361. The section applies not only to sales of adulterated articles, but also to cases where the article sold is not adulterated, but wholly different from that demanded, for example, when savin is delivered for saffron (*Knight* v. *Bowers* (1885), 14 Q. B. D. 845; 49 J. P. 614). A false representation as to the quality of the goods is no offence, provided that a true one is made before the sale actually takes place (*Kirk* v. *Coates* (1886), 16 Q. B. D. 49; 50 J. P. 148. And see, *Frew* v. *Gunning* (1902), 3 F. (Just. Cas.) 51). But if a false representation is made at the time of the sale, it is immaterial that the purchaser must have known from the price that the representation was false (*Heywood* v. *Whitehead* (1896), 76 L. T. 781). Upon a summons alleging an offence against this section, the defendant may be convicted, although the facts show a seizure under s. 16 (2), *post*, p. 2967, if he does not apply for an amendment or adjournment under s. 1 of the Summary Jurisdiction Act, 1848 (*Hiett* v. *Ward* (1894), 58 J. P. 461; 70 L. T. (N.S.) 374).

(*f*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2985. As to trifling offences, see the Probation of Offenders Act, 1907, s. 1; *R.* v. *Field* (1895), 64 L. J. M. C. 158; 11 T. L. R. 240; *Banks* v. *Wooler* (1900), 64 J. P. 245; 81 L. T. 785; *Preston* v. *Redfern*, *ante*, p. 2952.

In a summons under this section the time and place of the sale constituting the offence charged must be specified (*Lindsay* v. *Low & Co.* (1903), 4 F. (Just. Cas.) 45). The summons should specifically state what was the article demanded, as well as what was the article sold (*Hamilton* v. *Morrison* (1903), 40 Sc. L. R. 573. See 67 J. P. 362).

(*g*) See *Telford* v. *Fyfe*, [1908] S. C. (J.) 83.

(*h*) In addition to the protection afforded by this subsection, statutory defences are afforded by s. 4, *infra*, where the article is properly labelled, and s. 29, *post*, p. 2981, where a warranty has been obtained.

(*j*) Mustard mixed with flour and turmeric not sold as pure mustard was held not to be within the corresponding provisions of a former Act (*Pope* v. *Tearle* (1874), L. R. 9 C. P. 499); but *quære*, if mustard simply had been asked for. See *Sandys* v. *Markham* (1877), 41 J. P. 52. See also *Horder* v. *Grainger* (1880), 44 J. P. 488; *Goldsmith* v. *Maddaford* (1882), 46 J. P. 44. Where a drug is asked for which is included in the British Pharmacopœia, it must be supplied as therein described (*White* v. *Bywater* (1887), 19 Q. B. D. 582; 51 J. P. 821; *Dickins* v. *Randerson*, [1901] 1 Q. B. 437; 65 J. P. 262). But evidence may be tendered that there is a commercial standard of the article differing from that prescribed by the British Pharmacopœia (*Boots Cash Chemists* v. *Cowling* (1903), 67 J. P. 195; 88 L. T. 529). Where the British Pharmacopœia gave a formula, but without fixing a standard as to the amounts of ingredients, the sale of a drug containing less of a particular ingredient than if prepared according to the formula is no offence unless it be shown that the deficiency impaired the efficacy of the drug (*Hudson* v. *Bridge* (1903), 67 J. P. 186; 88 L. T. 550).

(*k*) See *per* Blackburn, J., in *Roberts* v. *Egerton* (1874), L. R. 9 Q. B. 494. It was held that this subsection protected a person who sold buttermilk mixed with water, as water was necessarily added in the process of manufacture (*Warnock* v. *Johnstone* (1881), 8 Ct. of Sess. Cas. (4th ser.) 55). The appellant sold butter in which was found 21½ per cent. of water, and the justices convicted him. The case did not state, however, that the water was fraudulently added within para. (*a*), or that the butter was unavoidably mixed with water under para. (*c*). The court remitted the case for further findings on these points, and intimated that if the water was unavoidably added, a conviction should not follow (*Bosomworth* v. *Bridge* (1892), 91 L. T. (n.s.) 180; 36 Sol. J. 594).

(*l*) Section 6 of the 1879 Act (here reproduced as amended by the Licensing Act, 1921), was passed in consequence of the decisions in *Pashler* v. *Stevenitt* (1877), 41 J. P. 136; 35 L. T. 862; *Webb* v. *Knight* (1876), 2 Q. B. D. 530; 41 J. P. 726.

Where the appellant sold to the respondent gin more than thirty-five degrees under proof, but at the time of sale brought to his knowledge a printed notice hanging up in the room to the effect that all spirits were sold "as diluted spirits, no alcoholic strength guaranteed," it was held that s. 6 of the 1879 Act did not deprive the appellant of his ground of defence under s. 6 of the 1875 Act (now s. 2 in the text), that the sale was not to the prejudice of the purchaser (*Gage* v. *Elsey* (1883), 10 Q. B. D. 518; 47 J. P. 391). See also *Morris* v. *Johnson*, *Morris* v. *Askew*, *Dawes* v. *Wilkinson*; *Brander* v. *Kinnear*, *Rodbourn* v. *Hudson*, *Preston* v. *Grant*, and *Patterson* v. *Findlay* in note (*b*) to s. 4, *post*, p. 2956.

As to contents of the analyst's certificate in a case relating to adulterated rum, see *Newby* v. *Sims*, *post*, p. 2971.

(*m*) See this Act and notes thereto at p. 2950, *ante*.

Provision as to sale of compounds.

3. (*a*) If any person sells any compound article of food, or any compounded drug, which is not composed of ingredients in accordance with the demand of the purchaser, he shall be guilty of an offence (*b*).

(*a*) This section reproduces s. 7 of the 1875 Act.

(*b*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2985.

Protection from liability where article properly labelled.

4. (*a*)—(1) No person shall be guilty of any such offence as aforesaid in respect of the sale of an article of food or a drug mixed with any ingredient or material not injurious to health, and not intended fraudulently to increase its bulk, weight, or measure, or to conceal its inferior quality, if at the time of delivering the article of food or drug he supplies to the person receiving it a notice, by a label distinctly and legibly written or printed on or with the article or drug, to the effect that it is mixed (*b*).

(2) For the purposes of this section, a label shall not be deemed to be distinctly and legibly written or printed if the notice of mixture given by the label is obscured by other matter on the label: but nothing in this subsection shall hinder or affect the use of any registered trade mark, or of any label which had been continuously in use for at least seven years before the first day of January nineteen hundred.

(3) The Comptroller-General of Patents, Designs and Trade Marks shall not register any trade mark purporting to describe a mixture unless it complies with the requirements of this section.

(*a*) This section reproduces s. 8 of the 1875 Act and s. 12 of the 1899 Act.

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(*b*) As to what is to be deemed not to be "distinctly and legibly written or printed," see sub-s. (2), *infra*. Where a label was used stating that an article purchased as coffee was a mixture of coffee and chicory, on analysis the coffee was only 60 per cent., and the justices found that the chicory was used fraudulently to increase the bulk, the court held that they were right (*Liddiard* v. *Reece* (1880), 44 J. P. 233). The magistrate must find whether the chicory is fraudulently intended to increase the bulk, and, if he so finds, he must convict (*Horder* v. *Meddings* (1880), 44 J. P. 234), and the existence of a label will not protect the seller (*Star Tea Co.* v. *Neale* (1909), 73 J. P. 511; 8 L. G. R. 5). But if he does not so find and convicts, the conviction will be quashed (*Otter* v. *Edgley* (1893) 57 J. P. 457). A sale of a mixture represented to be of coffee and chicory when there was only 30 per cent. of coffee, was held not to be an offence in *Higgins* v. *Hall* (1887), 51 J. P. 293. Where there is no evidence of fraud, the label is sufficient, although the type in which it is printed is so small as to require a magnifying glass for reading it (*Attfield* v. *Tyler* (1893), 57 J. P. 357). Notice may be given verbally at the time of sale as well as by label (*Gage* v. *Elsey* (1883), 10 Q. B. D. 518; 47 J. P. 391); and see *Sandys* v. *Small*, *Palmer* v. *Tyler*, *Bundy* v. *Lewis*, *ante*, p. 2951; *Hayes* v. *Rule* (1903), 66 J. P. 661; 87 L. T. 133. It is sufficient to give notice that an article is mixed without stating the ingredients or proportions. See *Pope* v. *Tearle* (1874), L. R. 9 C. P. 499; *Goldsmith* v. *Maddaford* (1882), 46 J. P. 44; *Williams* v. *Friend*, *ante*, p. 2951. It has been held that it is a necessary part of the defence allowed by the section to prove that the person selling brought to the mind of the purchaser the fact that there was on the article a label of the kind referred to in the section. See *Batchelour* v. *Gee*, [1914] 3 K. B. 242, dissenting from *Jones* v. *Jones* (1894), 58 J. P. 653; 10 T. L. R. 300. And it has further been held that a notice on an inside wrapper might not be sufficient, but if there be sufficient notice also displayed in the shop the vendor is protected though the purchaser's attention was not called to it (*Pearks, Gunston and Tee, Ltd.* v. *Houghton*, [1902] 1 K. B. 889; 66 J. P. 422). The decisions in *Batchelour* v. *Gee*, *supra*, and *Jones* v. *Jones*, *supra*, and certain dicta of Lord ALVERSTONE in *Pearks, Gunston and Tee, Ltd.* v. *Houghton*, *supra*, upon which the decision in *Batchelour's case* was based, were considered in *Clifford* v. *Battley*, [1915] 1 K. B. 531, and *Jones* v. *Jones* was approved of and followed and *Batchelour's case* was disapproved of and not followed. The shopman of K., in selling lard, wrapped it in the wrong wrapper, owing to the shop being crowded, the wrapper representing the lard to be margarine instead of lard compound:—*Held*, that K. was entitled to give evidence that the shopman acted under mistake, and contrary to his orders, in placing the lard in a margarine wrapper (*Kearley* v. *Tyler* (or *Tonge*) (1891), 60 L. J. M. C. 159; 56 J. P. 72). Notice that milk sold was not guaranteed 3 per cent., meaning that it did not contain 3 per cent. of milk fat according to the standard prescribed by the Sale of Milk Regulations, 1901, is not sufficient notice that it is not pure milk (*Souter* v. *Lean* (1905), 6 F. (J. C.) 20).

T. went into J.'s public-house, and without going into the bar or kitchen, went into a club-room and asked for whisky, and that supplied was 37 degrees under proof. A notice that "all spirits sold are diluted" was stuck up in the bar and kitchen, but not in the club-room, and nothing was said to T. on delivery:—*Held*, that the justices ought to have inquired before deciding the case whether T. knew that the practice at J.'s house was to sell only diluted spirits, in which case no conviction was proper (*Morris* v. *Johnson* (1890), 54 J. P. 612; 6 T. L. R. 171). A publican being asked for rum, said he had two qualities, one at 1*s.* and the other at 1*s.* 2*d.*, and the quality at 1*s.* was supplied and found to be 38 degrees under proof. A notice was stuck up in the house that "all spirits sold here are diluted in accordance with the new excise regulations":—*Held*, that this was not in itself a protection, but the justices ought to determine whether the purchaser was prejudiced (*Morris* v. *Askew* (1893), 57 J. P. 724). A notice exhibited by an innkeeper that "All spirits sold in this establishment, in order to comply with the Food and Drugs Act, will not be of any guaranteed strength," is not sufficient to bring to the mind of the purchaser the fact that the spirits sold are diluted to a strength below the standard provided by s. 6 of the 1879 Act (now s. 2 (2) (d), *ante*, p. 2950) (*Dawes* v. *Wilkinson*, [1907] 1 K. B. 278; 71 J. P. 23).

In *Brander* v. *Kinnear*, [1928] S. C. (J.) 42; 60 S. L. R. 390, a notice that "All spirits sold in this establishment are diluted. No strength guaranteed" was held not sufficient to protect a seller who when asked for whisky supplied whisky diluted to a strength below the statutory minimum. The court in that case laid it down that the notice must be clear and unambigous so as to acquaint purchasers with the character of the prejudice they were to accept. This view was, however, dissented from by AVORY, J., in *Rodbourn* v. *Hudson*, *infra*. In *Preston* v. *Grant*, [1925] 1 K. B. 177; 88 J. P. 198, it was held that proof of the exhibition of a notice was not sufficient, and that it was necessary to prove that the customer alleged to have been prejudiced had seen it.

All these cases were considered in *Rodbourn* v. *Hudson*, [1925] 1 K. B. 225, and it was held that a notice stating "All spirits sold at this establishment are of the same superior quality as heretofore, but to meet the requirements of the Sale of Food and Drugs Acts, they are now sold as diluted spirits. No alcoholic strength guaranteed" was misleading and that the justices were entitled to find that a sale of rum of a strength below the statutory minimum was to the prejudice of the purchaser.

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On a request for "ordinary whisky" the supply of whisky 40·9 degrees under proof from a barrel bearing a card stating "Sale of Food and Drugs Acts—Diluted Spirits—weaker than 35 u.p." to which the customers attention was not directed, was held an offence under s. 6 of the 1875 Act (now s. 2, *ante*) (*Patterson* v. *Findlay*, [1925] S. C. (J.) 53; [1925] S. L. T. 277).

Offences in relation to the abstraction from articles of food of parts thereof.

5. (*a*) If any person abstracts from any article of food any part of it so as to affect injuriously its nature, substance or quality, with the intent that it may be sold in its altered state without notice, or if any person sells any article so altered without making disclosure of the alteration (*b*) he shall be guilty of an offence (*c*).

(*a*) This section reproduces s. 9 of the 1875 Act.

(*b*) A person selling the altered article may be convicted, although at the time of the sale he did not know of the alteration (*Pain* v. *Boughtwood, ante*, p. 2952; *Spiers and Pond* v. *Bennett, infra*). The words "so altered" refer to a physical alteration of the article, irrespective of the intent with which the alteration is made. The respondent, a retail milk-seller, poured into a pail eight barn gallons of unskimmed milk, which she sold therefrom in small quantities to her customers, dipping it out of the pail from time to time with a measure. The sale of the contents of the pail extended over a space of between four and five hours, during the whole of which time, owing to the neglect of the respondent to keep the milk stirred, the cream was continually rising to the surface. When not more than two quarts remained in the pail, the appellant purchased from the respondent a pint of milk, which was served to him from the pail, and which, upon analysis, showed a deficiency of 33 per cent. of fatty matter. The respondent did not disclose the deficiency to the appellant. The deficiency was entirely due to the manner in which the earlier customers had been served:—*Held*, that the respondent, in so selling the milk to the appellant without disclosing its condition, was guilty of an offence against the above section (*Dyke* v. *Gower*, [1892] 1 Q. B. 220; 56 J. P. 168, followed in *Bridges* v. *Griffin*, [1925] 2 K. B. 233; 89 J. P.122). The appellant contracted to supply milk to a workhouse at a certain price. By the contract the milk was to contain a certain percentage of cream, it was to be tested on each delivery, and a reduction was to be made in the price in respect of any deficiency of cream. While the daily supply contained in five cans, was being delivered at the workhouse, the respondent, acting under s. 3 of the 1879 Act (now s. 16 (2), *post*), procured a sample from each of the five cans. There being a large deficiency of cream in two of the samples, the respondent subsequently laid two separate informations against the appellant, in respect of those two samples, under s. 9 of the 1875 Act (now the section in the text). The justices convicted the appellant in a separate penalty upon each information:—*Held*, that the procuring of each sample was a separate transaction; that the appellant had committed a separate offence as to each can in respect of which an information was laid; that the separate informations were therefore properly laid, and the convictions were right. It was also held that the provisions in the contract as to deficiency of cream were immaterial in the determination of the question whether the appellant had committed an offence under the Act (*Fecitt* v. *Walsh*, [1892] 2 Q. B. 304; 55 J. P. 726). The servant of C., a dairyman, being short in his supply of milk, bought two gallons from another dairyman, and mixed it with his own, and sold it to customers. Upon a charge against C. under the above section, it was held that though neither C. no his servant knew that the bought milk was adulterated, this was no defence (*Morris* v. *Corbett* (1892), 56 J. P. 649). On a sale of condensed milk in a tin where there was a label on the tin stating that it contained condensed milk, and, in smaller print, that it contained skimmed milk, this was held a sufficient disclosure of the alteration (*Jones* v. *Davies* (1893), 57 J. P. 808; 62 L. T. 497). See also *Morgan* v. *Auger* (1902), Times, March 14th; *Platt* v. *Tyler* (1894), 58 J. P. 71. As to labelling, see s. 4, *ante*. Apart from that section, the question whether there has been sufficient disclosure is a question of fact for the justices (*Petchey* v. *Taylor* (1898), 62 J. P. 260; 78 L. T. 501). But in *Spiers and Pond* v. *Bennett*, [1896] 2 Q. B. 65; 60 J. P. 437, the court reversed the decision of the justices as in *Jones* v. *Davies, supra*, apparently on the ground that there was no evidence on which they could find as they did.

(*c*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2985.

PART II.

PROVISIONS WITH RESPECT TO SPECIAL ARTICLES.

Conditions to be observed in dealings in margarine.

6. (*a*)—(1) Margarine (*b*), margarine-cheese (*b*) and milk-blended butter (*b*), whenever sold or forwarded by any public conveyance shall be sold or consigned as margarine or margarine-cheese, or in the case of milk-blended butter

Section 6. under such name or names as may be approved by the Minister of Agriculture and Fisheries.

margarine-cheese, and milk-blended butter.

(2) It shall not be lawful to manufacture, sell or expose for sale any margarine the fat of which contains more than ten per cent. of fat derived from milk (*c*).

(3) Every person dealing in margarine (*d*), whether wholesale or retail, and whether as manufacturer, importer (*b*), consignor, consignee, commission agent or otherwise, shall conform to such of the following regulations as may be applicable :—

(*a*) Every package containing margarine, whether open or closed, shall have the word " Margarine " branded or durably marked on the top, bottom, and sides thereof, in printed capital letters not less than three-quarters of an inch square, the brand or mark being on the package itself and not solely on a label ticket or other thing attached thereto (*e*) ;

(*b*) There shall be attached to every parcel (*f*) of margarine exposed for sale (*g*) by retail, in such manner as to be clearly visible to the purchaser, a label marked " Margarine " in printed capital letters not less than one and a half inches square ;

(*c*) Margarine when sold by retail, save in a package duly branded or durably marked as aforesaid, shall in every case be delivered to the purchaser in a paper wrapper, and the word " Margarine " shall be printed on the outside of such wrapper, (or, if more wrappers than one are used, on the outside of the outer wrapper) in capital block letters not less than half an inch long and distinctly legible, and no other printed matter (except a statement of the weight in pursuance of any statutory requirement (*h*)) shall appear on the outside of the wrapper, or, if there are more wrappers than one, of the outer wrapper (*j*) ;

(*d*) Margarine shall not be described in any wrapper enclosing it, or on any package containing it, or on any label attached to a parcel thereof, or in any advertisement of invoice thereof, by any name other than either " Margarine " or a name combining the word " Margarine " with a fancy or other descriptive name approved by the Minister of Agriculture and Fisheries, and printed in type not larger than, and in the same colour as, the word " Margarine " (*k*).

(4) The requirements of paragraphs (*a*), (*b*) and (*c*) of subsection (3) of this section shall apply to margarine-cheese and to persons dealing therein with the substitution of " Margarine-cheese " for " Margarine " :

Provided that, where margarine-cheese is sold or dealt in otherwise than by retail, it shall be sufficient compliance with those requirements if it is itself conspicuously branded with the words " margarine-cheese."

(5) The requirements of paragraphs (*a*), (*b*) and (*c*) of subsection (3) of this section shall apply to milk-blended butter and to persons dealing therein with the substitution of a name approved by the Minister of Agriculture and Fisheries for the word " margarine," save that there shall, in addition to the approved name, be printed on the outside of the wrapper referred to in paragraph (*c*), in such manner as the Minister of Agriculture and Fisheries may approve, such description of the article setting out the percentage of moisture or water contained therein (*l*) as may be approved by the Minister.

(6) Any substances purporting to be butter (*m*) or cheese (*m*) which are exposed for sale and not marked in the manner in which margarine, margarine-cheese or milk-blended butter is required to be marked under this Act shall be presumed to be exposed for sale as butter or cheese as the case may be.

(7) Any person who contravenes any of the provisions of this section shall be guilty of an offence (*n*).

(*a*) This section contains provisions formerly in ss. 3, 6, 8 and 10 of the 1875 Act, ss. 5, 6 and 8 of the 1899 Act, and ss. 8 and 9 of the 1907 Act.

(*b*) See the definition in s. 34, *post*, p. 2986.

(*c*) Butter blended with milk so that it contains an excess of water does not become margarine. Therefore a vendor of such milk-blended butter cannot be convicted under this section for selling margarine containing more than 10 per cent. of butter-fat. The sale of butter blended with milk was lawful if sold as such (*Bayley* v. *Pearks, Gunston and Tee, Ltd.* (1901), 66 J. P. 790; 87 L. T. 67). See now this and the following sections as to the restrictions on the sale of milk-blended butter.

An information was preferred by the respondent against the appellant and another for unlawfully selling to the prejudice of the purchaser mixed butter and margarine which was not of the nature, substance and quality of the article demanded by the purchaser, there being a proportion of 80 per cent. of foreign fat, 15½ per cent. of water, curd and salt, and 4½ per cent. of butter, contrary to the Sale of Food and Drugs Act, 1875. An agent of the respondent acting upon his instructions went to the appellant's shop and asked an assistant for two ounces of butter at 1*s*. 2*d*. per lb. The assistant informed the respondent's agent that the appellant did not sell butter at the shop at the price of 1*s*. 2*d*. per lb., but that he did sell a mixture of butter and margarine at 1*s*. 2*d*. which was very good. The respondent's agent stated to the assistant that she would have two ounces of the mixture, and the same was put up in a wrapper and supplied to her accordingly by the assistant upon payment of 1¾*d*. At the date of the sale the retail price of margarine was 6*d*., 8*d*., and 10*d*. per lb., and the retail price of butter was 1*s*. 2*d*. to 1*s*. 6*d*. per lb. The magistrate was of opinion that an offence has been committed on the ground that in view of the proportions of the several ingredients the mixture could be regarded only as a colourable one, and that in describing it as "very good" and selling it at the price named, it was intended to deceive the purchaser by leading him to believe that it contained a substantial proportion of butter, whereas the analysis disclosing only a small percentage of butter-fat showed that it contained no such substantial proportion. He accordingly convicted the appellant. On an appeal to the Divisional Court, it was held (1) that the word "quality" in s. 6 of the Act of 1875 (now s. 2, *ante*, p. 2949), means commercial quality of the article sold and not merely its description; (2) that regard must be had to s. 8 of the 1899 Act (corresponding to sub-s. (2) in the text), which the magistrate had not before him, and which makes it unlawful to sell any margarine "the fat of which contains more than 10 per cent. of butter-fat." Therefore, when considering the amount of butter the purchaser of a mixture of margarine and butter had a right to expect, the law which makes it an offence to sell margarine mixed with more than 10 per cent. of butter must be taken into account, and it was impossible to hold that there was evidence in the present case of a colourable sale. The conviction must, therefore, be quashed (*Anness* v. *Grivell*, [1915] 3 K. B. 685; 79 J. P. 558).

(*d*) See the definition in s. 34, *post*, p. 2986. Sub-paragraphs (*a*), (*b*) and (*c*) of this subsection apply also to margarine-cheese and milk-blended butter, subject to the modifications contained respectively in sub-s. (4) and (5). As to the effect of failure to comply with any of these requirements, see sub-s. (6) and (7).

(*e*) A dealer in margarine had in his shop at the back of his counter and in full view of customers several tubs open at the top containing margarine:—*Held*, that these tubs were packages within the meaning of this section, and that they should have been branded or durably marked as required by this section (*McNair* v. *Horan* (1904), 68 J. P. 518; 91 L. T. 555).

(*f*) On the defendant's counter was a butt of margarine from which the lid had been removed, but which was branded on the lid bottom and side with the word "margarine." There was no label attached as required by the Act. Defendant's assistant on being asked for one pound of margarine by the prosecutor sliced away that quantity from the margarine in the butt and sold it to him:—*Held*, that the butt was a parcel and should have been duly labelled (*Maguire* v. *Pater*, [1905] 2 I. R. 147). Six separate pounds of margarine, each partially covered with paper, placed together in a shop window in the form of a pyramid, and touching each other, form one parcel within the meaning of this provision, and are sufficiently labelled by a single label placed at the base of the pyramid so as to extend across the whole bottom portion of the three lowest pieces (*Parkinson* v. *McNair* (1905), 69 J. P. 399; 93 L. T. 553).

(*g*) The respondent kept margarine for sale in his shop, in a parcel which was not labelled, behind a screen and not in sight of customers. There was no evidence that this was done for the purpose of evading the Act:—*Held*, that the margarine was not exposed for sale within the meaning of the above section (*Crane* v. *Lawrence* (1890), 25 Q. B. D. 152; 54 J. P. 471). The meaning of the words "exposed for sale" is not limited to such an exposure as will enable purchasers to see the margarine itself. Margarine when wrapped in paper so as to be invisible to the purchaser may be exposed

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for sale within the meaning of the above section (*Wheat* v. *Brown*, [1891] 1 Q. B. 418; 56 J. P. 153).

(*h*) See s. 4 (2) (*b*) of the Sale of Food (Weights and Measures) Act, 1926 (16 & 17 Geo. 5, c. 63).

(*j*) This section does not apply to the sale of margarine spread on bread, and sold in a refreshment-house as bread and butter (*Moore* v. *Pearce's Dining and Refreshment Rooms, Ltd.*, [1895] 2 Q. B. 657; 59 J. P. 805). As to the sale of marked boxes in brown paper not marked, see *Toler* v. *Bischop* (1896), 60 J. P. 9; 65 L. J. M. C. 4).

The express prohibition of other printed matter first introduced by s. 6 of the 1899 Act, altered the effect of the decisions under the Act of 1887, in *Fyfe* v. *M'Laughlin* (1894), Adam, Just. Rep. 74; and *World's Tea Co.* v. *Gardner*, [1895] 59 J. P. 358.

Section 6 of the 1899 Act amended s. 6 of the 1887 Act (corresponding to the provision in the text) by providing that no other printed matter than the word "Margarine" should appear "on" the paper wrapper, and it was held that s. 6 of the Act of 1899 as so amended, was not repealed by s. 8 of the 1907 Act (now re-enacted in sub-paragraph (*d*), *infra*), which permited margarine to be described "in" a wrapper by a name combining the word "Margarine" with a fancy or descriptive word approved by the Board (now Minister) of Agriculture and Fisheries (*Williams* v. *Baker*, [1911] 1 K. B. 566; 75 J. P. 89). The package, label or wrapper must not describe the contents by any name other than margarine or by a name combining the word "Margarine" with an approved fancy name (see sub-paragraph (*d*), *post*). This enactment meets the cases of *Tanner* v. *Dyball* (1906), 70 J. P. 279; 94 L. T. 539; and *Keeloma Dairy Co.* v. *Jones* (1906), 70 J. P. 533; 22 T. L. R. 535. Thus, in *Williams* v. *Baker*, *supra*, it was held to be an offence, on a sale of a kind of margarine called by the approved name of "Karmo," to deliver it to the purchaser in a paper wrapper on which were the printed words "Karmo Margarine." In another case a retail dealer sold by retail a parcel of margarine in a cardboard case bearing on its outside an impression of a cabbage leaf, and the words "Green Leaf Margarine." The cardboard case was wrapped in thin transparent paper upon which was printed "Margarine." The words "Green Leaf Margarine" appeared through this wrapper. The wrapper was fastened at each end by a circular gummed label on which was printed "4*d.* per packet about ½ lb." It was held that the words "Green Leaf" appearing through the transparent wrapper might, and the words printed on the gummed label did constitute a breach of s. 6 of the 1887 Act as amended by s. 6 of the Act of 1899 (*Millard* v. *Allwood*, [1912] 1 K. B. 590; 76 J. P. 139).

(*k*) This enactment, which reproduces s. 8 of the 1907 Act, was passed to meet the cases of *Tanner* v. *Dyball* (1906), 70 J. P. 279; 4 L. G. R. 506, and *Keeloma Dairy Co.* v. *Jones* (1906), 70 J. P. 533; 22 T. L. R. 535.

As to the effect of this provision upon that contained in sub-paragraph (*c*), see the cases in note (*j*), *supra*.

Where an inner wrapper had the words "Mayco Margarine mixed with Maypole butter" printed upon it, it was held that there was a breach of the provision since, although the word "Mayco" had been approved, the words "mixed with Maypole butter" had not been so approved, and formed an integral part of the name (*Patterson* v. *Maypole Dairy Co., Ltd.*, [1923] S. C. (J.) 85; 60 S. L. R. 591). This case was distinguished in *Hawes* v. *Stephens*, [1924] 2 K. B. 179; 88 J. P. 97, where the words in question were "Kernut margarine churned with fresh milk." The word "Kernut" had been approved, and the court held that the words "churned with fresh milk" were not part of the fancy or descriptive name of the article, and accordingly that there had been no breach of the provision. This case was followed in *Chalmers* v. *Somerville and Barr, Ltd.*, [1925] S. C. (J.) 70; (1925), S. L. T. 530. The words in question in this case were "Charmo Margarine containing a small quantity of butter." The court held that the words "containing a small quantity of butter" were not part of the descriptive name and that no offence had been committed. *Patterson* v. *Maypole Dairy Co., Ltd.*, *supra*, was commented upon in the judgments in the last-mentioned case and doubted.

(*l*) See s. 11 (2), *post*, p. 2964.

(*m*) See the definition in s. 34, *post*, p. 2986.

(*n*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2985.

Power to make regulations as to constituents of milk, butter, cheese, etc.

7.—(1) The Minister of Agriculture and Fisheries may, after such inquiry as he deems necessary, make regulations (*a*) for determining what deficiency in any of the normal constituents of genuine milk (*b*), cream, butter, or cheese, or what addition of extraneous matter or proportion of water, in any sample of milk (including condensed milk), cream, butter, or cheese, or what proportion of any milk-solid other than fat in any sample of butter or milk-blended butter, shall for the purposes of this Act raise a presumption, until the contrary is proved, that, the milk, cream, butter, cheese or milk-blended butter is not genuine or is injurious to health, and an analyst shall have regard to such regulations in certifying the result of an analysis under this Act (*c*).

(2) The Minister of Health may, after such inquiry as he deems necessary, make regulations for prohibiting the use as a preservative of any substance specified in such regulations in the manufacture or preparation for sale of butter, margarine, or milk-blended butter, or for limiting the extent to which, either generally or as regards any particular substance or substances, preservatives may be used in the manufacture or preparation for sale of butter, margarine, or milk-blended butter.

(3) Any regulations made under this section shall be notified in the London Gazette, and shall also be made known in such other manner as the Minister making the regulations may direct.

(4) Any person who manufactures, sells, or exposes or offers for sale, or has in his possession for the purpose of sale, any butter, margarine, or milk-blended butter which contains a preservative prohibited by a regulation under this section, or an amount of a preservative in excess of the limit allowed by any such regulation, shall be guilty of an offence (*d*).

(*a*) The following regulations made under s. 4 of the 1899 Act reproduced in the subsection in the text were published in the London Gazette, August 6th, 1901, and are saved by s. 37, *post*, p. 2987.

The Board of Agriculture, in exercise of the powers conferred on them by s. 4 of the Sale of Food and Drugs Act, 1899, do hereby make the following regulations :—

1. Where a sample of milk (not being milk sold as skimmed, or separated, or condensed milk) contains less than 3 per cent. of milk-fat, it shall be presumed for the purposes of the Sale of Food and Drugs Acts, 1875 to 1899, until the contrary is proved, that the milk is not genuine, by reason of the abstraction therefrom of milk-fat, or the addition thereto of water.

2. Where a sample of milk (not being milk sold as skimmed, or separated, or condensed milk) contains less than 8·5 per cent. of milk-solids other than milk-fat, it shall be presumed for the purposes of the Sale of Foods and Drugs Acts, 1875 to 1899, until the contrary is proved, that the milk is not genuine, by reason of the abstraction therefrom of milk-solids other than milk-fat, or the addition thereto of water.

3. (Repealed as to England and Wales : see regulations of 1912, *infra.*)

4. These regulations shall extend to Great Britain.

5. These regulations shall come into operation on the 1st of September, 1901.

6. These regulations may be cited as the Sale of Milk Regulations, 1901.

The following further regulations made under s. 4 of the 1899 Act were published in the London Gazette, April 22nd, 1902 :

The Board of Agriculture in exercise of the powers conferred on them by s. 4 of the Sale of Food and Drugs Act, 1899, do hereby make the following regulations :—

1. Where the proportion of water in a sample of butter exceeds 16 per cent. it shall be presumed for the purposes of the Sale of Food and Drugs Acts, 1875 to 1899, until the contrary is proved, that the butter is not genuine by reason of the excessive amount of water therein.

2. These regulations extend to Great Britain.

3. These regulations shall come into operation on the fifteenth day of May, one thousand nine hundred and two.

4. These regulations may be cited as the Sale of Butter Regulations, 1902.

The following regulations were made by the Board of Agriculture on June 29th, 1912 :

The Board of Agriculture and Fisheries, in exercise of the powers conferred on them by section 4 of the Sale of Food and Drugs Act, 1899, do hereby make the following Regulations :—

1. Where a sample of skimmed or separated milk (not being condensed milk) contains less than 8·7 per cent. of milk-solids other than milk-fat, it shall be presumed for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907, until the contrary is proved, that the milk is not genuine, by reason of either the addition thereto of water, or the abstraction therefrom of milk-solids other than milk-fat.

2. Regulation 3 of the Sale of Milk Regulations, 1901, is hereby revoked, but not so as to affect the validity of any certificate of analysis given before the commencement of these regulations or any legal proceedings in respect of any sample to which any such certificate relates.

3. These regulations shall come into operation on the first day of September, one thousand nine hundred and twelve.

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4. These regulations shall extend to England and Wales.

5. These regulations may be cited as the Sale of Milk Regulations, 1912.

The following cases have been decided in relation to these regulations: A farmer was charged with selling milk which on analysis proved to be below the standard of quality required by the regulations. The accused, his mother and servants gave evidence which was believed, but was uncorroborated by neutral testimony, to the effect that the milk had not been tampered with. The accused was convicted and it was held, on appeal, that the evidence adduced by him was sufficient without further corroboration to overcome the presumption that the milk had been tampered with, and that the conviction must be quashed (*Lamont* v. *Rodger*, [1911] S. C. (J.) 24). A farmer, charged with selling skimmed milk which was not genuine, inasmuch as it did not contain 9 per cent. of milk-solids as required by s. 3 of the Regulations (1901), objected to the relevancy of the complaint on the ground that the analyst's certificate produced was unintelligible, that it did not state the "milk"-solids and did not show that any offence had been committed. The certificate stated as follows:—"Solids not fat: 7·35; Fat: 1·31; Water: 91·34; Ash: ·59." It was held that the certificate was quite clear; that the omission of the word "milk" was of no moment; and that the additional information as to "ash" did not affect the analysis, which showed a deficiency of solids (*Gordon* v. *Love*, [1911] S. C. (J.) 75). A farmer was charged with selling milk which was not genuine, in that it did not contain the quantity of milk-fat and solids required by the Regulations (1901). It was proved to the satisfaction of the sheriff-substitute that the milk had not been tampered with after having been taken from the cow, but that the deficiency in quality was due to a method of feeding purposely adopted by the farmer in order to produce quantity of milk rather than quality. The accused was acquitted, and it was held that the decision of the sheriff-substitute was right (*Scott* v. *Jack*, [1912] S. C. (J.) 87). The respondent was charged with having consigned to a purchaser milk which was not of the nature, substance or quality contracted to be sold, the milk being deficient in fat to the extent of 26 per cent. of the minimum amount fixed by the Regulations (1901). At the hearing the facts stated in the information were proved or admitted, and evidence was also given and admitted that another consignment of the same morning's milk from the same cows showed on analysis 3·1 per cent. fat (being in excess of the said minimum) and that the morning's milk from the same cows seven days later showed on analysis a deficiency in fat below such minimum of 3 per cent. only. The justices held that although the sample was not of the nature, substance and quality contracted to be sold, yet the respondent had not tampered with the milk, which was as it came from the cows. The Divisional Court remitted the case to the justices to convict the respondent unless further evidence was given before them bearing upon the question whether or not the difference between the quantities of fat in the two consignments on the day in question was consistent with there having been ordinary milking (*Marshall* v. *Skett* (1913), 77 J. P. 173; 108 L. T. 1001). An analyst's certificate showed a less percentage of milk-solids other than milk-fat than that required by the above Regulations as to milk-solids. *Held*, that the presumption created by the Regulation can only be rebutted by evidence that the seller has neither added water to the milk nor abstracted anything from it; in other words, that he has sold it in the same condition as it was when it came from the cow (*Kings* v. *Merris*, [1920] 3 K. B. 566).

See also *Edwards' Creameries, Ltd.* v. *Smith* (1922), 86 J. P. 155, as to what amounts to an opportunity of furnishing an explanation before proceedings are instituted. Reference should also be made to *Hunt* v. *Richardson* and other cases cited in the notes to s. 2, *ante*, p. 2953.

For regulations made under the P. H. (Regulations as to Food) Act, 1907, as to the case of preservatives in milk and cream, see p. 2949, *ante*, and as to the effect of such regulations upon ss. 1 and 2, *ante*, see s. 1 (4), *ante*, p. 2949, and s. 2 (4), *ante*, p. 2950.

(*b*) "Milk" includes skimmed milk, and "genuine" means merely "unadulterated." Accordingly regulations as to skimmed milk made under this section are not *ultra vires* (*Gordon* v. *Love*, [1911] S. C. (J.) 75).

(*c*) As to certificates, see s. 17, *post*, p. 2971, and notes thereto.

The Board of Agriculture issued a circular dated 17th August, 1903, on the analysis of sour milk in relation to the composition of milk when fresh, which will be found printed in 1 L. G. R., Part III., p. 393.

It is desirable that an analyst's certificate should state in terms the standard with reference to the amount of milk-fat in genuine milk, on which the analyst bases his conclusion, but failure to state it does not vitiate the certificate if a simple calculation from the figures given in the certificate makes it apparent that the analyst has proceeded upon the standard laid down by the Sale of Milk Regulations, 1901 (*Bayley* v. *Cook* (1905), 69 J. P. 139; 92 L. T. 170). See also as to the sufficiency of a certificate of analysis, *Bakewell* v. *Davis*, [1894] 1 Q. B. 296; *Jenkins* v. *Naden* (1919), 83 J. P. 154.

A certificate of the analysis of an article sold as butter is invalid if the analyst does not report whether any change has taken place in the constitution of the article; and it is no excuse for non-compliance with the direction to that effect in the prescribed form of certificate that the article proved on analysis to be margarine (*Hunter* v. *Wintrup* (1904), 7 F. (J. C.) 22).

(*d*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977, 2985.

Registration of factories and wholesale premises.

8.—(1) All premises to which this section applies; that is to say—

(*a*) factories of margarine (*a*), margarine-cheese (*a*), or milk-blended butter (*a*);

(*b*) premises where the business of a wholesale dealer in margarine, margarine-cheese, or milk-blended butter is carried on;

(*c*) butter (*a*) factories, that is to say, premises on which by way of trade butter is blended, reworked, or subjected to any other treatment, but not so as to cease to be butter;

shall be registered by the owner or occupier thereof with the Food and Drugs Authority (*b*), in such manner as the Minister of Health (*c*) may direct; and any owner or occupier who carries on such manufacture, business or trade as aforesaid in premises not duly registered shall be guilty of an offence (*d*).

(2) Registration of premises under this section shall be forthwith notified by the Food and Drugs Authority (*b*) to the Minister of Agriculture and Fisheries.

(3) Premises shall not be used as a butter factory if they form part of, or communicate otherwise than by a public street or road with, any other premises which are required to be registered under paragraph (*a*) or paragraph (*b*) of subsection (1) of this section; and if any premises are so used, the occupier thereof shall be guilty of an offence (*d*), and the Food and Drugs Authority shall remove from the register of butter factories kept by them any premises used as a butter factory contrary to the provisions of this subsection.

(*a*) See the definition in s. 34, *post*, p. 2986.

(*b*) As to who are "Food and Drugs Authorities," see s. 13, *post*, p. 2966.

(*c*) General orders as to the registration of factories of and of premises of wholesale dealers in margarine and margarine-cheese, dated February 26th, 1900 (in App. II., *post*, p. 3310), and as to the registration of butter factories and of factories of and premises of wholesale dealers in milk-blended butter, dated December 28th, 1907 (in App. II., *post*, p. 3311), were made by the L. G. B. under the corresponding provisions of the consolidated Acts, and are saved by s. 37, *post*, p. 2987.

As to the inspection of registered factories and power of taking samples therein, see s. 22, *post*, p. 2975.

(*d*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2984.

Registration of consignments.

9. (*a*)—(1) Every occupier of a factory (*b*) of margarine (*c*), margarine-cheese (*c*), or milk-blended butter (*c*), and every wholesale dealer in any such substance, shall keep a register showing the quantity and destination of each consignment of margarine, margarine-cheese, or milk-blended butter, as the case may be, sent out from his factory or place of business, and the register shall be open to the inspection of any officer of the Minister of Agriculture and Fisheries (*d*).

(2) If any such occupier or dealer—

(*a*) fails to keep such a register; or

(*b*) refuses to produce the register when required to do so by an officer of the Minister of Agriculture and Fisheries; or

(*c*) fails to keep the register posted up to date; or

(*d*) wilfully makes any entry in the register which is false in any particular; or

(*e*) fraudulently omits to enter any particular which ought to be entered in the register;

he shall be guilty of an offence and liable for the first offence to a fine not

Section 9. exceeding ten pounds, and for any subsequent offence to a fine not exceeding fifty pounds (*e*).

(*a*) This section consolidates s. 7 of the 1899 Act as amended by s. 1 of the 1907 Act.
(*b*) As to the registration of such factories and premises, see s. 8, *ante*, p. 2963.
(*c*) See the definition in s. 34, *post*, p. 2986.
(*d*) The inspector may make notes of the register when produced (*Hart* v. *Cohen* (1902), 4 F. (Ct. of Sess.), 445).
(*e*) As to the recovery and application of penalties, see ss. 27 and 32, *post*, pp. 2977 and 2985.

Prohibition of adulterants in butter factories.

10. (*a*) If any substance intended to be used for the adulteration of butter (*b*) is found in any butter factory, the occupier of the factory shall be guilty of an offence (*c*), and if any oil or fat capable of being so used is found it shall be deemed to be intended to be so used, unless the contrary is proved.

(*a*) This section reproduces s. 3 of the 1907 Act.
The observance of the formalities prescribed by s. 14 of the Sale of Food and Drugs Act, 1875 (see now s. 18, *post*, p. 2972), is not a condition precedent to proceedings under this section (*Monro* v. *Central Creamery Co., Ltd.*, [1912] 1 K. B. 578; 76 J. P. 131).
(*b*) See the definition in s. 34, *post*, p. 2986.
(*c*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2985.

Limit of moisture in butter, &c.

11 (*a*).—(1) If any butter (*b*) which, when prepared for sale or consignment, contains more than sixteen per cent. of water (*c*) is in any butter factory, or if any margarine (*b*), which, when prepared for sale or consignment, contains more than sixteen per cent. of water is in any margarine factory, or if any such butter or margarine is consigned from a butter factory or margarine factory, the occupier of the factory or consignor, as the case may be, shall (whether the excess of moisture is due to adulteration or not) be guilty of an offence (*d*) unless he proves to the satisfaction of the court that the butter or margarine was not made, blended, reworked, or treated in the factory.

(2) Any person who manufactures, sells, or exposes or offers for sale, or has in his possession for the purpose of sale, any milk-blended butter (*e*) which contains more than twenty-four per cent. of water, shall be guilty of an offence (*d*).

(*a*) This section reproduces s. 4 of the 1907 Act.
(*b*) See the definition in s. 34, *post*, p. 2986.
(*c*) See the Regulations of the Board of Agriculture and Fisheries, 1902, set out in note (*a*) to s. 7, *ante*, p. 2961.
(*d*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977, 2985.
(*e*) See the definition in s. 34, *post*, p. 2986.

Restrictions on the importation of agricultural and other produce.

12 (*a*).—(1) If there is imported into the United Kingdom any of the following articles, namely :—

(*a*) margarine (*b*), or margarine-cheese (*b*), except in packages conspicuously marked "Margarine" or "Margarine-cheese," as the case may require;

(*b*) adulterated or impoverished (*c*) milk or cream, except in packages or cans conspicuously marked with a name or description indicating that the milk or cream has been so treated;

(*c*) condensed separated or skimmed milk, except in tins or other receptacles which bear a label whereon the words "Machine-skimmed Milk" or "Skimmed Milk," as the case may require, are printed in large and legible type (*d*);

(*d*) any adulterated or impoverished article of food (*e*) to which His Majesty may by Order in Council direct that this section shall be

Section 12.

applied, unless the same be imported in packages or receptacles conspicuously marked with a name or description indicating that the article has been so treated;

(e) butter (c) containing more than sixteen per cent. of water (f);

(f) margarine containing more than sixteen per cent. of water, or more than ten per cent. of fat derived from milk (g);

(g) milk-blended butter (j) containing more than twenty-four per cent. of water (h);

(h) milk-blended butter, except in packages conspicuously marked with such name as may be approved by the Minister of Agriculture and Fisheries for the purpose (j);

(j) butter, margarine, or milk-blended butter which contains a preservative prohibited by any regulation (k) made under this Act, or an amount of a preservative in excess of the limit allowed by any such regulation;

the importer (l) shall be guilty of an offence (m).

(2) Prosecutions for offences under this section shall be undertaken by the Commissioners of Customs and Excise, and, subject to the provisions of this Act, this section shall have effect as if it were part of the Customs (Consolidation) Act, 1876 (n). 39 & 40 Vict. c. 36.

(3) If in any case the Commissioners of Customs and Excise are of opinion that an offence against this section has been committed, they shall communicate to the Minister of Agriculture and Fisheries for his information the name of the importer and such other facts as they possess or may obtain as to the destination of the consignment.

(4) For the purposes of this section, an article of food shall be deemed to be adulterated or impoverished if it has been mixed with any other substance, or if any part of it has been abstracted, so as in either case to affect injuriously its nature, substance, or quality:

Provided that an article of food shall not be deemed to be adulterated by reason only of the addition of any preservative or colouring matter of such a nature and in such quantity as not to render the article injurious to health (o).

(a) This section reproduces s. 1 of the 1899 Act as amended by s. 5 of the 1907 Act.

(b) See the definition in s. 34, *post*, p. 2986.

(c) See sub-s. (4).

(d) See also as to condensed milk the P. H. (Regulations as to Food) Act, 1907, as amended by s. 8 (2) of the Milk and Dairies (Amendment) Act, 1922, *ante*, p. 1098, and note (a) thereto.

(e) See the definition in s. 34, *post*, p. 2986.

(f) See the Regulations of the Board of Agriculture and Fisheries, 1902, in note (a), to s. 7, *ante*, p. 2961.

(g) See s. 6 (2), *ante*, p. 2958.

(h) See s. 11 (2), *ante*, p. 2964.

(j) See s. 6 (1), *ante*, p. 2957.

(k) *I.e.* under s. 7 (2), *ante*, p. 2961.

(l) See the definition in s. 34, *post*, p. 2986.

(m) No appeal lies to quarter sessions on a question of fact (*R.* v. *Otto Monsted, Ltd.*, [1906] 2 K. B. 456; 70 J. P. 435). The warranty defence does not apply (*Kelly* v. *Lonsdale & Co.*, [1906] 2 K. B. 486; 70 J. P. 441).

In proceedings by the Commissioners of Customs under this section, for the recovery of a penalty in respect of the importation into the United Kingdom of an article of food specified therein, the certificate of the analysis given by the Government chemist under s. 20 need not be in the form prescribed by s. 17 and Sched. I. (*Foot* v. *Findlay*, [1909] 1 K. B. 1; 72 J. P. 494).

As to the penalties for offences under this Act, see s. 27, *post*, p. 2977. As to prosecutions for offences under this section, see sub-s. (2).

(n) See the Customs Consolidation Act, 1876, ss. 218 *et seq.*, as amended by the Customs and Inland Revenue Act, 1879, ss. 11, 12, and 14. Compare the powers of the Commissioners of Customs as to tea under the Sale of Food and Drugs Act, 1875, s. 30, *ante*, p. 2342. Under the Merchandise Marks Act, 1887, ss. 2, 16, the Customs are authorised to detain goods which are marked with a false trade description, but they do not exercise

Note to Section 12.

this power unless moved to do so by an informant who is prepared to give them security for any damages that might be recovered from them in respect of damage to the detained goods in the event of the information as to misdescription turning out incorrect. See s. 19, *ibid.*, saving rights of action.

(*o*) If it does render the article injurious to health, the addition may be an offence within s. 1, *ante*, p. 2948. See also *Roose* v. *Perry & Co.* (1900), 44 Sol. Jo. 503.

PART III.

ADMINISTRATION.

Food and Drugs Authorities.

13. The local authorities for the purposes of the execution of this Act (*a*) (in this Act referred to as the Food and Drugs Authorities) are—

(1) as respects the city of London, the common council;

(2) as respects any other part of the administrative county of London, the metropolitan borough council;

(3) as respects a county borough, or a borough having a separate police establishment, or a borough which had according to the census of 1881 a population of not less than ten thousand, and which had on the thirteenth day of August, eighteen hundred and eighty-eight, and for the time being has, a separate court of quarter sessions, the council of the borough;

(4) as respects any other area, the county council.

(*a*) A local authority which is not a Food and Drugs Authority may nevertheless by their sanitary inspector institute prosecutions under the Act (*Worthington* v. *Kyme* (1905), 69 J. P. 390; 93 L. T. 546).

Officers of the M. of H. and the Ministry of Agriculture may institute proceedings as private individuals under this Act. They are not limited in prosecutions at their instance to cases contemplated by ss. 14 and 19, *post* (*Falconer* v. *Whyte*, [1908] S. C. (J.) 40).

Duty of authorities to enforce Act.

14.—(1) It shall be the duty (*a*) of every Food and Drugs Authority (*b*) to put in force from time to time, as occasion may arise, the powers with which they are invested, so as to provide proper securities for the sale of food and drugs in a pure and genuine condition, and in particular to direct their officers to procure samples for analysis (*c*).

(2) If the Minister of Health or Minister of Agriculture and Fisheries after communication with the Food and Drugs Authority is of opinion that the authority have failed to execute or enforce any of the provisions of this Act in relation to any article of food, and that their failure affects the general interests of the consumer or the general interests of agriculture in the United Kingdom, as the case may be, the Minister concerned may, by order, empower an officer to execute and enforce those provisions or to procure the execution and enforcement thereof in relation to any article of food mentioned in the order.

(3) The expenses incurred by either such Minister or his officer under any such order shall be paid by the Food and Drugs Authority to such Minister on demand, and in default such Minister may recover (*d*) the amount of the expenses (*e*) with costs from the authority, and the amount so paid or recovered shall be treated as expenses incurred by the authority under this Act (*f*).

(4) For the purposes of this section, an order of the Minister concerned shall be conclusive in respect of any default, amount of expenses, or other matter therein stated or appearing.

(*a*) This duty will be enforceable by *mandamus*, notwithstanding the powers of the two government departments under the next sub-section (*R.* v. *Leicester Guardians*, [1899] 2 Q. B. 632; 63 J. P. 474).

Note to Section 14.

(*b*) See as to these authorities, s. 13, *ante*, p. 2966.
(*c*) As to taking samples, see s. 16, *infra*.
(*d*) By action in any court of competent jurisdiction.
(*e*) As to the amount of these expenses, see sub-s. (4).
(*f*) As to the expenses of Food and Drugs Authorities, see s. 26, *post*, p. 2977.

Appointment of analysts.

15.—(1) It shall be the duty (*a*) of every Food and Drugs Authority (*b*) to appoint one or more persons as analysts (*c*) of articles of food and drugs within their area (in this Act referred to as public analysts), and the authority may remove any such person.

(2) Every such appointment and removal shall at all times be subject to the approval of the Minister of Health who may give his approval absolutely or with modifications as to the period of the appointment, removal, or otherwise.

(3) Every person so appointed shall be a person possessing competent knowledge, skill and experience, and shall furnish such proof of competency as may from time to time be required by regulation (*d*) framed by the Minister of Health ; and no person shall be appointed as public analyst for any place who is engaged directly or indirectly in any trade or business connected with the sale of food or drugs in that place.

(4) The Food and Drugs Authority shall pay to every public analyst appointed by them such remuneration as may be mutually agreed upon.

(5) The council of any borough, being a Food and Drugs Authority, may agree that the public analyst appointed by any neighbouring borough or for the county in which the borough is situated, shall act for their borough during such time as the council may think proper, and the council shall make due provision for the payment of his remuneration, and if such analyst consents, he shall during such time as aforesaid be the public analyst for the borough.

(*a*) This duty will be enforceable by *mandamus* although the provisions of s. 14 (2), *ante*, p. 2966, are also applicable (*R.* v. *Leicester Guardians*, [1899] 2 Q. B. 632 ; 63 J. P. 474).
(*b*) See as to this expression, s. 13, *ante*, p. 2966.
(*c*) As to the qualification of analysts, see sub-s. (3).
(*d*) Regulations were issued under the corresponding sub-section of the 1899 Act, by General Order dated March 7th, 1900, which will be found in App. II., *post*, p. 3610. These regulations are saved by s. 37, *post*, p. 2987.

Powers of sampling.

16. (*a*)—(1) Any medical officer of health, sanitary inspector, inspector of weights and measures, inspector of a market, or police constable, acting under the direction and at the cost of the local authority appointing him or charged with the execution of this Act may purchase any sample of any food or drug (*b*), and any such officer, inspector, or constable acting as aforesaid is in this Act referred to as a " sampling officer."

(2) A sampling officer may take at the place of delivery any sample of any food in course of delivery (*c*) to the purchaser or consignee in pursuance of any contract for the sale thereof to the purchaser or consignee :

Provided that no sample of food other than milk shall be taken under this subsection except upon the request or with the consent of the purchaser or consignee.

(3) A sampling officer may, without going through the form of purchase, take for the purposes of analysis, samples of any butter or cheese or substances purporting to be butter or cheese which are exposed for sale and are not marked in the manner in which margarine, margarine-cheese or milk-blended butter is required to be marked under this Act (*d*).

(4) Any officer of Customs and Excise and any sampling officer (except an inspector of a market and in London an inspector of weights and measures),

Section 16. if he has reason to believe that any package forwarded by any public conveyance contains margarine, margarine-cheese or milk-blended butter which is not consigned in accordance with the provisions of this Act may examine and take samples from that package, and ascertain, if necessary by submitting the same to be analysed, whether an offence under this Act has been committed (*e*).

(5) If any sampling officer applies to purchase any article of food or any drug exposed for sale or on sale by retail on any premises (including any street or open space of public resort), and tenders the price for the quantity which he requires for the purpose of analysis not being more than is reasonably requisite, and the person exposing the article or drug for sale, or having it for sale on the premises, refuses to sell to the officer such quantity thereof as aforesaid, or if the seller or consignor or any person entrusted by him for the time being with the charge of any article of food of which a sampling officer is empowered to take a sample in course of delivery refuses to allow the officer to take the quantity which he requires for the purpose of analysis, the person so refusing shall be guilty of an offence (*f*), and liable to a fine not exceeding ten pounds (*g*):

Provided that, where any article of food or drug is exposed for sale in an unopened tin or package duly labelled, no person shall be required to sell it except in the unopened tin or package in which it is contained (*h*).

(*a*) The section consolidates ss. 13 and 17 of the 1875 Act, ss. 3, 4 and 5 of the 1879 Act, ss. 8 and 10 of the 1887 Act, ss. 5, 14 and 18 of the 1899 Act, and ss. 9 and 12 of the 1907 Act.

(*b*) An authorised officer may act under this section by an agent (*Farley* v *Higginbotham* (1898), 104 L. T. Newsp. 410; 42 Sol. J. 309). As to obtaining samples of milk, see s. 21 and Sched. II., *post*, pp. 2975, 2988.

(*c*) As to the meaning of these words, see *Telford* v. *Fyfe*, [1908] S. C. (J.) 83.

As to the taking of samples of milk, see s. 21 and Sched. II., *post*, pp. 2975, 2988. As to forwarding to the consignor a portion of the sample of milk taken, see s. 18 (2), *post*, p. 2972. It is not necessary to state the intention and to divide the sample of milk thus taken, as required by s. 18 (1) (*Rouch* v. *Hall* (1880), 6 Q. B. D. 17; 45 J. P. 220; *Chappell* v. *Emson* (1884), 48 J. P. 200).

It is not necessary for an inspector to prove that he is a duly authorised officer; so held by CHANNELL and AVORY, JJ., in *Ross* v. *Helm*, [1913] 3 K. B. 462; 77 J. P. 13. *Cf. Kates* v. *Jeffery*, [1914] 3 K. B. 160.

An inspector having taken a sample of milk, under the corresponding section (s. 3) of the 1879 Act, divided it, retained one part, and submitted the other part to be analysed:—*Held*, following *Rouch* v. *Hall*, *supra*, that he was not bound to submit for analysis the whole of the sample taken by him (*Rolfe* v. *Thompson*, [1892] 2 Q. B. 196). And see *Harris* v. *Williams*, the facts of which are stated in note (*d*) to s. 18, *post*, p. 2973.

The appellant, who lived at C., contracted with a dairy company for the sale to them of the milk from his dairy, to be delivered at London, or at such other station as the purchasers should from time to time appoint; the carriage of the milk from C. to be paid by the purchasers. The purchasers appointed H. as a station for the delivery of milk under the contract. The appellant consigned milk from C. to the purchasers at H.; immediately on its arrival at the latter station, and before possession was taken of it by the purchasers, a sample was taken by the respondent, which, upon analysis, was found to be adulterated by the addition of water:—*Held*: that, notwithstanding the provision for payment of the carriage by the purchasers, H. was the place of delivery of the milk to the purchasers within the meaning of the section; and the appellant was, therefore, rightly convicted of an offence under the Act (*Filshie* v. *Evington*, [1892] 2 Q. B. 200; 56 J. P. 312). And see *Lush* v. *Wilson* (1890), 54 J. P. 73, a decision by the Recorder of Reading as to the place of delivery.

The servant of the defendant, a wholesale milk dealer, in pursuance of a contract between his master and a retail milk seller, took milk from his master's cart in cans belonging to his master into the retail milk seller's shop, and there poured it into empty cans belonging to the retail milk seller. An inspector and his assistant were present while this was being done, and immediately after the milk had been poured into the retail milk seller's cans the inspector took a sample of it, and it was held that the milk was still in course of delivery when the sample was taken (*Semple* v. *Dunbar* (1905), 6 F. (Just. Cas.) 65).

Note to Section 16.

In *Dibblin* v. *Yarrow* (1926), 48 M. C. C. 7, a dairy farmer in performance of a verbal contract to supply milk to a dairyman was taking supplies of milk to the dairyman's premises. On arrival at the premises he was stopped by an inspector who took samples under the corresponding provision in the 1879 Act. The milk on analysis was found to be adulterated with 10 per cent. of added water. The dairyman took and paid for the remainder of the consignment, but refused to pay for the portion taken as samples. In proceedings, the farmer contended that none of the milk was the subject-matter of any contract for the sale of the same to the dairyman, and that the sample taken was never sold to the dairyman. The Divisional Court held there was a contract within the section, that the sample was properly taken at the place of delivery, and that an offence had been committed.

See also *Fecitt* v. *Walsh* in note (*b*) to s. 5, *ante*, p. 2957.

The sample must be fairly taken and fairly represent the bulk of the milk in course of delivery. Where a dairy farmer supplied a dairyman with 22 gallons of milk in part fulfilment of a contract to supply 40 gallons of milk daily, and the 22 gallons were supplied in three cans, of which two contained 8 gallons each, and the other 6 gallons, and the whole of the two cans of 8 gallons each, together with 4 gallons from the can containing 6 gallons, were poured into one vessel, and the remaining 2 gallons into another, and an inspector took a sample from each of these vessels, which, when analysed, showed 3·05 per cent. milk fat in the sample from the vessel containing the 20 gallons, but only 2·8 per cent. in the other sample, it was held that this latter sample was not a fair sample of the 6 gallons contained in the original can (*Crawford* v. *Harding*, [1907] S. C. (J.) 11). A consignment of milk was delivered in sixteen cans which were cylindrical in shape and about two feet deep. Each can was taken into a store room by the consignor's servant, where it was opened by him. An inspector then agitated the milk in the can with a wooden spoon about a foot in length, and a sample was taken by dipping a measure into the milk just under the surface and removing about 14 ounces. Samples were thus taken from fourteen of the cans. The court were of opinion that the method of sampling was not unfair or improper, and that it afforded a fair test of the contents of each can (*Telford* v. *Fyfe*, [1908] S. C. (J.) 83). An inspector saw the respondent deliver milk to a woman by pouring it into a jug. As soon as she had paid for the milk she went into her house and shut the door. The inspector then knocked at the door, and it was opened by the woman, who still had the jug in her hand, the milk being in the same condition as when she received it. The respondent was under a contract to deliver to the woman pure milk from the cow. Upon analysis it was found that the milk contained 30 per cent. of added water. It was held by PICKFORD and LUSH, JJ. (Lord ALVERSTONE, C.J., *dissentiente*), that there was evidence upon which the justices could find that delivery was complete before the sample had been taken (*Helliwell* v. *Haskins*, [1911] W. N. 129; 75 J. P. 435). The appellant, who was a milk vendor, made a written contract with one C. for the supply of pure milk to C., the contract providing that "the milk shall be delivered to the purchaser at Briton Ferry railway station of the Great Western Railway Co., and arrival of the milk at the said railway station shall constitute delivery by the vendor to the purchaser." Under this contract the appellant consigned a churn of milk to C. at the above station. On its arrival the consignee was present at the station, but the police took possession of the churn as it was removed from the train, and prevented the consignee from touching it. About twenty minutes later the respondent, an inspector under the Sale of Food and Drugs Acts, arrived at the station and took a sample of the milk from the churn. On an information by the respondent against the appellant which alleged that the respondent had procured at the place of delivery a sample of milk then in course of delivery, and that it was not of the nature, substance, and quality of the article demanded by the purchaser, the justices found that the sample was procured at the place of delivery and in course of delivery, and they convicted the appellant. It was held that there was evidence to support the finding of the justices, that the sample was taken when the milk was in course of delivery, and the conviction must be affirmed (*Cox* v. *Evans*, [1917] 1 K. B. 275; 81 J. P. 53). A dairyman delivered a consignment of 42 gallons of milk in six barrels, which were sampled thus: Four barrels were poured out separately and a sample taken of each. The fifth and sixth were poured together and a sample taken. An average of the five samples was then taken as representing the quality of the entire consignment. It was held that the method adopted was fair and proper and caused no prejudice to the defendant (*Lamont* v. *Rodger*, [1911] S. C. (J.) 24).

In *Wildridge* v. *Ashton*, [1924] 1 K. B. 92; 87 J. P. 197, a consignment of milk was sent in pursuance of a contract in three churns. The inspector took a sample from each churn and these samples were each analysed separately. An information was laid in respect of the whole consignment, and at the hearing the certificates of the three analyses were put in, and the analyst gave evidence based on the certificates as to the quantitative or true average of the constituents of the whole consignment, the justices dismissed the appeal on the ground that the method of taking the samples was not proper and legal, but the Divisional Court held that the method was both proper and legal.

Note to Section 16.

The defendant may be convicted upon a summons alleging an offence under s. 6 of the 1875 Act (corresponding to s. 2, *ante*, p. 2949), although it is proved that there was a seizure under this section, unless he applies for an amendment or adjournment under s. 1 of the S. J. A., 1848 (*Hiett* v. *Ward* (1894), 58 J. P. 461; 70 L. T. 374).

The power given by this section cannot be exercised by an inspector of nuisances outside the district for which he was appointed (*McNair* v. *Cave*, [1903] 1 K. B. 24; 67 J. P. 50).

The sample may be procured by the assistance of an agent, and in such case the proceedings will be rightly instituted and carried on by and in the name of the inspector himself (*Tyler* v. *Dairy Supply Co.* (1908), 72 J. P. 132; 98 L. T. 867).

(*d*) *I.e.* under ss. 6 and 12, *ante*, pp. 2957 and 2964.

(*e*) Observe that the power conferred by this sub-section is not, like that given by sub-s. (1), *supra*, confined to the procuring of samples; the officer may examine and take samples from any package. As to forwarding a portion of any sample taken to the consignor, see s. 18 (2), *post*, p. 2972.

(*f*) A master is liable under this section for a refusal by his servant (*Farley* v. *Higginbotham* (1898), 104 L. T. Newsp. 410; 42 Sol. J. 309). After a purchase by an inspector and his announcement that the purchase was for analysis, the respondent snatched the tin out of the inspector's hands, showed him the label on it, and refused to give it back, though offering to return the money:—*Held*: that the respondent could not be convicted of larceny (*Hewson* v. *Gamble* (1892), 56 J. P. 101). An inspector is entitled under this section to demand and be supplied in the same manner as the public are being supplied, and consequently if a dairyman supplying milk to the public by retail from cans refuses to supply the inspector with milk on demand except from the top of one of the cans other than that from which the public are being supplied, he is guilty of a contravention of this section (*Soutar* v. *Kerr*, [1907] S. C. (J.) 49). But wilful obstruction is also punishable under s. 24, *post*, p. 2976. In *Soutar* v. *Kerr*, *supra*, it was held that the dairyman could not be convicted under the provision in the 1899 Act corresponding to that section.

Where a publican refused to sell to an inspector rum for analysis out of a glass bottle from which he had already sold him some for drinking, the inspector not being known to the publican nor in uniform, nor having with him any certified copy of the general resolution of quarter sessions under which he was acting, nor communicating his authority even verbally to the publican, it was held that the publican might, nevertheless, be convicted of an offence under this section (*Payne* v. *Hack* (1894), 58 J. P. 165). When an inspector asked for new milk out of a particular can which the appellant was taking with him on his rounds the appellant upset all the contents of the can into the road. This can contained skimmed milk which the appellant alleged he was about to deliver to persons to whom he regularly supplied skimmed milk. There was no label or mark to indicate the contents of the can. The appellant was convicted under this section, but the conviction was quashed, the court holding that the can did not require to be labelled "skimmed milk," as s. 11 of the 1899 Act, now re-enacted in s. 7 of the Milk and Dairies Consolidated Act, 1915, *ante*, p. 1221, does not apply to milk carried round for sale in an ordinary can, but only to condensed milk, and that there was no evidence that the appellant was exposing the milk for sale as new milk (*French* v. *Card* (1909), 73 J. P. 389; 101 L. T. 428).

The respondent carried on business as a confectioner and eating-house keeper. An inspector applied to the manager of the respondent's shop to purchase a glass of milk required by him for the purpose of analysis. There was at the time milk in a pan on the counter, but the respondent's manager had instructions from him not to sell milk alone, but only to add it to cups of tea or other liquids, and the milk in the pan on the counter was kept there to be sold in that manner only. The respondent's manager on this ground refused to sell to the inspector a glass of the milk:—*Held*, that although the milk was only intended to be sold in the manner above mentioned, it had nevertheless been exposed for sale and was on sale by retail within the meaning of the sub-section, and that the respondent was therefore liable to a penalty in respect of the refusal to sell (*McNair* v. *Terroni*, [1915] 1 K. B. 526).

The sub-section applies to articles of food, etc., exposed for sale by wholesale as well as by retail (*M'Hugh* v. *M'Grath*, [1894] 2 I. R. 78).

Any member of the public can institute a prosecution under this sub-section (*Connor* v. *Butler*, [1902] 2 I. R. 569).

(*g*) As to the recovery and application of fines, see ss. 27 and 32, *post*, pp. 2977 and 2985.

(*h*) The object of this proviso is to protect retailers against a plan said to have been sometimes adopted in order to trip them on a sale of a mixed article. The officer purchasing would ask for a portion only of the contents of the manufacturer's labelled tin or packet because he was aware that the label probably contained sufficient notice of admixture. On being served, if through inadvertence on the part of the tradesman, the officer's attention was not drawn to the label, and no verbal declaration was made, the officer was at once put into a position to prosecute, and instituted proceedings accordingly.

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Right to have samples analysed.

17. (*a*)—(1) Where a sampling officer (*b*) procures a sample of food (*c*) or of a drug (*c*), he shall, if he suspects the sample or the article from which the sample is taken to have been sold contrary to any provision of this Act, or that the provisions of this Act have otherwise been infringed with respect to that article, submit it to be analysed by the public analyst of the place for which he acts (*d*).

(2) Any purchaser of an article of food or of a drug shall be entitled to submit it to be analysed by the public analyst of the place in which the purchase was made.

(3) The public analyst shall, upon payment to him of a sum not exceeding ten shillings and sixpence, as soon as practicable analyse any sample sent to him in pursuance of this Act, and shall give to the person by whom the sample is sent a certificate specifying the result of the analysis in the form set forth in the First Schedule to this Act, or a form to the like effect (*e*).

(4) Where there is no public analyst for the place for which the sampling officer acted or in which the purchase was made, the sample shall be submitted to and be analysed by the public analyst for some other place; but in such a case the sum payable shall be such sum as may be agreed.

(*a*) This section consolidates ss. 12, 13 and 18 of the 1875 Act, s. 3 of the 1879 Act and s. 8 of the 1887 Act.

(*b*) As to the meaning of this expression, see s. 16 (1), *ante*, p. 2967.

(*c*) See the definition in s. 34, *post*, p. 2986.

(*d*) *I.e.* analysts appointed under s. 15, *ante*, p. 2967. As to the fee payable in advance to the analyst, see sub-s. (3), and see also sub-s. (4).

(*e*) The Middlesex Sessions held that this certificate was a condition precedent to the conviction, and that if it were not in the prescribed form the conviction must be quashed (*Peart* v. *Barstow* (1880), 44 J. P. 699). But see *Austin* v. *Dunshanglin Guardians*, *post*, p. 2974. The certificate need not set out the constituent parts of the sample analysed where the case is not one of adulteration; it need only state the result of the analysis. The "observations" which in the form given in the Schedule follow after the result of the analysis are only to be made where the case is one of adulteration; but the addition, in cases where adulteration is not charged, of "observations" amounting only to an expression of opinion on the part of the analyst and not to a finding of fact, although unauthorised and improper, will not necessarily vitiate the certificate (*Bakewell* v. *Davis*, [1894] 1 Q. B. 297; 58 J. P. 228). Where adulteration is charged the certificate must state the constituent parts of the sample, as, for instance, on a charge of selling adulterated rum the certificate found that the sample contained an excess of water over and above what is allowed by Act of Parliament estimated at 13 per cent. of the entire sample, and this certificate was held insufficient (*Newby* v. *Sims*, [1894] 1 Q. B. 478; 58 J. P. 263). So where a certificate as to milk simply stated that it contained 5 per cent. of added water, it was held insufficient (*Fortune* v. *Hanson*, [1896] 1 Q. B. 202; 60 J. P. 88). But where a similar certificate went on to add, "This opinion is based on the fact that the sample contained 7·97 per cent. solids other than fat, whereas genuine milk contains not less than 8·5 per cent. solids not fat," it was held sufficient (*Bridge* v. *Howard*, [1897] 1 Q. B. 80; 60 J. P. 790). As to milk, cream, butter, or cheese certificates, see s. 7 (1), *ante*, p. 2960, and note (*c*) thereto, *ante*, p. 2962. The provisions of the last-mentioned section do not lessen in any way the obligation of the analyst to prescribe in his certificate all the matters he is bound to set out by the Schedule (*Bayley* v. *Cook* (1905), 69 J. P. 139). In the last-mentioned case the certificate of the analyst stated: "I am of opinion that the said sample contained the parts as under, and the percentages of foreign ingredients as under: Milk fat, 1·4 per cent.; milk solids other than milk fat, 5·6; specific gravity at 60° F., 1020·6. Observations: This milk is deficient in milk solids other than milk fat to the extent of 2·9 per cent., which is equivalent to the addition of 34·2 per cent. of water. It is also deficient in milk fat to the extent of 53·4 per cent. of the milk fat." It was held that the certificate was sufficient, though it did not in terms refer to the standard laid down by the Sale of Milk Regulations, r. 1. See also as to sufficiency of certificate on a charge of statutory deficiency, *Jenkins* v. *Naden* (1919), 83 J. P. 154. Certificates stating that beer "contains arsenic," or "contains a serious quantity of arsenic," are insufficient (*Goulder* v. *Rook*, *ante*, p. 2954). But the insertion in the certificate of the weight of the sample analysed is obligatory only where the weight of the sample is material to the accuracy of the analysis, and its omission does not invalidate the certificate where the accuracy of the analysis does not in any way depend upon the weight of the sample (*Sneath* v. *Taylor*, [1901] 2 K. B. 376; 65 J. P. 548). See also *Hunter* v. *Wintrup* (1906), 7 F. (Just. Cas.) 22. A certificate of analysis of brandy stating that it has been reduced from 25 degrees under

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proof to 27·6 degrees under proof, was held sufficient in *Findley* v. *Haas* (1903), 67 J. P. 198; 88 L. T. 465. A certificate in the case of a drug liable to decomposition should contain a report as to whether any change has taken place in the constitution of the article which would interfere with the analysis (*Hudson* v. *Bridge* (1903), 67 J. P. 186; 88 L. T. 550). See also *Hunter* v. *Wintrup*, *ante*, p. 2971. The certificate need not state that the article is injurious to health (*Hull* v. *Horsnell*, *ante*, p. 2949).

In *Johnston* v. *Smith*, Times, June 9th, 1894, an action was brought against an analyst for negligence in giving a wrong certificate, but the jury found for the defendant.

In proceedings for an offence against the Sale of Food and Drugs Act, 1899, s. 1, as extended by the Butter and Margarine Act, 1907, s. 5 (now s. 12, *ante*, p. 2964), the certificate of analysis by the principal chemist of the Government laboratories need not follow the form of the certificate prescribed by this section (*Foot* v. *Findlay*, [1909] 1 K. B. 1; 72 J. P. 494).

Division of and dealings with samples.

18. (*a*)—(1) The person purchasing (*b*) a sample of any article with the intention of submitting it to analysis shall, after the purchase has been completed, forthwith (*c*) notify to the seller or his agent (*d*) who sold the sample his intention to have it analysed by the public analyst (*e*), and shall (*f*) then and there divide the sample into three parts, each part to be marked (*g*) and sealed or fastened up in such manner as its nature will permit (*h*), and shall—

(*a*) if required to do so deliver one part to the seller or his agent;

(*b*) retain one part for future comparison (*j*);

(*c*) if he thinks fit to have an analysis made submit one part to the analyst (*k*).

(2) In the case of a sample taken of milk in course of delivery (*l*), or of margarine, margarine-cheese or milk-blended butter forwarded by a public conveyance (*m*), the person taking the sample shall, if the name and address of the consignor appear on the can or package containing the article sampled, forward to him by registered parcel or otherwise a portion of the sample marked, and sealed, or fastened up (*n*).

(3) If the analyst does not reside within two miles of the residence of the person requiring the article to be analysed, the part submitted for analysis may be forwarded to the analyst by registered parcel (*o*), and the charge for the postage of such article shall be deemed one of the charges of this Act or of the prosecution, as the case may be.

(*a*) This section consolidates ss. 14 and 16 of the 1875 Act, s. 8 of the 1887 Act, ss. 10, 13 and 15 of the 1899 Act, and s. 9 of the 1907 Act.

(*b*) Or his agent (*Horder* v. *Scott*, *ante*, p. 2951; *Macaulay* v. *McKirdy* (1893), 20 Ct. of Sess. Cas. (4th ser.) (J. C.) 58). Where a sanitary inspector purchased by his agent, and then himself entered the shop and gave notice, etc. under this section, it was held that this was a sufficient compliance with the Act (*Stace* v. *Smith* (1881), 45 J. P. 141; *Massey* v. *Kelso* (1903), 4 F. (Just. Cas.) 73. See 67 J. P. 111). An inspector sent his servant into a public-house to purchase a bottle of gin. When the servant had been in the house a minute, and had paid for the gin, the inspector entered:—*Held*, the inspector was the purchaser (*Garforth* v. *Esam* (1892), 56 J. P. 521; 8 T. L. R. 243. And see *Somerset* v. *Miller*, *infra*). If a sample is submitted to the public analyst by an assistant inspector, it is nevertheless open to the inspector to institute proceedings himself and in his own name (*Tyler* v. *Dairy Supply Co., Ltd.* (1908), 72 J. P. 132; 98 L. T. 867). It was formerly held that the provisions of s. 14 of the 1875 Act applied to a purchase by a private person as well as to a purchase by a public officer (*Parsons* v. *Birmingham Dairy Co.* (1882), 9 Q. B. D. 172; 46 J. P. 727). This decision was dissented from in *Enniskillen Guardians* v. *Hilliard* (1884), 14 L. R. Ir. 214, where it was held that the provisions of the section do not apply to the purchase of an article unless for analysis, and therefore it is not a condition precedent to the right of a purchaser for consumption to take proceedings for a penalty under the Act, that he should have given to the seller the notification required by the section. And the Irish case was approved and followed in preference to the English one in the case of *Buckler* v. *Wilson*, [1896] 1 Q. B. 83; 60 J. P. 118. D. purchased from the appellant a pint of milk, and after the purchase was completed told the vendor that he intended to have the milk analysed, and offered to divide it with the vendor, which offer was refused:—*Held*, that the provisions of the sections had been sufficiently complied with (*Chappell* v. *Emson* (1884), 48 J. P. 200).

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(*c*) An inspector, standing outside, sent a constable into the inn of M. to buy gin, and after the constable came out both went inside two minutes later and told M. that the purchase was for analysis, and divided it :—*Held*, that there had been a notification forthwith to satisfy this section (*Somerset* v. *Miller* (1890), 54 J. P. 614).

(*d*) A railway porter delivering milk on arrival at a railway station is not the vendor's agent. See *Rouch* v. *Hall*, *infra.*

H., a milk contractor, had contracted to deliver daily to W. a certain quantity of milk. One morning, J., a servant of H., drove up with the milk and delivered it from a van. P., acting on instructions from W., took a sample from one churn, which he placed in three bottles, and he gave one bottle to J., stating that the others were to be sent to the public analyst :—*Held*, that J. was not an agent of H. within the above section, and that the above section did not apply to such a case, the proper procedure being under s. 3 of the Act of 1879, see now s. 16 (2), *ante*, p. 2967, and sub-s. (2) (*Harris* v. *Williams* (1889), 6 T. L. R. 47).

It is not necessary to notify to the agent who sold the article (*Davies* v. *Burrell*, [1912] 2 K. B. 243 ; 76 J. P. 285).

(*e*) It is not enough to notify that the article is for analysis simply (*Barnes* v. *Chipp* (1878), 3 Ex. D. 176). Notice must be given that the analysis is to be by the public analyst ; but notice of analysis by the " county analyst " was held sufficient in *Wheeker* v. *Webb* (1887), 51 J. P. 661. This section need not be complied with in case of taking a sample of milk in course of delivery under s. 2 of the 1879 Act (now s. 16 (2), *ante*, p. 2967) (*Rouch* v. *Hall* (1880), 6 Q. B. D. 17 ; 45 J. P. 220 ; *Rolfe* v. *Thompson*, [1892] 2 Q. B. 196 ; 56 J. P. 425), nor is it necessary to observe the formalities of this section on the taking of a sample under s. 2 of the 1907 Act (now s. 22, *post*, p. 2975), nor is the observance of these formalities a condition precedent to proceedings under s. 3 of that Act (now s. 10, *ante*, p. 2964) (*Monro* v. *Central Creamery Co., Ltd.*, [1912] 1 K. B. 579 ; 76 J. P. 131). And see *Chappell* v. *Emson*, *ante*, p. 2972. But in all other cases the notification under this section and the subsequent analysis are conditions precedent to a prosecution even if the seller at the time of purchase has admitted the commission of an offence against the Act (*Smart* v. *Watts*, [1895] 1 Q. B. 219).

(*f*) If three or more separate parcels of an article are purchased, as, for instance, several bottles of camphorated oil, each must be divided, and it is not enough, on request, to deliver one of such parcels back to the seller (*Mason* v. *Cowdary*, [1900] 2 Q. B. 419 ; 64 J. P. 662. But this case was distinguished in *Smith* v. *Savage*, [1905] 2 K. B. 88 ; 69 J. P. 245, where four penny packets of cream of tartar were purchased and mixed together by the purchaser in the presence of the vendor, and then divided into three parts). Each of the three parts must be sufficient to afford a reasonable quantity for the purposes of analysis (*Lowery* v. *Hallard*, [1906] 1 K. B. 398 ; 70 J. P. 57).

(*g*) A sample was found to bear the date of the day preceding the day of the alleged offence. It was held that the date was affixed to the sample for purposes of identification, and that this was a question of fact which could not be re-opened (*Howe* v. *Knowles*, [1909] S. C. (J.) 61).

(*h*) Thus, the wrapping up of the three parts of a certain quantity of butter in grease-proof paper was held sufficient, although the analyst certified that in consequence of the butter having been so fastened up it was probable that there has been considerable loss of water since the date of the purchase (*Pearks, Gunston and Tee, Ltd.* v. *Ward*, [1902] 2 K. B. 1 ; 66 J. P. 774). The provision as to sealing and fastening up means that the article is to be sealed or fastened up in such manner as its nature will permit, with the exercise of reasonable care and does not mean that the article is to be so sealed up that the air cannot enter and that the article will be imperishable and capable of analysis at the time when the vendor sends for analysis the sample which has been sent to him, or at the time when the vendor is served with the summons (*Winterbottom* v. *Allwood*, [1915] 2 K. B. 608). See also *Chalmers* v. *McMeeking*, [1921] S. C. (J.) 54.

(*j*) The part to be retained is intended for future comparison and to be produced at the hearing under s. 28 (4), *post*, p. 2979, but it need not necessarily be this part that is to be sent for analysis under s. 31, *post*, p. 2985. See *Suckling* v. *Parker*, [1906] 1 K. B. 527 ; 70 J. P. 209.

(*k*) The analyst's certificate must be obtained by every prosecutor, whether private or official. Thus, if a retail seller of milk is convicted of selling adulterated milk, it is not sufficient if he use only the certificate used in the prosecution against himself, when taking proceedings against the wholesale dealer from whom he purchased the milk in question (*R.* (*Barry*) v. *Mahoney*, [1909] 2 I. R. 490).

(*l*) *I.e.* under s. 16 (2), *ante*, p. 2967. As to samples of milk, see Sched. II., *post*, p. 2988.

(*m*) *I.e.* under s. 16 (4), *ante*, p. 2967.

(*n*) This subsection meets the difficulty disclosed by *Rouch* v. *Hall* (1880), 6 Q. B. D. 17 ; 45 J. P. 220, and enables the consignor of the milk or margarine to protect himself by obtaining an analysis on his own account, which he can make use of under s. 28, *post*, for his defence.

(*o*) A. supplied butter to a workhouse, the master of which made up a sample of about

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half a pound of the butter, marked it " butter " and caused it to be sent to the public analyst by post, but not by registered post. On the following day the public analyst received a package purporting to come from the workhouse master and marked " butter " and containing about six fluid ounces. The analyst's certificate stated that he had received the sample from the workhouse master, and that it was composed almost entirely of fat foreign to butter. It did not state the percentage of butter fats and foreign fats found in the sample. It was held that there was evidence before the magistrates that the sample sent by the workhouse master and the sample analysed by the analyst were identical; that although the analyst's certificate did not follow the form of the Schedule to the Act, it was sufficient, as its meaning was that practically the material was not butter; and that s. 16 of the 1875 Act corresponding to this sub-section, was an enabling section and did not prevent evidence being given that the parcel had been sent to the analyst in a manner other than by registered post (*Austin* v. *Dunshaughlin Guardians* (1910), 45 Ir. L. T. 213.

Power of Ministers to have articles analysed.

19. (*a*)—(1) The Minister of Health may, in relation to any matter appearing to him to affect the general interests of the consumer, and the Minister of Agriculture and Fisheries may, in relation to any matter appearing to him to affect the general interests of agriculture in the United Kingdom, direct an officer (*b*) to procure for analysis samples of any article of food, and thereupon the officer shall have all the powers of a sampling officer (*c*) under this Act, and this Act shall apply as if the officer were a sampling officer except that—

(*a*) the officer procuring the sample shall divide it into four parts, and shall deal with three of such parts in the manner directed by the last foregoing section, and shall send the fourth part to the Minister, and

(*b*) any fee for analysis shall be payable to the analyst by the Food and Drugs Authority of the place where the sample is procured (*d*).

(2) The Minister shall communicate the result of the analysis of any such sample to the Food and Drugs Authority, and thereupon there shall be the like duty and power on the part of the authority to cause proceedings to be taken as if the authority had caused the analysis to be made (*e*).

(*a*) This section reproduces s. 2 of the 1899 Act.

(*b*) The officers of the Ministers mentioned in the section are also entitled to take proceedings as private individuals; they are not limited in prosecutions at their instance to cases contemplated by this section (*Falconer* v. *Whyte*, [1908] S. C. (J.) 40).

(*c*) See s. 16, *ante*, p. 2967.

(*d*) The amount will be agreed between the officer procuring the sample and the analyst. See s. 17 (2), *ante*, p. 2971.

(*e*) As to the duty of the authority to enforce the Act, see s. 14 (1), *ante*, p. 2966, and as to proceedings, see Part IV., *post*, p. 2977.

See s. 27, *post*, p. 2977. Presumably on such proceedings the certificate will be evidence, and all other provisions of the Act, *e.g.*, as to defences, costs, appeal, etc., will apply.

Proceedings may be taken by a duly appointed inspector without special authorisation of the local authority (*Connor* v. *Butler*, [1902] 2 I. R. 569). See 67 J. P. 26.

Powers of Commissioners of Customs and Excise to have imported articles sampled.

20. (*a*)—(1) The Commissioners of Customs and Excise shall, in accordance with directions given by the Treasury after consultation with the Minister of Agriculture and Fisheries, take such samples of consignments of imported articles of food as may be necessary for the enforcement of the provisions of this Act imposing restrictions on the importation of such articles (*b*).

(2) Where the Commissioners take a sample of any consignment in pursuance of such directions, they shall divide it into not less than three parts, and send one part to the importer and one part to the Government Chemist and retain one part.

(3) Where a sample taken under this section is certified by the Government Chemist to be margarine or milk-blended butter, the Commissioners of Customs and Excise shall upon receiving the certificate (*c*) forthwith notify the importer (*d*) thereof.

(*a*) This section consolidates s. 1 of the 1899 Act, and s. 5 of the 1907 Act.
(*b*) *I.e.* under s. 12, *ante*, p. 2964.
(*c*) This certificate need not be in the form prescribed by Sched. I. (*Foot* v. *Findlay*, [1909] 1 K. B. 1; 72 J. P. 494).
(*d*) See the definition in s. 34, *post*, p. 2986.

Special provisions as to sampling of milk.

21. (*a*)—(1) The provisions of this Act relating to the taking of samples (*b*), and proceedings in connection therewith (*c*), shall, in relation to milk, have effect subject to the provisions of the Second Schedule (*d*) to this Act.

(2) So much of any contract as requires a purveyor of milk, on a sample of his milk being taken under this Act or any enactment repealed by this Act, to send to the person from whom he procured the milk any part of such sample, or to give that person notice that a sample has been so taken, shall be void.

(3) For the purpose of this section and the said Schedule the expression "purveyor of milk" includes a seller of milk whether wholesale or by retail.

(*a*) This section reproduces s. 9 of the Milk and Dairies (Consolidation) Act, 1915, which is repealed by this Act. See also s. 9 (3) of the Milk and Dairies (Amendment) Act, 1922, *ante*, p. 1333, which provides that a person shall not be convicted of any offence under any enactment relating to the sale of milk in respect of a sample of milk taken after the milk has left his custody and control if it is proved to the satisfaction of the court that the churn or other receptacle in which the milk was contained was effectively closed and sealed at the time when it left his custody, but was not so closed and sealed at the time when it reached the person by whom the sample was taken.
(*b*) *I.e.* ss. 16, 17, 18 and 19, *ante*.
(*c*) As to proceedings, see Part IV., *post*, p. 2977. (*d*) *Post*, p. 2988.

Inspection of factories.

22. (*a*)—(1) Any officer of the Minister of Agriculture and Fisheries or of the Minister of Health shall have power to enter at all reasonable times any premises registered under this Act (*b*), and to inspect any process of manufacture, blending, reworking, or treatment used therein, and to take samples (*c*) for analysis of any butter (*c*), margarine (*c*), margarine-cheese (*c*), or milk-blended butter (*c*), or of any article capable of being used in the manufacture, treatment, or adulteration of any such article as aforesaid.

(2) Any sampling officer (*d*) of a Food and Drugs Authority shall, if specially authorised in that behalf by the authority, have the like powers of entry, inspection, and sampling as regards any premises registered with the authority as a butter factory (*e*).

(3) If the Minister of Agriculture and Fisheries has reason to believe—

(*a*) that on any unregistered premises there is carried on any process of manufacture, blending, reworking, or treatment or any wholesale dealing which under this Act cannot be carried on except on registered premises (*f*); or

(*b*) that on any premises butter (*g*) is by way of trade either made or stored, and that for the purposes of this Act inspection is desirable;

the Minister may specially authorise any of his officers to enter the premises, and in that case the officer shall have the like powers of entry, inspection, and sampling as if the premises were registered (*h*).

(4) Where under this section a special authority is required, an officer of a Minister or of a Food and Drugs Authority shall not be entitled to exercise any of his powers under this section unless, if so requested by or on behalf of the occupier of the premises to be entered, he produces his authority.

(*a*) This section reproduces s. 2 of the 1907 Act.
(*b*) *I.e.* under s. 8, *ante*, p. 2963.
(*c*) It is not necessary to observe the formalities prescribed by s. 18, *ante*, p. 2972, on the taking of a sample under this section (*Monro* v. *Central Creamery Co., Ltd.*, [1912] 1 K. B. 578; 76 J. P. 131).
(*d*) See the definition in s. 34, *post*, p. 2986.
(*e*) As to sampling officers, see s. 16, *ante*, p. 2967.
(*f*) *I.e.* under s. 8, *ante*, p. 2963.
(*g*) See the definition in s. 34, *ante*, p. 2986.
(*h*) *I.e.* under sub-s. (1).

Approval of names for use in connection with margarine and milk-blended butter.

23. (*a*) The Minister of Agriculture and Fisheries may approve a name or names for use in connection with margarine, or under which milk-blended butter may be imported or dealt with, but the Minister shall not approve any name for any such purpose if it refers to or is suggestive of butter or anything connected with the dairy interest.

(*a*) This section reproduces s. 10 of the 1907 Act.

Obstruction of officers in discharge of duties.

24. (*a*) Any person who wilfully obstructs or impedes (*b*) any inspector or other officer in the course of his duties, or by any gratuity, bribe, promise, or other inducement prevents, or attempts to prevent, the due execution by the inspector or officer of his duty (*c*) under this Act, shall be guilty of an offence (*d*).

(*a*) This section reproduces s. 16 of the 1899 Act.

(*b*) This enactment meets the difficulty in *Hewson* v. *Gamble* (1892), 56 J. P. 101. See the facts of this case set out in note (*f*) to s. 16 (5), *ante*, p. 2970, and compare *Soutar* v. *Kerr*, cited in the same note. Obstruction may be wilful obstruction, although it involves no actual violence. See *Borrow* v. *Howland* (1896), 60 J. P. 391; 74 L. T. 787. But personal *mens rea* is a necessary ingredient of the offence. Thus, when a manager deliberately, but without the authority of the defendant, broke a bottle while pretending to uncork it, it was held that the defendant could not be convicted of wilful obstruction (*Taylor* v. *Nixon*, [1910] 2 I. R. 94). See further as to what amounts to obstruction, *Swallow* v. *London County Council*, [1916] 1 K. B. 224.

(*c*) If the officer corruptly solicit or receive or agree to receive the bribe he may himself be also punishable under the Public Bodies Corrupt Practices Act, 1889, *ante*, p. 841. See also the Prevention of Corruption Act, 1906, *ante*, p. 1092.

(*d*) As to the penalties for offences, their recovery and application, see ss. 27 and 32, *post*, pp. 2977 and 2985.

Quarterly reports by analysts.

25. (*a*) Every public analyst (*b*) shall report quarterly to the authority appointing him the number of articles analysed by him under this Act during the foregoing quarter, and shall specify the result of each analysis and the sum paid to him in respect thereof, and the report shall be presented at the next meeting of the authority appointing the analyst, and every such authority shall annually transmit to the Minister of Health at such time and in such form as the Minister may direct (*c*), a certified copy of the quarterly report.

(*a*) This section reproduces s. 19 of the 1875 Act.

(*b*) As to this expression, see s. 15, *ante*, p. 2967.

(*c*) A form for the Analyst's Quarterly Report suggested by Memo 36/Foods of January, 1929, is as follows:

FOOD AND DRUGS (ADULTERATION) ACT, ETC.

Report of the Public Analyst for the   of   upon the articles analysed by him during the quarter ended the   .

ANALYSES.

Article.	Number examined.				Number adulterated, etc.			
	Formal.	Informal.	Private.	Total.	Formal.	Informal.	Private.	Total.
Total ..								

ADULTERATED SAMPLES, ETC.

Serial Number.	Article.	Whether Formal, Informal or Private.	Nature of adulteration or irregularity.	Observations.

Signed

Date   .

The Analyst is required to specify in his report the sum paid to him in respect of each analysis. It is not necessary, however, to specify any fee which is paid to the Analyst by the Food and Drugs Authority as a part of his agreed remuneration.

A copy of each quarterly report should be sent to the Ministry by the authority as soon as it is received.

Expenses of Food and Drugs Authorities.

26. (*a*) The expenses of the Food and Drugs Authority (*b*) under this Act shall be defrayed—

(*a*) in the case of the Common Council of the City of London and a metropolitan borough, out of the general rate;

(*b*) in the case of the council of a borough, out of the borough fund or borough rate (*c*);

(*c*) in the case of a county council, out of the county fund as expenses for general county purposes:

Provided that—

(i) if the county includes any borough having a separate court of quarter sessions the council whereof is a Food and Drugs Authority, the expenses shall be treated as expenses for special county purposes from contribution to which the borough shall be exempt;

(ii) if the county includes a borough having a separate police establishment but not having a separate court of quarter sessions, the council whereof is a Food and Drugs Authority, the council of the borough may retain any sums levied by the council as rating authority in pursuance of a precept issued by the council of the county (*d*) so far as the precept relates to the raising of money for the purposes of this Act.

(*a*) This section makes provision for the payment of expenses in the manner provided by s. 29 of the 1875 Act, and s. 9 of the 1879 Act as amended by later legislation.

(*b*) As to the meaning of this expression, see s. 13, *ante*, p. 2966.

(*c*) General rate fund and general rate must now be read for borough fund and borough rate (s. 10 (1) and 69 (2), R. and V. Act, 1925, *ante*, pp. 1660 and 1752).

(*d*) *I.e.* under s. 9, R. and V. Act, 1925, *ante*, p. 1653.

PART IV.

LEGAL PROCEEDINGS.

Prosecutions and penalties for offences.

27. (*a*)—(1) Save as otherwise expressly provided, all offences under this Act shall be prosecuted, and all fines recoverable in accordance with the Summary Jurisdiction Acts (*b*):

Provided that, where a sample has been purchased for test purposes, any prosecution under this Act in respect of the sale thereof shall not be instituted after the expiration of twenty-eight days from the time of the purchase (*c*).

(2) Where an analyst having analysed any article has given his certificate of the result from which it appears that an offence under this Act has been committed, the person causing the analysis to be made (*d*) may take proceedings under this Act before a petty sessional court having jurisdiction in the place where the article of food or drug sold was actually delivered to the purchaser or the sample was taken (*e*).

(3) A person found guilty of an offence for which no special penalty is imposed by this Act shall be liable on conviction—

(*a*) in the case of a first offence, to a fine not exceeding twenty pounds; and

(*b*) in the case of a second offence (*f*), to a fine not exceeding fifty pounds; and

(*c*) in the case of a subsequent offence (*f*), to a fine not exceeding one hundred pounds; or if, in the opinion of the court, the offence was committed by the personal act, default, or culpable negligence of the person accused, and the court is of opinion that a fine will not meet the circumstances of the case, to imprisonment for a term not exceeding three months:

Section 27. Provided that, where the offence is the importation in contravention of the provisions of this Act of butter, margarine, margarine-cheese or milk-blended butter (*g*), the maximum fine shall be either that above mentioned or at the election of the Commissioners of Customs and Excise a sum equal to the value of the goods imported bearing the same mark or description, to be estimated and taken according to the rate and price for which goods of the like kind but of the best quality were sold at or about the time of the importation.

(4) In determining whether, for the purposes of this section, an offence is to be treated as a second or subsequent offence, the rules set out in the Third Schedule (*h*) to this Act shall be observed.

(5) In any prosecution under this Act the summons shall state (*j*) the particulars of the offence or offences alleged, and also the name of the prosecutor, and shall not be made returnable in less than fourteen (*k*) days from the day on which it is served.

(6) Where an employer is charged with an offence under Part II. of this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of Part II. of this Act, and that the said other person had committed the offence in question without his knowledge, consent or connivance, the said other person shall be summarily convicted of the offence, and the employer shall be exempt from any penalty (*l*).

(*a*) This section consolidates ss. 20 and 24 of the 1875 Act, ss. 4 and 5 of the 1887 Act.

(*b*) As to the time within which proceedings must be taken and the delivery of particulars of the offence charged, see the proviso to this sub-section and sub-s. (6), *post.*

As to the application of s. 1 of the Summary Jurisdiction Act, 1848, respecting amendment of process, see *Hiett* v. *Ward, ante.* p. 2970.

Where a constable prosecutes it is not necessary as a condition precedent to prove that he was directed to prosecute by the local authority who appointed him (*Hale* v. *Cole* (1891), 55 J. P. 376). A local authority which is not a Food and Drugs Authority under s. 13, *ante*, p. 2966, may nevertheless prosecute by their inspector of nuisances (*Worthington* v. *Kyme, ante,* p. 2966). But a local authority cannot prosecute in their own name (*Colquhoun* v. *Magistrates of Dumbarton* (1907), 9 F. (Just. Cas.) 57).

Where a limited company is defendant the summons must be served in accordance with the provisions of s. 370 (1) of the Companies Act, 1929 (*Pearks, Gunston and Tee, Ltd.* v. *Richardson,* [1902] 1 K. B. 91 ; 66 J. P. 119). See also s. 33 of the Criminal Justice Act, 1925 (15 & 16 Geo. 5, c. 86).

(*c*) This was the limit introduced by the Sale of Food and Drugs Act Amendment Act, 1879, s. 10, with regard to a purchase of a perishable article for test purposes ; now it applies whether the article be perishable or not. The limit, it will be observed, applies only where the purchase was for test purposes, not for consumption or for re-sale. Under the repealed enactment of the Act of 1879, s. 10, it was held that a summons under s. 27 of the Act of 1875 (now s. 30 (2), *post*, p. 2984) against the original vendor of a perishable article of food for giving a false warranty in writing in respect of it to the purchaser, who purchased it for retailing, need not be served within twenty-eight days from the purchase of the food for test purposes from that purchaser (*Cook* v. *White,* [1896] 1 Q. B. 284 ; 60 J. P. 330).

In cases where it applies, this provision as to time cannot be disregarded, and is of the essence of the jurisdiction to try the offence, so that the appearance of the defendant to the summons does not waive the objection, even though he does not take the point (*Dixon* v. *Wells* (1890), 25 Q. B. D. 249 ; 54 J. P. 725).

When samples have been taken by inspectors under s. 2 of the 1907 Act (now s. 22, *ante*, p. 2975) the time limit fixed by this section does not apply (*Monro* v. *Central Creamery Co., Ltd.*, [1912] 1 K. B. 578 ; 76 J. P. 131).

The prosecution is instituted when the information is laid, not when the summons is served (*Beardsley* v. *Giddings,* [1904] 1 K. B. 847 ; 68 J. P. 222 ; *Brooks* v. *Bagshaw,* [1904] 2 K. B. 798 ; 68 J. P. 514).

A prosecution for aiding a person in committing an offence against s. 6 of the 1875 Act (corresponding to s. 2 (1), *ante,* p. 2949), is a " prosecution under the Sale of Food and

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Drugs Acts," and the defendant in such a prosecution is entitled, equally with the principal offender, to the protection given by the provision in the 1899 Act corresponding to the proviso in the text (*Gould & Co., Ltd.* v. *Houghton* (1920), 85 J. P. 93).

(*d*) This includes officers of the M. of H. and the Ministry of Agriculture acting as private persons under this section instead of officially under s. 19, *ante*, p. 2974 (*Falconer* v. *Whyte*, [1908] S. C. (J.) 40).

(*e*) Where the article has been delivered to a purchaser at a place situated in one petty sessional division of a county, the proceedings may be taken in another petty sessional division of the county before justices who usually sit and act in and for that other division (*R.* v. *Beacontree Division of Essex (Justices of)*, [1915] 3 K. B. 388). As to the limit of time within which proceedings must be taken, see *Thomas* v. *Houghton*, [1911] 2 K. B. 959; 75 J. P. 523.

(*f*) As to what constitutes a second or subsequent offence, see sub-s. (4) and Sched. III.

(*g*) *I.e.* under s. 12, *ante*, p. 2964. The Commissioners must be the prosecutors (s. 12 (2)).

(*h*) See the Schedule at p. 2989, *post*.

(*j*) The common form of summons under the S. J. A. usually states the name of the prosecutor laying the information upon which it is issued. (See S. J. Rules, 1886, Schedule of Consolidated Forms, Form No. 2.) It also states shortly the matter of the information, that is, the description of the offence charged, but no objection may, in general, be taken to any summons for any alleged defect therein in substance or in form, see the S. J. A., 1848, s. 1. The express provisions of the present section are not intended to overrule that general enactment. It is founded on the repealed s. 10 of the 1879 Act, which was passed at a time when the common form of summons under the S. J. A., 1848, Sched. A., did not state the name of the prosecutor. It is for the justices to decide whether the summons sufficiently states the particulars of the offence and they cannot be required to state a case on it (*R.* v. *Wakefield* (1890), 54 J. P. 148). The omission of the necessary particulars does not deprive the justices of jurisdiction (*Grimble & Co.* v. *Preston*, [1914] 1 K. B. 270), but merely entitles the defendant to an adjournment of the hearing in the event of the justices being satisfied that he is prejudiced by the omission (*Neal* v. *Devenish* [1894] 1 Q. B. 544; 58 J. P. 246, disapproving *Barnes* v. *Rider* (1893), 62 L. J. M. C. 25; 57 J. P. 473) Such an omission is an informality which may be waived by the party charged (*Grimble & Co.* v. *Preston*, *supra*, applied in *Haynes* v. *Davis*, [1915] 1 K. B. 332).

(*k*) Substituted for seven days under the repealed Sale of Food and Drugs Act Amendment Act, 1879, s. 10. Fourteen clear days must elapse between the date of the summons and the date of the return, excluding both those dates from the computation (*McQueen* v. *Jackson*, [1903] 2 K. B. 163; 67 J. P. 353).

(*l*) This subsection is intended to protect a master who had, as in *Brown* v. *Foot*, *ante*, p. 2950, given direct instructions which are disobeyed. Note, however, that it only applies to offences under Part II. of the Act, *i.e.*, ss. 6–12, *ante*, pp. 2957—2966.

Compare the Bread Act, 1836, s. 13; the Locomotives Act, 1898, s. 13, *ante*, p. 1067, and the Factory and Workshop Act, 1901, s. 141, *ante*, p. 2643. It is doubtful whether the other person, if convicted, can, in the absence of express enactment, as in the Factory and Workshop Act, 1901, s. 141, be ordered to pay costs.

Service and evidence of certificates of analysis.

28. (*a*)—(1) Where a certificate of analysis has been obtained on behalf of a prosecutor, a copy thereof shall be served with the summons (*b*).

(2) Where a copy of a certificate of a public analyst is intended to be produced by a defendant, a copy thereof shall be sent to the prosecutor at least three clear days before the return day, and if it is not so sent, the court may, if it thinks fit, adjourn the hearing on such terms as may seem proper.

(3) In any proceedings for an offence under the foregoing provisions of this Act, the production by one of the parties of a certificate of a public analyst in the form prescribed by this Act shall be sufficient evidence of the facts stated therein (*c*) unless the other party requires that the analyst shall be called as a witness (*d*).

(4) In any proceedings under this Act the part of the sample retained by the person who procured it shall be produced at the hearing (*e*).

(5) In any proceedings for an offence under the provisions of this Act restricting the importation of articles of food (*f*), the certificate of the Government Chemist of the result of the analysis shall be sufficient evidence of the facts therein stated unless the defendant requires that the person who made the analysis shall be called as a witness (*g*).

(6) In any proceedings for any such offence (*f*), the certificate of the Government Chemist, or if the person who made the analysis is called as a

Section 28. witness, the evidence of that person, that an imported substance is margarine or milk-blended butter shall raise a presumption until the contrary is proved that the substance is margarine or milk-blended butter, and the defendant shall not be entitled to require the person who made the analysis to be called as a witness unless three clear days before the return day he gives notice to the prosecutor that he requires his attendance and deposits with the prosecutor a sum sufficient to cover the reasonable costs and expenses of his attendance, which costs and expenses shall be paid by the defendant in the event of his conviction (*h*).

(*a*) This section consolidates s. 21 of the 1875 Act, ss. 1, 19 and 22 of the 1899 Act, and s. 5 of the 1907 Act.

(*b*) This was a new requirement in the 1899 Act (*Batt* v. *Mattinson* (1900), 64 J. P. 615; 82 L. T. 800). It does not go to the jurisdiction of the justices, and it can be waived by the defendant's advocate cross-examining the witnesses for the prosecution. It is then too late for him to take the objection when he is called upon to open his own case (*Grimble & Co., Ltd.* v. *Preston*, [1914] 1 K, B. 270; 78 J. P. 72). When the copy of the certificate is not served with the summons, and, on objection being taken on this ground at the hearing, the justices adjourn the hearing, they have jurisdiction to issue a fresh summons on the same information resworn, and when the first summons has been served together with the analyst's certificate to take the second summons first at the adjourned hearing and to hear and determine the same (*Williams* v. *Letheren* (1919), 83 J. P. 159). As to the certificate, see s. 17, *ante*, p. 2971. The analyst's certificate must be obtained by every prosecutor whether private or official. It is not sufficient to make use of a certificate obtained in other proceedings even though they arose out of the same transaction (*R.* (*Barry*) v. *Mahoney*, [1909] 2 I. R. 490; *Tyler* v. *Kingham & Son, Ltd.*, *infra*).

A copy of any certificate obtained by the defendant must be served on the prosecutor three days before the return day under sub-s. (2).

Two conflicting certificates in due form will not neutralise each other—the court may choose between them. And if the defendant produces no certificate, yet he may offer evidence to contradict the prosecutor's certificate (*Hewitt* v. *Taylor*, [1896] 1 Q. B. 287; 60 J. P. 311). But if the defendant produce no certificate and offer no evidence to contradict the prosecutor's certificate, the justices may act on that and convict—see note (*d*), *infra*.

(*c*) See *Austin* v. *Dunshauglin Guardians*, the facts of which are set out, in note (*o*) to s. 18, *ante*, p. 2973.

(*d*) Therefore, if no evidence is tendered by the defendant the magistrate must act on the certificate, and convict (*Harrison* v. *Richards* (1881), 45 J. P. 552; *Elder* v. *Dryden* (1908), 72 J. P. 355; 99 L. T. 20; *Robinson* v. *Newman* (1917), 81 J. P. 187; *Kings* v. *Merris*, [1920] 3 K. B. 566; 85 J. P. 68; *Chalmers* v. *M'Meeking*, [1921] S. C. (J.) 54). But see *Macleod* v. *O'Neill*, *ante*, p. 2952. And in *R.* v. *Field* (1895), 64 L. J. M. C. 158; 11 T. L. R. 240; and *Shortt* v. *Robinson* (1899), 68 L. J. Q. B. 352; 63 J. P. 295, it was held that justices might act on their own knowledge in opposition to the certificate, and see *Banks* v. *Wooler*, *ante*, p. 2954, and *Preston* v. *Redfern* (1912), 76 J. P. 359; 107 L. T. 410. If the defendant tender himself as a witness he may give evidence to contradict the certificate, although he does not require the analyst to be called as a witness, nor require an analysis by the Government Chemist under s. 31, *post*. And on such evidence the justices may decide either way as a question of fact whether there has been adulteration or not (*Hewitt* v. *Taylor*, [1896] 1 Q. B. 287; 60 J. P. 311). It is not necessary for an inspector to prove that he is a duly authorised officer; so held by CHANNELL and AVORY, JJ., in *Ross* v. *Helm* (1913), 77 J. P. 13; 107 L. T. 829.

Under s. 21 of the 1875 Act, it was held that a certificate obtained in respect of margarine sold by a retailer who successfully relied on a defence of warranty to proceedings under s. 6 of the 1875 Act, corresponding to s. 6 (1), *ante*, was not evidence against the warrant or in proceedings against him under s. 6 of the 1899 Act corresponding to s. 6 (3) (*a*), *ante* (*Tyler* v. *Kingham and Son, Ltd.*, [1900] 2 Q. B. 413; 64 J. P. 598).

(*e*) In Scotland, it has been held that production of the part retained is a condition precedent to a conviction (*Hutchinson* v. *Stevenson* (1903), 4 F. (Just. Cas.) 69. See 67 J. P. 111); but in England it has been held that it is not a condition precedent that such part, if produced, is in a state fit for analysis (*Suckling* v. *Parker*, [1906] 1 K. B. 527; 70 J. P. 209). See also *Winterbottom* v. *Allwood* and *Chalmers* v. *McMeeking*, *ante*, p. 2973.

(*f*) *I.e.* under s. 12, *ante*, p. 2964.

(*g*) See sub-s. (3). In proceedings for an offence under the repealed provision corresponding to s. 12, *ante*, p. 2964, the certificate of analysis by the principal chemist of the Government laboratories need not follow the form prescribed by s. 17 (3) and Sched. I. (*Foot* v. *Findlay*, [1909] 1 K. B. 1; 72 J. P. 494).

Where the analysis shows that the imported substance is margarine or milk-blended butter, special considerations apply, see sub-s. (6).

(*h*) As to notifying the certificate to the importer in such cases, see s. 20 (3), *ante*, p. 2974.

Conditions under which warranty may be pleaded as defence.

29. (*a*)—(1) Subject to the provisions of this section, a defendant (*b*) shall be discharged from the prosecution if he proves to the satisfaction of the court (*c*)—

(*a*) in the case of a prosecution under Part II. of this Act for dealing with, selling, exposing or offering for sale or having in his possession for sale margarine, margarine-cheese, or milk-blended butter, that he had purchased the article in question as butter or cheese, as the case may be, and with a written warranty (*d*) or invoice (*e*) to that effect, and that he had no reason to believe at the time of the commission of the alleged offence that the article was other than butter or cheese and that, at that time the article was in the same state as when he purchased it; and

(*b*) in the case of any other prosecution under this Act in respect of the sale of an article, that he had purchased the article in question as the same in nature, substance and quality as that demanded of him by the person to whom he sold the article, and with a written warranty (*d*) to that effect, and that he had no reason to believe at the time he sold it that it was otherwise; and that he sold the article in the same state as when he purchased it (*f*).

(2) A warranty or invoice shall only be a defence to proceedings under this Act if—

(*a*) the defendant has within seven days (*g*) of the service of the summons sent (*h*) to the prosecutor a copy of the warranty or invoice with a written notice stating that he intends to rely on it (*j*) and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person; and

(*b*) in the case of a warranty or invoice given by a person resident outside the United Kingdom the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in, the accuracy of the statement contained therein; and

(*c*) in the case of a prosecution in England or Wales in respect of a sample of milk, the defendant has within sixty hours after the sample was procured served such a notice as is prescribed in paragraph (2) of the Second Schedule to this Act.

(3) The person by whom the warranty or invoice is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

(4) Where the defendant is a servant of the person who purchased the article under a warranty or invoice, he shall be entitled to rely on the provisions of this section in the same way as his employer would have been entitled to do if he had been the defendant, provided that the servant further proves that he had no reason to believe that the article was otherwise than that demanded by the prosecutor (*k*).

(*a*) This section consolidates s. 25 of the 1875 Act, s. 7 of the 1887 Act, s. 20 of the 1899 Act, s. 9 of the 1907 Act and Sched. III. of the Milk and Dairies (Consolidation) Act, 1915.

(*b*) Including a joint stock company (*Chuter* v. *Freeth and Pocock, Ltd.*, [1911] 2 K. B. 832; 75 J. P. 430). And see as to indictment, *R.* v. *Ascanio Puck & Co., Ltd.* (1912), 76 J. P. 487; 28 T. L. R. 197, and the Criminal Justice Act, 1925 (15 & 16 Geo. 5, c. 86), s. 33.

(*c*) The effect of the whole section is to throw on the defendant the burden of disproving intent and knowledge, not to make him liable irrespective of his state of mind (*Fitzgerald* v. *Leonard* (1891), 32 L. R. Ir. 675). As to the procedure precedent to pleading warranty

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as a defence, see sub-s. (2). As to its application to servants of the party purchasing with the warranty, see sub-s. (4).

(*d*) An invoice describing an article as lard was held to be a description and not a warranty (*Rook* v. *Hopley* (1878), 3 Ex. D. 209; 42 J. P. 551). Invoices are expressly mentioned in sub-paragraph (*a*) of this sub-section. And it was decided in *Hawkins* v. *Williams* (1895), 11 T. L. R. 425; 59 J. P. 533, that an invoice may be evidence of a warranty given at the time of sale; and see *Irving* v. *Callow Park Dairy Co., Ltd.* (1902), 66 J. P. 804; 87 L. T. 70. A written contract to supply new and pure milk for six months will not protect the vendor under this section in respect of subsequent deliveries during the six months in the absence of any evidence in writing that the delivery was a delivery under the contract (*Harris* v. *May* (1883), 12 Q. B. D. 97; 48 J. P. 261). This decision was dissented from in *Elliot* v. *Pilcher*, [1901] 2 K. B. 817; 65 J. P. 743, but was followed in *Watts* v. *Stevens*, [1906] 2 K. B. 323; 70 J. P. 418, where it was held that in the absence of any evidence in writing connecting the particular milk sold with the warranty, the warranty afforded no defence.

Lard was bought in skins from the manufacturers stamped with the words "warranted pure," and was sold in the same state, but this was held no sufficient warranty (*Elder* v. *Smithson* (1893), 57 J. P. 809; 10 T. L. R. 61). But where a firm of lard manufacturers contracted in writing for the sale of lard to the defendant in these terms: "We have this day sold you three tons Kilvert's pure lard for delivery to end of January," and a parcel of lard was accordingly consigned to the defendant under an invoice describing it, in the words of the contract, as "Kilvert's pure bladdered lard," and part of that parcel was sold by him in the same state as it was in when he bought it, as and for lard; but it was found on analysis to be adulterated, it was held that the written contract and invoice contained a sufficient warranty (*Laidlaw* v. *Wilson*, [1894] 1 Q. B. 74; 58 J. P. 58). This case was followed in *Elliot* v. *Pilcher*, and *Watts* v. *Stevens*, *supra*. So, also, where the defendant bought from G. & Co. a cask of vinegar bearing a printed label "Vinegar, warranted unadulterated—G. & Co., Limited, Cumberland Market, London," it was held a sufficient warranty (*Lindsay* v. *Rook* (1894), 63 L. J. M. C. 231; 58 J. P. 735).

But where the appellant sold ginger out of a tin canister bearing the manufacturer's label, "Warranted pure ground ginger," and proved that he bought it from a wholesale dealer (not the manufacturer) in the same state as when he sold it, the invoice also stating it to be ground ginger, it was held that there was no sufficient warranty within this section, and that in order to constitute a warranty there must be some express individual representation in writing by the vendor as part of the bargain (*Jiorns* v. *Van Tromp* (1895), 64 L. J. M. C. 171; 59 J. P. 246). See, however, *Hawkins* v. *Williams* (1895), 59 J. P. 533; 11 T. L. R. 425. If the defendant relies on a warranty given to him by the person from whom he bought the article he must prove that he sold it in the same state as when he received it, and it is not enough for him to say that he had no reason to believe it had been adulterated whilst in his possession (*Jones* v. *Bertram* (1894), 58 J. P. 478; 10 T. L. R. 285).

Milk was consigned to the F. Dairies Company by railway in cans bearing labels which stated that the contents were "warranted genuine new milk with all its cream on. From R. T."; and there was a written agreement between the F. Dairies Company and R. T. whereby he contracted to supply them for six months with milk warranted pure and with all its cream on. H., a servant of the Company, did not test the milk on receiving it, though he had an instrument for the purpose, and frequently tested milk when so received by him:—*Held:* that this section was not applicable, and that even if it would have entitled H. to be discharged from the proceedings he had not established that, at the time when he sold the milk, he had no reason to believe that its quality was otherwise than as demanded of him by the respondent (*Hotchin* v. *Hindmarsh*, [1891] 2 Q. B. 181; 55 J. P. 775).

The addition to a warranty of the words "but without accepting any responsibility after delivery," does not affect the warranty so as to make it unavailable as a defence under this section (*Wilson* v. *Playle* (1903), 67 J. P. 263; 88 L. T. 554, followed in *Plowright* v. *Burrell*, [1913] 2 K. B. 362; 77 J. P. 245).

S., an inspector, charged F. with unlawfully selling milk not of the substance, etc. demanded. The milk was found to have 20 per cent. of fat extracted. The defence of F. was that he had a contract for supplying pure milk, and the milk had been sold in the same state in which it was received. The contract was to supply F. with 100 gallons daily of the best milk, and the vendor warranted the quality of such milk. Each churn when delivered had a label describing it as genuine new milk:—*Held:* that the magistrate was wrong in treating the contract and label to be a description only, as it was a warranty within the meaning of the Act, and a valid defence (*Farmers' Dairies Co.* v. *Stevenson* (1891), 60 L. J. M. C. 70; 55 J. P. 407). But in a very similar case, except that there were no labels to identify the milk as delivered under the contract containing the clause for the supply of new and pure milk, it was held that there was no proof that the milk was purchased *with* the warranty, assuming the clause in the contract to amount to a warranty in respect of the future deliveries (*Robertson* v. *Harris*, [1900] 2 Q. B. 117; 64 J. P. 565). *Farmers'*

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Dairies Co. v. *Stevenson, supra,* was followed in *Watts* v. *Stevens, ante,* p. 2982. The latter case was discussed in *Evans* v. *Weatheritt,* [1907] 2 K. B. 80; 71 J. P. 228, the facts of which were as follows: A dairyman contracted with a dairy company to purchase from them the whole of the milk required for his dairy for twelve months, all the milk being warranted pure with all its cream as received from the cow. Nine months afterwards a consignment of milk was delivered by the company under the contract with a delivery note giving the date and the name of the company as consignors. A portion of milk was sold by the dairyman to the respondent, and on analysis was found to be deficient in milk fat by 28 per cent. On a prosecution of the dairyman under s. 9 of the 1875 Act, corresponding to s. 5, *ante,* p. 2957, for selling milk in its altered state, he relied on the contract with the company as a warranty under this section. It was held that as by the terms of the contract he was bound to take all his milk from the company, there was a sufficient connection in writing between the particular consignment and the warranty to constitute the warranty a defence.

The cases of *Watts* v. *Stevens* and *Evans* v. *Weatheritt* were followed in *Draper* v. *Newnham* (1910), 74 J. P. 124; 102 L. T. 280. The respondent was summoned under s. 6 of the 1875 Act, corresponding to s. 2 (1), *ante,* p. 2949, and he proved that the milk in question had been supplied to him by a farmer who had for several years supplied him under a verbal contract with all the milk required by him. In September, 1908, the farmer had given him the following written warranty: "I hereby guarantee and warrant that all milk supplied by me to you is of the nature, quality and substance demanded by law, and I give this warranty for the purposes of the Sale of Food and Drugs Act, 1899." The justices found that this document was intended by both parties to cover the delivery of the milk in question and that it did cover such delivery. The Divisional Court held that in these circumstances there was a sufficient warranty within this section.

In another case the respondent had purchased the milk from a dairy company under an agreement which contained a clause stating that the company "purchase all milk sold by them under a warranty of its purity from the farmers and agree to put the same on rail, thoroughly well cooled over a refrigerator, and guarantee it as such up to the time of delivery." It was held that the above clause constituted a warranty within the section (*Jackling* v. *Carter* (1912), 76 J. P. 292; 107 L. T. 24).

In answer to a summons under s. 6 of the 1875 Act, corresponding to s. 2 (1), *ante,* p. 2949, the defendant set up a warranty contained in a contract by which his vendor, E., agreed to supply to the defendant milk supplied to E., by one B., in the same condition as received and as warranted by him, namely, pure, new, unskimmed milk. In a label which was attached to the milk in question and was addressed to E., were the words "Warranted pure new and unskimmed milk." The defendant, as agent for E., received at a railway station the particular milk in question which was consigned from B. to E. It was held that whether the label was or was not a warranty within s. 25 of the Act, corresponding to this subsection, such a warranty was contained in the contract between E. and the defendant, and the label constituted a sufficient connection between the particular consignment and the warranty, and therefore the defendant could not be convicted (*Rees* v. *Davis* (1908), 72 J. P. 375; 24 T. L. R. 735). And where there has been a written contract for a fixed period between a seller and a purchaser of milk, that the seller will supply milk daily to the purchaser, and the seller in the contract warrants the milk as pure, and the contract having come to an end, the seller continues to supply the purchaser with milk, to each churn of which is attached a written warranty of purity with the names of the two parties to the sale thereon, the purchaser, having resold the milk as pure milk, can rely on the defence under this section that he has purchased the milk as the same in nature, substance and quality as that demanded of him by the prosecutor, and with a written warranty to that effect (*Lewis* v. *Weatheritt* (1909), 73 J. P. 164; 100 L. T. 367).

In *Sanders* v. *Sadler* (1907), 71 J. P. 3; 95 L. T. 872, the defendant had entered into a written contract for the purchase of "16 gallons of pure new milk with all its cream delivered daily carriage paid to Wanstead Park Station," and whilst this contract was in force the churns arrived at that station consigned to the defendant from a station in Derbyshire, and labelled "Warranted pure new milk with all its cream, pursuant to contract." The churns remained at Wanstead Park Station for nearly an hour, and were then taken away by defendant to her dairy, and proved by her to have been sold in the same state as when she received it at Wanstead Park Station:—*Held,* that she was thereby discharged under s. 25 of the 1875 Act corresponding to this sub-section. *Cf. Pugh* v. *Williams* (1917), 81 J. P. 159.

A dairyman entered into an agreement to purchase "new milk" from a dairy company. The churns in which the milk was delivered bore a label with the words "Guaranteed pure unskimmed milk with all its cream." It was held that as the agreement contained no warranty, and as there was no term in the agreement that a written warranty should accompany the goods and nothing to connect the label with the stipulations in the agreement, there was no warranty within this section (*Dewey* v. *Faulkner,* [1923] 1 K. B. 315; 87 J. P. 45).

Note to Section 29.

Although a written warranty has been in fact given, the defence of warranty is not available unless such warranty has been given at the time of the purchase or has been given at a later date in pursuance of a stipulation forming part of the contract of purchase, that such warranty should be given (*Jeynes* v. *Hindle*, [1921] 2 K. B. 581; 85 J. P. 121).

The warranty must be a warranty in writing from the vendor and not from a third person verbally adopted by the vendor (*Hargreaves* v. *Spackman* (1908), 72 J. P. 52; 98 L. T. 41).

As to the right of action on an implied warranty under s. 14 of the Sale of Goods Act, 1893, see *Wallis* v. *Russell*, [1902] 2 I. R. 585; *Wren* v. *Holt*, [1903] 1 K. B. 610; 67 J. P. 191; *Preist* v. *Last*, [1903] 2 K. B. 148; *Frost* v. *Aylesbury Dairy Co.*, [1905] 1 K. B. 608.

(*e*) Note that an invoice may be relied on under this sub-paragraph, under the next sub-paragraph an invoice is evidence only of a warranty, see *Hawkins* v. *Williams*, in note (*d*), *ante*, p. 2982.

(*f*) The addition of boric acid to milk before sale will prevent the vendor from relying on the warranty defence because it is not sold in the same state was when it was purchased (*Hennen* v. *Long* (1904), 68 J. P. 237; 90 L. T. 387). See s. 7 (2), *ante*, p. 2961, as to the use of preservatives in butter, etc., and the P. H. (Preservatives, etc. in Food) Regulations referred to in note (*h*) to s. 1, *ante*, p. 2949. For a case where on the facts it was held that there was no evidence that the appellants were aware that the article sold was not of the nature, substance, and quality demanded (*Blaydon Co-operative Society* v. *Young* (1916), 80 J. P. 451).

(*g*) The words " within seven days " apply solely to the sending of the written notice to the purchaser, and not to the sending of the notice to the warrantor (*Marcus* v. *Crook*, [1914] 3 K. B. 173).

(*h*) It is sufficient if it is posted within the required time even if it does not reach the purchaser until after the seven days have elapsed (*Retail Dairy Co., Ltd.* v. *Clarke*, [1912] 2 K. B. 388; 76 J. P. 282).

(*j*) The section means that if the defendant intends to rely on a warranty he must send a copy of the warranty, but if he intends to rely on an invoice, he must send a copy of the invoice. In either case there must be a copy of that which entitled the defendant to believe the article was the same in nature, substance, and quality as the article demanded by the purchaser (*Farthing* v. *Parkinson* (1905), 68 J. P. 353; 90 L. T. 783).

(*k*) This sub-section overrules the decision in *Hotchin* v. *Hindmarsh*, [1891] 2 Q. B. 181; 55 J. P. 775, so far as it decided that a servant could not avail himself of the warranty defence. The word " otherwise " in this sub-section means " other in nature or substance or quality."

False warranties and certificates.

30. (*a*)—(1) Every person (*b*) who wilfully applies to an article of food, or drug, in any proceedings under this Act, a certificate or warranty given in relation to any other article of food or drug, or who wilfully gives a label with any article of food or drug sold by him which falsely describes the article sold, shall be guilty of an offence (*c*).

(2) Every person (*b*) who, in respect of an article of food or drug sold by him as principal or agent, gives to the purchaser a false warranty in writing, shall be guilty of an offence (*c*), unless he proves to the satisfaction of the court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true (*d*).

(3) Where the defendant in a prosecution under this Act has been discharged under the provisions of this Act relating to warranties, any proceedings under this section for giving the warranty relied on by the defendant in the prosecution, may be taken as well before a court having jurisdiction in the place where the article of food or drug to which the warranty relates was purchased for analysis as before a court having jurisdiction in the place where the warranty was given (*e*).

(*a*) This section consolidates s. 27 of the 1875 Act and s. 20 of the 1899 Act.

(*b*) This includes a joint stock company (*Chuter* v. *Freeth and Pocock, Ltd.*, [1911] 2 K. B. 832; 75 J. P. 430). And see a similar case decided under the P. H. (London) A., 1891, s. 47; *R.* v. *Ascanio Puck & Co. and Paice* (1912), 76 J. P. 487; 29 T. L. R. 11. As to indictments of corporations, see the Criminal Justice Act, 1925 (15 & 16 Geo. 5, c. 86), s. 33.

(*c*) As to the penalties for offences, their recovery and application, see s. 27, *ante*, p. 2977, and s. 32, *post*, p. 2985.

(*d*) It will be seen that the *onus* is on the defendant to prove that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true. If he proves that, he is entitled to be acquitted (*Oatley* v. *Lemon* (1905), 69

J. P. 163 ; 92 L. T. 200). Formerly he was entitled to be acquitted if he did not at that time know and had no reason to believe they were false (*Derbyshire* v. *Houliston*, [1897] 1 Q. B. 772 ; 61 J. P. 374). The issue which the justices have to determine is not whether the defendants "took steps to see that the milk was all right, but whether they had reason to believe that it was all right," *per* Lord Alverstone, C.J., in *Dairy Supply Co., Ltd.* v. *Houghton* (1912), 76 J. P., at p. 45 ; 106 L. T. 220.

Note to Section 30.

Proceedings for false warranty must be commenced within six months from the date when the warranty was given, not from the date when it was first discovered to be false (*Whitaker* v. *Pomfret*, [1902] 1 K. B. 661 ; 66 J. P. 408). But when a warranty is given in regard to a contract to supply milk for an indefinite future period, and some time thereafter milk is supplied which is not in accordance with the warranty, the time runs from the date of the particular consignment and not from that on which the warranty was given (*Thomas, Ltd.* v. *Houghton*, [1911] 2 K. B. 959 ; 75 J. P. 523).

Where an article of food is sent to a purchaser with a written warranty, proceedings for the falsity of the warranty may be taken under this sub-section, before justices having jurisdiction in the place where the warranty was received by the purchaser, although it may have been written and attached to the goods in a place otuside their jurisdiction (*Grimble & Co., Ltd.* v. *Preston*, *ante*, p. 2979). See sub-s. (3).

Appellants manufactured an article called "Rum and Butter Toffee," and supplied it to a confectioner with a warranty, and on analysis it was found to contain rum, butter and coconut fat. On a summons against appellants for giving a false warranty, the justices convicted. On a case stated Avory and Branson, JJ. (Talbot, J. *dissente*), held that the description "butter toffee" implied that no fat except butter was used in the manufacture, and therefore the conviction must be affirmed (*Riley Bros.* (*Halifax*), *Ltd.* v. *Hallimond* (1928), 44 T. L. R. 238).

(*e*) It had been held that where neither the sale, nor the delivery was made, nor the warranty was given, nor any sample taken in course of delivery, within the jurisdiction of the court before which an information for false warranty was preferred, that court had no jurisdiction (*R.* v. *Smith*, [1896] 1 Q. B. 596 ; 60 J. P. 372). The present sub-section settles the question of jurisdiction. In cases where the sale and delivery take place and the warranty is given outside the jurisdiction of the court proceedings for false warranty cannot be taken unless the person to whom the warranty was given is the person from whom the article in question was purchased for analysis (*Manners* v. *Tyler*, [1902] 1 K. B. 901 ; 66 J. P. 866).

Power of court to require analysis by Government Chemist.

31 (*a*). The court before which any proceedings are taken, or an appeal heard, under this Act may, if it thinks fit and shall upon the request of either party, cause any article of food or drug to be sent to the Government Chemist who shall make an analysis, and give a certificate of the result of the analysis ; and the expense of such analysis shall be paid by the prosecutor or the defendant as the court may by order direct (*b*).

(*a*) This section reproduces s. 22 of the 1875 Act as amended by s. 21 of the 1899 Act, and s. 23 of the Finance Act, 1921.

(*b*) The Government Chemist's address is the Government Laboratory, 13, Clements Inn Passage, Strand, W.C.2.

It was held by the Court of Session in Scotland that the reference in this section to the chemical officers of Somerset House (the predecessors of the Government Chemist) is for the purpose of obtaining the result of their analysis merely, and that, therefore, their opinion as to what is the minimum percentage of fat to be found in new milk cannot be received as evidence (*Dargie* v. *Dunbar* (1884), 11 Ct. of Sess. Cas. (4th ser.) (J. C.) 37). See also *per* Channell, J., in *Shortt* v. *Robinson* (1899), 68 L. J. Q. B. 352 ; 63 J. P. 295. The certificate of the Government Chemist is not conclusive if there is substantial evidence to the contrary of the opinion contained in the certificate. See *Fyfe* v. *Hamilton* (1894), 1 Adam, 484 ; *Todd* v. *Cochrane* (1901), 3 Adam, 357.

Application of fines.

32 (*a*). Any fine recovered under this Act—

(*a*) in the case of a prosecution by a sampling officer of the Food and Drugs Authority (*b*), shall be paid to that officer, to be accounted for by him to the authority and applied towards the expenses of the authority under this Act ;

(*b*) in the case of any other prosecution, shall be paid and applied in accordance with the law regulating the application of fines for offences punishable summarily (*c*) :

Provided that any part of a fine recovered in respect of an offence under

Part II. of this Act may, if the court so directs, be paid to the prosecutor to reimburse him for the costs of obtaining the analysis and any other reasonable expenses to which the court considers him entitled (*d*).

(*a*) This section consolidates s. 26 of the 1875 Act, s. 11 of the 1887 Act, and s. 11 (2) of the 1907 Act.

(*b*) See as to who are such officers, s. 16 (1), *ante*, p. 2967.

(*c*) As to this allocation, see s. 5 of the Criminal Justice Administration Act, 1914 (4 & 5 Geo. 5, c. 58).

(*d*) This proviso applies only to private prosecutors. As to public prosecutors, see the sub-paragraph (*a*). See also *R.* v. *Titterton, ex parte Quelch*, [1895] 2 Q. B. 61 ; 59 J. P. 327.

Saving for contracts.

33 (*a*). Nothing in this Act, save as otherwise expressly provided, shall affect any contract or any rights or remedies belonging to the parties thereto (*b*) :

Provided that in any action brought by any person for a breach of contract on the sale of any article of food or of any drug, he may recover either alone or in addition to any damages recoverable by him the amount of any fine to which he may have been sentenced in respect of the transaction, together with any costs incurred by him in or about his defence, if he proves that the article of food or drug the subject of the transaction was sold to him as and for an article of food or drug of the same nature, substance, and quality as that demanded from him, and that he purchased it not knowing it to be otherwise and afterwards sold it in the same state in which he purchased it, so, however, that the defendant in the action shall be at liberty to prove that the conviction was wrongful or that the amount of costs incurred was unreasonable.

(*a*) This section reproduces s. 28 of the 1875 Act.

(*b*) As to the meaning of "pure" butter in a trade contract, it was held in *Roose* v. *Perry & Co.* (1900), 44 Sol. J. 503, that butter to which a small quantity of boracic acid had been added as a preservative might be "pure" butter. See, however, s. 7 (2), *ante*, p. 2961, as to the use of preservatives in butter, etc.

PART V.

MISCELLANEOUS.

Definitions.

34 (*a*). In this Act, unless the context otherwise requires—

The expression "food" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes flavouring matters and condiments (*b*) :

The expression "drug" includes medicine for internal or external use (*c*) :

The expression "butter" means the substance usually known as butter, made exclusively from milk or cream, or both, with or without salt or other preservative, and with or without the addition of colouring matter :

The expression "cheese" means the substance usually known as cheese, containing no fat derived otherwise than from milk :

The expression "margarine" means any article of food, whether mixed with butter or not, which resembles butter and is not milk-blended butter (*d*) :

The expression "margarine-cheese" means any substance, whether compound or otherwise, which is prepared in imitation of cheese, and which contains fat not derived from milk :

The expression "milk-blended butter" means any mixture produced by mixing or blending butter with milk or cream other than condensed milk or cream :

The expression "importer" includes any person who, whether as owner, consignor or consignee, agent or broker, is in possession of, or in anywise entitled to the custody or control of, the article.

(*a*) This section consolidates s. 2 of the 1875 Act, s. 3 of the 1887 Act, ss. 1, 25 and 26 of the 1899 Act, and ss. 1 and 13 (1) of the 1907 Act.

(*b*) By the Sale of Food and Drugs Act, 1875, s. 2, the term "food" was defined merely to include every article used for food or drink by man other than drugs or water, and it was held that baking powder was not food (*Warren* v. *Phillips* (1881), 44 J. P. 61 ; *James* v. *Jones*, [1894] 1 Q. B. 304 ; 58 J. P. 230). The present definition appears to overrule those decisions. It was also held that chewing gum is not food (*Shortt* v. *Smith* (1895), 59 J. P. 213 ; 11 T. L. R. 326 ; *Bennett* v. *Tyler* (1900), 64 J. P. 119 ; 81 L. T. 787), and it seems that these decisions still hold good. The principle seems to be that food must in every case be a substance, eaten or drunk so as to be received into the stomach and capable thereby of affording nourishment to some extent.

(*c*) Beeswax sold by a grocer is not a drug (*Fowle* v. *Fowle* (1896), 60 J. P. 758 ; 75 L. T. 514).

(*d*) The Act of 1887 defined "margarine" as meaning all substances, whether compounds or otherwise, prepared in imitation of butter, and whether mixed with butter or not, and no such substance shall be lawfully sold, except under the name of margarine, and under the conditions set forth in this Act. It was held that this definition of margarine did not authorise the adulteration of margarine with water so as to preclude any conviction under s. 6 of the 1875 Act (now s. 2, *ante*, p. 2949), for selling to the prejudice of the purchaser margarine not of the nature, substance, and quality demanded (*Burton* v. *Mattinson* (1902), 66 J. P. 628 ; 86 L. T. 770). It was held also that butter blended with milk so that it contains an excess of water did not become margarine within the meaning of this definition. Therefore a vendor of such milk-blended butter could not be convicted under s. 8 of the 1899 Act (now s. 6 (2), *ante*, p. 2958), for selling margarine containing more than 10 per cent. of butter fat, because the sale of butter blended with milk was lawful if sold as such (*Bayley* v. *Pearks, Gunston and Tee, Ltd.* (1902), 66 J. P. 790 ; 87 L. T. (N.S.) 67).

The definition of "margarine" in the text includes any substance prepared in imitation of butter although it contains no animal fat and was unknown when the Act of 1887 was passed (*Wilkinson* v. *Alton* (1908), 72 J. P. 252 ; 99 L. T. 119).

35. [*Application to Scotland.*]

36. [*Application to Northern Ireland.*]

Repeals.

37. The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that nothing in this repeal shall affect any regulation, registration, appointment, sample, analysis, direction, order, certificate or approval made, effected, taken or given under any of the enactments hereby repealed, but every such regulation, registration, appointment, sample, analysis, direction, order, certificate or approval shall have effect as if made, effected, taken or given under this Act.

Short title and commencement.

38.—(1) This Act may be cited as the Food and Drugs (Adulteration) Act, 1928.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-nine.

SCHEDULES.

FIRST SCHEDULE (*a*).

Section 17.

Form of Certificate of Public Analyst.

To *

I, the undersigned, public analyst for the , do hereby certify that I received on the day of 19 , from † , a sample of for analysis (which then weighed ‡), and have analysed it, and declare the result of my analysis to be as follows :—

I am of opinion that it is a sample of genuine ; or

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I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

Observations §

As witness my hand this day of

A.B.,

at

---

* Here insert the name of the person submitting the article for analysis.

† Here insert the name of the person delivering the sample.

‡ When the article cannot be conveniently weighed, this passage may be erased, or the blank may be left unfilled.

§ Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are, or are not, injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

(*a*) This Schedule reproduces the Schedule to the 1875 Act.

Sections 21 and 29.

SECOND SCHEDULE (*a*).

SPECIAL PROVISIONS AS TO MILK.

(1) Where a sample of milk is procured from a purveyor of milk, he shall, on being required to do so by the person by whom or on whose behalf the sample was taken state the name and address of the seller or consignor from whom he received the milk.

(2) The local authority in whose district the sample was taken, may take or cause to be taken one or more samples of milk in course of transit or delivery from such seller or consignor.

Within sixty hours after the sample of milk was procured from the purveyor he may serve on the local authority a notice stating the name and address of the seller from whom he received the milk and the time and place of delivery to the purveyor by the seller or consignor of milk from a corresponding milking, and requesting them to take immediate steps to procure, as soon as practicable, a sample of milk in the course of transit or delivery from the seller or consignor to the purveyor, unless a sample has been so taken since the sample was procured from the purveyor, or within twenty-four hours prior to the sample being procured from the purveyor:

Provided that the purveyor shall not have any such right to require that such a sample shall be taken in cases where the milk from which the sample procured from the purveyor was taken was a mixture of milk obtained by the purveyor from more than one seller or consignor.

If a purveyor has served on the local authority such a notice as aforesaid, and the local authority have not procured a sample of milk from the seller or consignor in accordance with the foregoing provisions, no proceedings under this Act shall be taken against the purveyor in respect of the sample of milk procured from him.

(3) Any sample of milk so taken in the course of transit or delivery shall be submitted for analysis to the analyst to whom the sample procured from the purveyor is or was submitted.

(4) If proceedings are taken against the purveyor of milk, a copy of the certificate of the result of the analysis of every sample so taken in the course of transit or delivery shall be furnished to the purveyor, and every such certificate shall, subject to the provisions of section twenty-eight of this Act, be sufficient evidence of the

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facts stated therein, and shall be admissible as evidence on any question whether the milk sold by the purveyor was sold in the same state as he purchased it.

(5) The local authority of the district in which the first-mentioned sample was taken may, instead of, or in addition to, taking proceedings against the purveyor of milk, take proceedings against the seller or consignor.

(6) If a sample of milk of cows in any dairy is taken in course of transit or delivery from that dairy, the owner of the cows may, within sixty hours after the sample of milk was procured, serve on the local authority a notice requesting them to take immediate steps to procure as soon as practicable a sample of milk from a corresponding milking of the cows, and the foregoing provisions shall apply accordingly:

Provided that the person taking the sample shall be empowered to take any such steps at the dairy as may be necessary to satisfy him that the sample is a fair sample of the milk of the cows when properly and fully milked.

(7) For the purposes of this Schedule expressions have the same meaning as in the Milk and Dairies (Consolidation) Act, 1915.

(*a*) This Schedule reproduces Sched. III. to the Milk and Dairies (Consolidation) Act, 1915. That Act is set out at p. 1217, *ante*.

THIRD SCHEDULE (*a*).

Section 27.

Rules for determining whether Offences are Second or Subsequent Offences.

1. Any offence under section six or section eight of this Act (except an offence under paragraph (*d*) of subsection (3) of section six, or an offence under section six so far as it relates to milk-blended butter or an offence under subsection (3) of section eight) shall, in relation to any other offence under either of those sections except as aforesaid be deemed to be a second or subsequent offence.

2. Any offence under paragraph (*d*) of subsection (3) of section six. or under section six so far as it relates to milk-blended butter, or under subsection (4) of section seven, subsection (3) of section eight, section ten or section eleven of this Act, shall, in relation to any other offence under any of the said provisions, be deemed to be a second or subsequent offence.

3. Save as aforesaid, an offence under this Act shall not be deemed to be a second or subsequent offence unless the former offence or offences were an offence or offences under the same provision of this Act.

(*a*) This Schedule consolidates s. 4 of the 1887 Act, s. 17 (1) of the 1899 Act, and s. 11 of the 1907 Act.

FOURTH SCHEDULE.

Section 37.

Enactments Repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
38 & 39 Vict. c. 63.	The Sale of Food and Drugs Act, 1875.	The whole Act, except sections thirty, thirty-one and thirty-six.
42 & 43 Vict. c. 30.	The Sale of Food and Drugs Act Amendment Act, 1879.	The whole Act.
50 & 51 Vict. c. 29.	The Margarine Act, 1887.	The whole Act.
62 & 63 Vict. c. 51.	The Sale of Food and Drugs Act, 1899.	The whole Act.
7 Edw. 7, c. 21.	The Butter and Margarine Act, 1907.	The whole Act.
5 & 6 Geo. 5, c. 66.	The Milk and Dairies (Consolidation) Act, 1915.	Section nine and the Third Schedule.
11 & 12 Geo. 5, c. 32.	The Finance Act, 1921.	Section twenty-three.
11 & 12 Geo. 5, c. 42.	The Licensing Act, 1921.	Section ten.
17 & 18 Geo. 5, c. 5.	The Sale of Food and Drugs Act, 1927.	The whole Act.

PETROLEUM (CONSOLIDATION) ACT, 1928.

(18 & 19 GEO. 5, c. 32.)

An Act to consolidate the enactments relating to petroleum and to petroleum-spirit (a). [3rd August, 1928.]

Licences for Keeping Petroleum-Spirit.

Petroleum-spirit not to be kept without a licence.

1.—(1) (*b*) Subject to the provisions of this Act, petroleum-spirit (*c*) shall not be kept (*d*) unless a petroleum-spirit licence (*e*) is in force under this Act authorising the keeping thereof and the petroleum-spirit is kept in accordance with such conditions, if any, as may be attached to the licence:

Provided that the foregoing provision shall not apply to any petroleum-spirit kept either for private use or for sale so long as—

(*a*) it is kept in separate glass, earthenware, or metal vessels, securely stopped and containing not more than one pint each; and

(*b*) the aggregate amount kept would not, if the whole contents of the vessels were in bulk, exceed three gallons.

(2) (*f*) The occupier of any premises in which petroleum-spirit is kept in contravention of this section shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the contravention occurs or continues, and the court before whom any person is convicted under this subsection may order that the petroleum-spirit, in respect of which the contravention occurs, and any vessel in which it is contained be forfeited or otherwise dealt with in such manner as the court thinks fit (*g*).

(3) (*h*) If any person to whom a petroleum-spirit licence (*j*) is granted contravenes any condition of the licence, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the contravention occurs or continues.

(*a*) This Act consolidates the provisions of the Petroleum Act, 1871, the Petroleum Act, 1879, the Petroleum Act, 1926, and the Petroleum (Amendment) Act, 1928. As to the construction of a consolidation Act, see the notes on p. 1, *ante*.

(*b*) This subsection reproduces s. 7 of the Petroleum Act, 1871.

(*c*) See the definition in s. 23, *post*, p. 3005.

(*d*) This was held to apply to keeping petroleum in a cart for the purpose of being hawked (*Coleman* v. *Goldsmith* (1879), 43 J. P. 718). But see now s. 6, *post*, p. 2993, and the Petroleum Spirit (Conveyance) Regulations, 1926, in App. II. at p. 3628, *post*, made under the corresponding repealed provision of the Petroleum Act, 1926. By s. 5 of the Locomotives on Highways Act, 1896, the keeping and use of petroleum or of any other inflammable liquid or fuel for the purpose of light locomotives, shall be subject to regulations made by a Secretary of State, and regulations so made shall have effect notwithstanding anything in the Petroleum Acts, 1871–1881. Section 5 of the 1896 Act was repealed by the Petroleum (Amendment) Act, 1928, and is now re-enacted in s. 10, *post*, p. 2996. The Petroleum Spirit (Motor Vehicles, etc.) Regulations, 1929, made thereunder are set out in App. II., at p. 3636, *post*. Petroleum kept for fuel for light locomotives if kept in accordance with these regulations need not also be kept in accordance with the provisions of this Act (*Godfrey* v. *Napier* (1902), 18 T. L. R. 31).

(*e*) As to licences, see s. 2, *post*, p. 2991.

(*f*) This sub-section reproduces s. 6 (2) and (3) of the Petroleum Act, 1926.

(*g*) Until the passing of the 1926 Act, petroleum spirit in respect of which an offence was committed was automatically forfeited; forfeiture is now left to the discretion of the court.

(*h*) This sub-section reproduces s. 7 (1) of the Petroleum Act, 1926.

(*j*) Licences are granted under s. 2, *post*, p. 2991. As to the imposition of conditions on the grant of a licence, see sub-s. (3), *ibid.* Prior to the passing of the 1926 Act a licensee who violated any of the conditions of his licence was to be deemed an unlicensed person. The provision in the text makes the contravention of a condition an offence, but does not affect the validity of the licence.

Section 2.

Provisions as to licences.

2.—(1) (*a*) The local authority empowered under this Act to grant petroleum-spirit licences shall be—

(*a*) in the County of London, except the City of London, the county council:

(*b*) in the City of London, the common council of the City of London:

(*c*) elsewhere, the district council:

Provided that in any harbour (*b*) within the jurisdiction of a harbour authority (*b*), whether situate or not within the jurisdiction of any local authority hereinbefore mentioned, the harbour authority shall be the local authority for granting petroleum-spirit licences to the exclusion of any other local authority.

(2) (*c*) A petroleum-spirit licence may (*d*) be granted by a local authority so as to be in force for such time, and subject to such provisions as to renewal, as the local authority think necessary.

(3) (*c*) A local authority may attach to any petroleum-spirit licence such conditions (*e*) as they think expedient, as to the mode of storage, the nature and situation of the premises in which, and the nature of the goods with which, petroleum-spirit is to be stored, the facilities for the testing of petroleum-spirit from time to time, and generally as to the safe-keeping of petroleum-spirit.

(4) (*f*) Where conditions to be observed by persons employed are attached to any petroleum-spirit licence, the occupier of the premises to which the licence relates shall cause to be kept posted on the premises, in such form and in such position as to be easily read by the persons employed on the premises, a notice setting out those conditions, and

(*a*) if the occupier of any premises fails to comply with the foregoing requirements of this subsection, he shall be liable on summary conviction to a fine not exceeding five pounds for every day on which the failure occurs or continues; and

(*b*) if any person pulls down, injures, or defaces any notice posted in accordance with the requirements of this subsection, he shall be liable on summary conviction to a fine not exceeding five pounds; and

(*c*) If any person employed contravenes any condition of which notice has been given in accordance with the requirements of this subsection he shall be liable on summary conviction to a fine not exceeding five pounds (*g*).

(*a*) This sub-section reproduces s. 8 of the Petroleum Act, 1871, as amended by the various Acts reconstituting local authorities.

(*b*) As to the meaning of "harbour" and "harbour authority," see s. 23, *post*, p. 3005.

(*c*) Sub-sections (2) and (3) are reproduced from s. 9 of the Petroleum Act, 1871.

(*d*) Local authorities have a discretion in granting a licence, but an appeal lies to the Home Secretary under s. 3, *post*, p. 2992, from their refusal to grant a licence. As to the fees payable in respect of licences, see s. 4 and Sched. I., *post*, pp. 2992, 3007.

(*e*) Any conditions imposed must relate to the subjects specified in this clause. An appeal lies to the Home Secretary under s. 3, *post*, p. 2992, against any condition. As to the penalty for breach of a condition, see s. 1 (3), *ante*, p. 2990. See also the next sub-section as to the publication of conditions.

(*f*) This sub-section reproduces s. 7 (2) of the Petroleum Act, 1926.

(*g*) In order to ensure that any conditions attached to a licence which require to be observed by persons employed on the licensed premises are brought to the knowledge of such person and observed by them, the provision in the text imposes an obligation upon the occupier of licensed premises to post up a notice setting out the conditions, and renders employed persons liable to penalties for any breach of such conditions; no penalty can, however, be imposed on an employed person for a breach of the condition unless such notice has been given.

Appeals from refusals by local authorities to grant licences.

3 (*a*).—(1) If on any application for a petroleum-spirit licence a local authority refuse to grant the licence, or grant the licence on conditions with which the applicant is dissatisfied, the local authority shall, if required by the applicant so to do, deliver to him a certificate in writing signed by the clerk or secretary of the local authority stating the grounds on which the authority has refused the licence or attached the conditions, as the case may be, and the applicant may appeal to the Secretary of State within ten days after the receipt of the certificate or within such further time as the Secretary of State may allow.

(2) Every appeal to the Secretary of State under this section shall be made in writing asking that the licence may be granted notwithstanding the refusal of the local authority, or that the conditions may not be attached or may be modified in such manner and to such extent as may be set forth in the appeal, and shall be accompanied by the certificate of the local authority given under the last foregoing subsection, and on consideration of any such appeal the Secretary of State may, if he thinks fit, grant the licence either without conditions or subject to such conditions as he thinks proper or may modify the conditions attached by the local authority, and any licence so granted or modified shall be in force for such time and be subject to such provisions as to renewal as may be specified in the licence, and shall, when certified under the hand of the Secretary of State, have effect as if granted by a local authority (*b*).

(3) Before exercising his powers under the last foregoing subsection with respect to any appeal, the Secretary of State may, if he thinks it necessary or desirable, cause an inquiry and report upon the matter to be made to him by such person as he may appoint for the purpose.

(*a*) This section reproduces with some modifications s. 10 of the Petroleum Act, 1871.
(*b*) As to the fee payable for a licence granted by the Home Secretary under this section, see s. 4, *infra*.

Fees payable for licences.

4 (*a*). In respect of every petroleum-spirit licence granted by a local authority (*b*) or by the Secretary of State (*c*) under this Act, fees shall be payable to the local authority or to the Secretary of State, as the case may be, by the person to whom the licence is granted, at the rates shown in the scale set out in the First Schedule to this Act or such lower scale as the Secretary of State may, with the consent of the Treasury, prescribe by regulations.

(*a*) This section reproduces with modifications s. 8 of the Petroleum Act, 1926.
(*b*) *I.e.* under s. 2, *ante*, p. 2991.
(*c*) *I.e.* on appeal under s. 3, *supra*.

Labelling of Vessels containing Petroleum-Spirit.

Provisions as to the labelling of vessels containing petroleum-spirit.

5.—(1) (*a*) Subject as hereinafter provided, where any petroleum-spirit (*b*)—

(*a*) is kept (*c*) at any place; or
(*b*) is sent or conveyed (*d*) between any two places in Great Britain; or
(*c*) is sold or exposed or offered for sale;

there shall be attached to, or, where that is impracticable, displayed near (*e*) the vessel containing the petroleum-spirit, a label showing, in conspicuous characters, the words "Petroleum-Spirit" and the words "Highly Inflammable," and—

(i) in the case of petroleum-spirit kept, the name and address of the consignee or owner:
(ii) in the case of petroleum-spirit sent or conveyed, the name and address of the sender;

(iii) in the case of petroleum-spirit sold or exposed or offered for sale, the name and address of the vendor :

Provided that, for the purposes of the foregoing provisions—

(*a*) petroleum-spirit shall not be deemed to be kept during the seven days next after it has been imported ; and

(*b*) petroleum-spirit carried on any motor vehicle, ship, or aircraft, but intended to be used only for the purposes thereof shall not be deemed to be conveyed (*f*).

(2) (*g*) Any person who keeps, sends, conveys, sells, or exposes or offers for sale any petroleum-spirit in contravention of this section shall be liable on summary conviction to a fine not exceeding five pounds, and the court before whom any person is convicted in respect of any such contravention may order that the petroleum-spirit, in respect of which the contravention occurs, and any vessel in which it is contained be forfeited or otherwise dealt with in such manner as the court thinks fit (*h*).

(*a*) This sub-section reproduces with modifications s. 6 of the Petroleum Act, 1871, as amended by the Petroleum (Amendment) Act, 1928.

(*b*) See the definition in s. 23, *post*, p. 3005.

(*c*) See proviso (i) to this sub-section, restricting the meaning of "kept."

(*d*) In the repealed provision the words "by land or water" were inserted after conveyed, and although these words were repealed by the Petroleum (Amendment) Act, 1928, they would still appear to be applicable. See the restriction on the meaning of the word "conveyed" in proviso (ii) to this sub-section. Regulations may be made under s. 6, *infra*, regulating the conveyance of petroleum spirit by road (see the Petroleum-Spirit (Conveyance) Regulations, 1926, in App. II., *post*, p. 3628, made under the corresponding repealed provision). As to the carriage of petroleum spirit in ships, see ss. 7 and 8, *post*, and on canals, s. 9, *post*.

(*e*) The provision requiring the display of a label near to the vessel where an attached label is impracticable was new in the Petroleum (Amendment) Act, 1928.

(*f*) This provision was new in the Petroleum (Amendment) Act, 1928.

(*g*) This sub-section is reproduced from s. 6 (1) of the Petroleum Act, 1926.

(*h*) Prior to the 1926 Act, petroleum-spirit in respect of which an offence was committed was automatically forfeited ; forfeiture is now left to the discretion of the Court.

Transport of Petroleum-Spirit.

Regulations as to the conveyance of petroleum-spirit by road.

6 (*a*).—(1) The Secretary of State may make regulations (*b*) as to the conveyance of petroleum-spirit by road and for protecting persons or property from danger in connection with such conveyance, and in particular—

(*a*) for regulating the description and construction of vehicles to be used in the conveyance of petroleum-spirit by road :

(*b*) for prohibiting or subjecting to conditions and restrictions the conveyance by road of petroleum-spirit with any explosive, or with any articles or substances, or in passenger vehicles :

(*c*) for prescribing the quantity of petroleum-spirit which may be conveyed at one time or in one vehicle :

(*d*) for prescribing the precautions to be observed in the conveyance of petroleum-spirit by road, and in loading and unloading vehicles used in such conveyance, and the time during which the petroleum-spirit may be kept during such conveyance, loading, and unloading as aforesaid :

(*e*) for the publication and supply of copies of the regulations :

(*f*) adapting, on good cause being shown, the regulations in force under this section to the circumstances of any particular locality :

(*g*) the enforcement of the regulations in any district by the local authority empowered under this Act to grant petroleum-spirit licences in that district.

(2) If any person contravenes or attempts to contravene any regulation

Section 6. made under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the offence occurs or continues, and the court before whom any person is convicted under this subsection may order that the petroleum-spirit in respect of which the offence was committed and any vessel in which it is contained be forfeited or otherwise dealt with in such manner as the court thinks fit.

(a) This section reproduces with modifications s. 37 of the Explosives Act, 1875, as incorporated by s. 9 and Sched. III. of the Petroleum Act, 1926.

(b) Regulations made under this section must be laid before Parliament (s. 21, *post*, p. 3005). See the Petroleum-Spirit (Conveyance) Regulations, 1926, in App. II., p. 3628, made under the corresponding repealed provisions and saved by s. 26 (3), *post*, p. 3006.

Byelaws as to ships loading and carrying petroleum-spirit in harbour.

7 (*a*).—(1) It shall be the duty of every harbour authority to make for the harbour under their jurisdiction byelaws as to the loading of ships with petroleum-spirit and generally as to the precautions to be observed with respect to ships carrying petroleum-spirit whilst in the harbour, and such byelaws shall in particular provide—

(*a*) for regulating the places at which ships are to load or land petroleum-spirit and the time and mode of, and the precautions to be taken on, such loading and landing; and

(*b*) for regulating the places at which ships carrying petroleum-spirit are to be moored; and

(*c*) for the due enforcement of the byelaws.

(2) No byelaws made by a harbour authority under the last foregoing subsection shall come into force until confirmed by the Minister of Transport and before submitting any such byelaws to the Minister the harbour authority shall, in such manner as may be directed by the Minister, publish a draft thereof together with notice of their intention to apply for the confirmation of the byelaws.

(3) If it appears to the Minister of Transport that at any harbour there are for the time being no byelaws or insufficient byelaws in force under this section, the Minister may by notice require the harbour authority having jurisdiction in that harbour to make and submit to him byelaws for the purposes of this section, and if the harbour authority make default in complying with any such requirement within the time limited by the notice, the Minister may make byelaws which shall have effect as if they had been made by the harbour authority and confirmed by him.

(4) If it appears to the Admiralty that byelaws under this section ought to be made with respect to any place within the limits of a dockyard port as defined by the Dockyard Port Regulation Act, 1865, but that there is no harbour authority competent to make byelaws with respect to that place, the Admiralty may make byelaws with respect thereto, and any byelaws so made by the Admiralty shall come into force without confirmation, shall be published in such manner as the Admiralty think proper, and shall have effect as if they had been made by a harbour authority and confirmed by the Minister of Transport.

28 & 29 Vict. c. 125.

(5) If it appears to a harbour master or to any person acting under the orders of a harbour authority that any ship or any petroleum-spirit is in a place in which it ought not in accordance with any such byelaws as aforesaid to be, he may cause it to be removed so as to be in conformity with the byelaws, and any expenses incurred by the harbour authority in connection with any such removal may be recovered summarily as a civil debt from the owner of the ship or of the petroleum-spirit, as the case may be.

(6) In the event of any contravention of the requirements of any byelaw in force under this section, the owner and master of any ship in or in relation to which the contravention occurs, and, except in the case of a contravention

in respect of the mooring of a ship, the owner of any petroleum-spirit in respect of which the contravention occurs, shall each be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds for every day on which the offence occurs or continues:

Provided that it shall be a good defence to proceedings for any such offence to prove—

(a) if the proceedings are against the owner or master of a ship for an offence in respect of the loading or landing of petroleum-spirit, that all reasonable means were taken by the master to prevent the commission of the offence, and that the offence was not caused or facilitated by any act or neglect on the part of the owner or of any person engaged or employed by the owner or master; and

(b) if the proceedings are against the owner of petroleum-spirit for an offence in respect of the loading or landing thereof, or in respect of any failure to observe precautions required to be observed with respect to ships carrying petroleum-spirit whilst in harbour, that the offence was not caused or facilitated by any act or neglect on his part or on the part of any person engaged or employed by him.

(a) This section reproduces s. 4 of the Petroleum Act, 1871, as amended by s. 5 of the Petroleum Act, 1926, and the Petroleum (Amendment) Act, 1928. As to the meaning of "harbour," and "harbour authority," see s. 23, *post*, p. 3005. As to the confirmation and publication of byelaws, see s. 22, *post*, p. 3005.

Notice of ships carrying petroleum-spirit to be given on entering harbour.

8 (a). The owner or master of every ship carrying a cargo, any part of which consists of petroleum-spirit, shall, on entering any harbour within Great Britain, give notice of the nature of the cargo to the harbour authority having jurisdiction over the harbour, and if such notice is not given, the owner and master of the ship shall each be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding fifty pounds, or on conviction thereof on indictment to a fine not exceeding five hundred pounds:

Provided that it shall be a good defence to proceedings for any such offence to prove that neither the owner nor the master knew the nature of the goods in respect of which the proceedings are taken, and that neither of them could, with reasonable diligence, have obtained such knowledge.

(a) This section reproduces s. 5 of the Petroleum Act, 1871. As to the meaning of "petroleum-spirit," "harbour," and "harbour authority," see s. 23, *post*, p. 3005.

Byelaws as to loading, conveyance and landing of petroleum-spirit in and upon canals.

9 (a).—(1) Every canal company shall have power to make byelaws regulating the loading, conveyance and landing of petroleum-spirit in and upon the canal under their jurisdiction, and as to the precautions to be observed with respect thereto, and as to the due enforcement of the byelaws.

(2) No byelaws made under this section shall come into force until confirmed by the Minister of Transport, and before submitting any such byelaws to the Minister, the canal company shall, in such manner as may be directed by the Minister, publish a draft thereof together with notice of their intention to apply for the confirmation of the byelaws.

(3) If any person contravenes or attempts to contravene any byelaw made under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the offence occurs or continues.

51 & 52 Vict. c. 25.

(4) Section forty of the Railway and Canal Traffic Act, 1888 (which makes provision as to the byelaws of canal companies) shall not apply to byelaws made under this section.

(a) This section reproduces s. 6 of the Petroleum (Amendment) Act, 1928. As to the meaning of "petroleum-spirit," see s. 23, *post*, p. 3005. "Canal," and "Canal company" have the same meaning as in the Regulation of Railways Act, 1873 (36 & 37 Vict. c. 48), s. 3. As to the confirmation and publication of byelaws, see s. 22, *post*, p. 3005.

Special Provisions as to Keeping, Use and Supply of Petroleum-Spirit for Motor Vehicles.

Regulations as to the keeping and use of petroleum-spirit for purpose of motor vehicles, motor boats, aircraft and engines.

10 (*a*).—(1) The Secretary of State may make regulations (*b*) as to the keeping and use of petroleum-spirit by persons intending to use it for the purpose of any class of motor vehicles (*c*), motor boats, aircraft, or engines specified in the regulations, and any such regulations may exempt from the operation of any of the foregoing provisions of this Act the keeping and use of petroleum-spirit by persons intending to use it for the purpose of any such class as aforesaid to which the regulations apply.

(2) If any person contravenes or attempts to contravene any regulation made under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the offence occurs or continues, and the court before whom any person is convicted under this subsection may order that the petroleum-spirit in respect of which the offence was committed, and any vessel in which it is contained, be forfeited or otherwise dealt with in such manner as the court thinks fit.

(*a*) This section reproduces the provision substituted for s. 5 of the Locomotives on Highways Act, 1896, by s. 3 of the Petroleum (Amendment) Act, 1928.

(*b*) These regulations must be laid before Parliament (s. 22, *post*, p. 3005). Regulations made under the 1896 Act were saved by s. 10 (4) of the Petroleum (Amendment) Act, 1928, and were further saved by s. 26 (4) of this Act. All those regulations have now been revoked, and the Petroleum Spirit (Motor Vehicles, etc.) Regulations, 1929, have been made under the provision in the text. (See the Regulations in App. II., *post*, p. 3636.)

(*c*) See the definition in s. 23, *post*, p. 3005.

Byelaws as to petroleum filling stations.

11 (*a*).—(1) For the purpose of preserving for the enjoyment of the public the amenities (*b*) of any rural scenery or of any place of beauty or historic interest or of any public park or pleasure promenade or of any street or place which is of interest by reason of its picturesque character (*c*), the council of any county or borough (*d*) may make byelaws (*e*)—

(*a*) regulating the appearance of petroleum filling stations (*f*); or

(*b*) prohibiting the establishment of petroleum filling stations,

in any part of their area to which the byelaws apply; and, without prejudice to the generality of the foregoing provisions, any such byelaws regulating the appearance of petroleum filling stations may, in particular, require compliance with such provisions as may be contained in the byelaws as to the position, design, size, colour and screening of such stations or of any parts thereof:

Provided that—

(i) as respects the City of London, the powers and duties conferred and imposed by this section shall be exercised and performed by the Common Council of the City of London instead of the London County Council; and

(ii) no byelaws made under this section by the council of any county shall have effect in any borough within the county; and

(iii) nothing in any byelaws regulating the appearance of petroleum filling stations shall prevent the use in any place to which the byelaws apply, of any pump or other apparatus approved for use in such places by the Secretary of State; and in making any such byelaws a council shall make provision for exempting any station established at the time of the making of the byelaws from any restrictions requiring structural alterations for such period, not being less than two years from that time, as they may think fit (*g*); and

(iv) in making any byelaws prohibiting the establishment of petroleum filling stations a council shall have regard to the need for reason-

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able facilities for the supply of petroleum in or near the part of their area to which the byelaws apply.

(2) Any part of the area of a council to which byelaws or a draft of any byelaws made under this section apply shall be distinctly marked and shown on plans to be signed by and deposited with the clerk of the council making the byelaws, and the said plans shall be at all reasonable times thereafter open for the insepction of the public without charge.

(3) No byelaws made under this section shall come into force until confirmed by the Secretary of State, and before submitting any such byelaws to the Secretary of State the council by whom the byelaws were made shall, in such manner as may be directed by the Secretary of State, publish a draft thereof, together with notice of the place where the plans marked in accordance with the provisions of this section may be inspected and of the intention of the council to apply for the confirmation of the byelaws.

(4) (*h*) Where byelaws made under this section are in force prohibiting the establishment of petroleum filling stations in any part of the area of a council, the council may, with a view to securing the removal of all such stations from that part of their area, serve upon every occupier of a petroleum filling station established therein before the date on which the byelaws came into force a notice requiring him to remove it within such period, not being less than six months after the service of the notice, as may be specified in the notice, and any such notice may be addressed "the occupier" without further name or description and may be served either by delivering it or leaving it at, or by sending it by post as a registered letter to, the usual or last known place of abode of the occupier, or if his place of abode is not known, by fixing it on some conspicuous part of the petroleum filling station:

Provided that any person upon whom such a notice is served shall be entitled to recover from the council by whom it was served any expenses reasonably incurred by him in carrying out the directions contained in the notice, and shall, if he makes a claim within twelve months after the service of the notice, be entitled to recover from the council compensation for any loss sustained by him in direct consequence of the requirements of the notice, and any question in dispute as to whether compensation is payable under this subsection or as to the amount of any compensation so payable shall be determined by a single arbitrator appointed by agreement between the parties or, in default of such agreement, appointed by the Secretary of State.

(5) The occupier of any premises used or intended to be used as a petroleum filling station shall have power, notwithstanding anything in any conveyance or in any lease or other agreement, to do all such things as may be necessary for complying with the requirements of any byelaw made or notice served under this section; and where a notice has been served upon any person under this section the council by whom the notice was served may, with his consent, do on his behalf anything necessary for complying with the requirements of the notice.

(6) If any person contravenes any byelaw made or notice served under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the contravention occurs or continues, and if, after any person has been so convicted in respect of a contravention of any byelaw made under this section prohibiting the establishment of petroleum filling stations or in respect of a contravention of any notice served under this section requiring the removal of any such station, the petroleum filling station is not removed within such time as the court may allow, the council by whom the byelaw was made or the notice served shall have power to do all such acts as may be necessary for the removal thereof, and any expenses incurred by a council in removing any petroleum filling

station established in contravention of any such byelaw as aforesaid shall be recoverable from the person convicted summarily as a civil debt (*j*).

(7) Any expenses incurred by a county council under this section shall be defrayed as part of their expenses for general county purposes.

(8) The council of any urban district shall have power to enforce within their district any byelaws in force under this section, and any expenses incurred by a district council under this subsection shall be defrayed as part of their general expenses.

(*a*) This section reproduces s. 5 of the Petroleum (Amendment) Act, 1928. Cf. the Advertisements Regulation Acts, 1907 and 1925, *ante*, pp. 1096 and 1529, and *United Bill Posting Co., Ltd.* v. *Somerset C. C.* (1926), 90 J. P. 132; 24 L. G. R. 383, decided under the Act of 1907.

(*b*) "Amenities in relation to any place, includes the view of or from that place" (s. 23, *post*, p. 3005).

(*c*) Note the provisions of sub-s. (2) requiring the parts affected by the byelaws to be marked on a plan.

(*d*) Note that byelaws under this section can only be made by county and borough councils, but any urban district council is to have power to enforce these byelaws in their district (sub-s. (8)).

(*e*) These byelaws must be confirmed by the Home Secretary (sub-s. (3)). As to the enforcement of these byelaws, see sub-s. (6).

(*f*) See the definition in s. 23, *post*, p. 3005.

(*g*) This provision appears to contemplate that the byelaws may have a retrospective effect as regards head (*a*) of the purposes for which byelaws may be made. As to the removal of existing stations from a place or area where stations are prohibited by the byelaws, see sub-s. (4).

(*h*) This sub-section would not appear to be subject to the two years' limitation referred to in proviso (iii) to sub-s. (1).

(*j*) Proceedings for the recovery of a sum summarily as a civil debt are begun by complaint (s. 35, S. J. A., 1879). As the statute has provided this summary remedy for the recovery of the expenses, no action for such sum can be maintained (*St. Pancras Vestry* v. *Batterbury* (1857), 2 C. B. (N. S.) 477; 21 J. P. 424, and other cases cited in the notes to s. 251, P. H. A., 1875, *ante*, p. 556).

Regulations as to special Classes of Petroleum-Spirit.

Regulations as to classes of petroleum-spirit likely to be dangerous or injurious to health.

12 (*a*).—(1) If the Secretary of State is satisfied that any class of petroleum-spirit (*b*) is by reason of the nature thereof or of any substance mixed therewith likely to be dangerous or injurious to health either generally or in the case of any class of persons, he may make such regulations (*c*) as appear to him to be reasonably practicable and to meet the necessity of the case, and in particular—

(*a*) for requiring the observance of such precautions as may be prescribed for the protection of persons employed or engaged in handling or using petroleum-spirit of that class in connection with any trade or business; and

(*b*) for requiring persons selling to the public petroleum-spirit of that class to give, in such manner as may be prescribed, warning to purchasers of petroleum-spirit of that class as to the dangers thereof and the precautions to be observed with respect thereto; and

(*c*) for prohibiting the sale or use of petroleum-spirit which he may by order declare to be so dangerous or injurious to health that precautions for the protection of persons employed or engaged in handling or using such petroleum-spirit are impracticable; and

(*d*) for the publication and supply of copies of the regulations; and

(*e*) for the enforcement of the regulations in any district by the local authority empowered under this Act to grant petroleum-spirit licences in that district:

Provided that any such regulations extending to England shall be made after consultation with the Minister of Health.

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(2) If any person contravenes or attempts to contravene any regulation made under this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds for every day on which the offence occurs or continues, and the court before whom any person is convicted under this subsection may order that the petroleum-spirit in respect of which the offence was committed, and any vessel in which it is contained, be forfeited or otherwise dealt with in such manner as the court thinks fit.

(a) This section reproduces s. 4 of the Petroleum (Amendment) Act, 1928.
(b) See the definition in s. 23, *post*, p. 3005.
(c) These regulations must be laid before Parliament (s. 22, *post*, p. 3005), and must be made in consultation with the Minister of Health.

Accidents in connection with Petroleum-Spirit.

Notice to be given of accidents connected with petroleum-spirit.

13 (*a*).—(1) Whenever any accident which occasions loss of life or personal injury occurs by explosion or by fire in or about or in connection with any licensed premises (*b*), the occupier of the premises shall, if the explosion or fire involved petroleum-spirit (*c*), forthwith send or cause to be sent to the Secretary of State notice of the accident and of the loss of life or personal injury. A notice of any accident of which notice is sent in pursuance of this section need not be sent to any inspector of factories.

(2) Where, in, about, or in connection with any ship or vehicle on which petroleum-spirit (*c*), is being conveyed or loaded or from which petroleum-spirit is being unloaded, any accident which occasions loss of life or personal injury occurs by explosion or by fire, the owner or master of the ship or vehicle shall, if the explosion or fire involved petroleum-spirit, forthwith send or cause to be sent to the Secretary of State notice of the accident and of the loss of life or personal injury, but this provision shall not apply where the petroleum-spirit carried or loaded on, or unloaded from, the ship or vehicle is or was for use only on that ship or vehicle or in any case in which such notice as aforesaid is otherwise by law required to be sent to some government department.

(3) Every such occupier, owner, or master as aforesaid who fails to comply with any of the provisions of this section shall be liable on summary conviction to a fine not exceeding twenty pounds.

(*a*) This section reproduces s. 63 of the Explosives Act, 1875, as incorporated with modifications by s. 9, and Sched. III. of the Petroleum Act, 1926.
(*b*) "Licensed premises" mean any premises in respect of which a petroleum-spirit licence is in force under this Act (s. 23, *post*, p. 3005).
(*c*) See the definition in s. 23, *post*, p. 3005.

Inquiry into accidents connected with petroleum-spirit.

14 (*a*). The Secretary of State may direct an inquiry to be made by a government inspector (*b*) into the cause of any accident of which notice is required by this Act to be given to the Secretary of State (*c*), and where it appears to the Secretary of State either before or after the commencement of any such inquiry, that a more formal investigation of the accident, and of the causes and circumstances thereof, is expedient, he may by order direct a formal investigation to be held, and with respect to inquiries and investigations made or held under this Act the following provisions shall have effect:—

(*a*) the Secretary of State may, by the same or any subsequent order, appoint any person or persons possessing legal or special knowledge to assist the government inspector in holding a formal investigation, or may direct such county court judge, stipendiary magistrate, metropolitan police magistrate, or other person or persons as may

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be named in the order, to hold such an investigation with the assistance of a government inspector or any other assessor or assessors named in the order:

(*b*) the persons holding any formal investigation (in this section referred to as the court) shall hold it in open court in such manner and under such conditions as they think most effectual for ascertaining the causes and circumstances of the accident, and for enabling them to make the report in this section mentioned:

(*c*) the court shall have for the purpose of the investigation all the powers of a court of summary jurisdiction when acting as a court in hearing informations for offences against this Act, and shall have all the powers of a government inspector under this Act (*d*), and in addition the following powers, namely—

(i) they may enter and inspect any place or building the entry or inspection whereof appears to them requisite for the said purpose;

(ii) they may by summons under their hands require the attendance of all such persons as they think fit to call before them and examine for the said purpose, and may for the said purpose require to be furnished to them answers or returns to such inquiries as they think fit to make;

(iii) they may require the production of all books, papers, and documents which they consider important for the said purpose;

(iv) they may administer an oath, and require any person examined to make and sign a declaration of the truth of the statements made by him in his examination:

(*d*) persons attending as witnesses before the court shall be allowed such expenses as would be allowed to witnesses attending before a court of record; and in case of dispute as to the amount to be allowed, the dispute shall be referred by the court to a master of the Supreme Court, who, on request under the hands of the members of the court, shall ascertain and certify the proper amount of the expenses:

(*e*) if any person without reasonable excuse (proof whereof shall lie on him) fails, after having had the expenses (if any) to which he is entitled tendered to him, to comply with any summons or requisition of a court holding an investigation under this Act, or prevents or impedes the court in the execution of their duty, he shall be liable on summary conviction to a fine not exceeding ten pounds, or, in the case of a failure to comply with a requisition for furnishing any return or producing any document, not exceeding ten pounds for every day on which the failure occurs or continues:

(*f*) the government inspector making an inquiry into any accident and the court holding an investigation of any accident under this section shall make a report to the Secretary of State, stating the causes of the accident and all the circumstances attending it, and containing any observations thereon or on the evidence or on any matters arising out of the inquiry or investigation which he or they think right to include in the report, and the Secretary of State shall cause every report so made to him to be made public in such manner as he thinks expedient.

(*a*) This section reproduces s. 66 of the Explosives Act, 1875, as incorporated with modifications by s. 9, and Sched. III. of the Petroleum Act, 1926.

(*b*) *I.e.* a government inspector under the Explosives Act, 1875 (s. 23, *post*, p. 3005).

(*c*) *I.e.* under s. 13, *ante*, p. 2999.

(*d*) As to the powers of government inspectors under this Act, see s. 16, *post*, p. 3001.

Coroners' inquests on deaths from accidents connected with petroleum-spirit.

15 (*a*).—(1) Where a coroner holds an inquest upon the body of any person whose death may have been caused by any accident of which notice is required by this Act to be given to the Secretary of State (*b*), the coroner shall adjourn the inquest unless a government inspector (*c*), or some person on behalf of the Secretary of State, is present to watch the proceedings:

Provided that, if the accident has not occasioned the death of more than one person, and the coroner has sent to the Secretary of State notice of the time and place of holding the inquest not less than forty-eight hours before the time of the holding thereof, it shall not be imperative on him to adjourn the inquest in pursuance of this section if the majority of the jury think it unnecessary that he should do so.

(2) The coroner before the adjournment, may take evidence to identify the body, and may order the interment thereof.

(3) The coroner, at least four days before holding the adjourned inquest, shall send to the Secretary of State notice in writing of the time and place of holding the adjourned inquest.

(4) A government inspector or person employed on behalf of the Secretary of State shall be at liberty at any such inquest as aforesaid to examine any witness, subject nevertheless to the order of the coroner on points of law.

(5) Where at any inquest there is given evidence of any neglect having caused or contributed to an accident, or evidence of there having been, in or about or in connection with any licensed premises (*d*) or any ship or vehicle carrying petroleum-spirit (*e*), any defect that appears to the coroner or jury to require a remedy, the coroner shall, if no government inspector or person employed on behalf of the Secretary of State is present at the inquest, send to the Secretary of State notice in writing of the neglect or defect.

(*a*) This section reproduces s. 65 of the Explosives Act, 1875, as incorporated with modifications by s. 9 and Sched. III. of the Petroleum Act, 1926.

(*b*) *I.e.* under s. 13, *ante*, p. 2999.

(*c*) *I.e.* a government inspector under the Explosives Act, 1875 (s. 23, *post*, p. 3005).

(*d*) *I.e.* premises in respect of which a petroleum-spirit licence is in force under this Act (s. 23, *post*, p. 3005).

(*e*) See the definition in s. 23, *post*, p. 3005.

Powers of Inspection, &c.

Powers of government inspectors.

16 (*a*).—(1) A government inspector (*b*) shall have power to make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act or of any regulations made thereunder are complied with, and for that purpose he—

(*a*) may enter, inspect, and examine at all reasonable times by day any licensed premises (*c*), and every part thereof, and any premises in which any petroleum-spirit (*d*) is kept, or is suspected by him to be kept, in contravention of the provisions of this Act or of any regulations made thereunder; and

(*b*) may require the occupier of any premises which he is so entitled to enter, or a person employed therein by the occupier, to give him samples of any petroleum (*d*) on the premises.

(2) The occupier of any such premises as aforesaid, his agents and servants, shall furnish the means required by a government inspector as being necessary for every such entry, inspection and examination which he is entitled under this section to make.

(3) If any person fails to permit a government inspector to enter, inspect or examine as aforesaid, or to comply with any such requisition of a government inspector as aforesaid, or in any manner obstructs a government inspector

in the execution of his duties, that person shall be liable on summary conviction to a fine not exceeding fifty pounds, or on conviction on indictment to a fine not exceeding one hundred pounds.

(*a*) This section reproduces s. 55 of the Explosives Act, 1875, as incorporated with modifications by s. 9, and Sched. III. of the Petroleum Act, 1926.

(*b*) *I.e.* a government inspector under the Explosives Act, 1875 (s. 23, *post*, p. 3005).

(*c*) *I.e.* premises in respect of which a petroleum-spirit licence is in force under this Act (s. 23, *post*, p. 3005).

(*d*) See the definition in s. 23, *post*, p. 3005.

Powers of officers of local authorities as to testing petroleum-spirit.

17 (*a*).—(1) Any officer authorised by a local authority (*b*) empowered under this Act to grant petroleum-spirit licences—

(*a*) may purchase samples of any petroleum (*c*) from any dealer therein or from any person who keeps petroleum for the purposes of any trade or industry, or may on producing a copy of his appointment (*d*) purporting to be signed by the clerk or secretary of the local authority require the dealer or other person to show him every place and any vessels in which petroleum in his possession is kept and to give him samples of such petroleum on payment of the value thereof; and

(*b*) may test or cause to be tested (*e*) at any convenient place and at such reasonable time as he may appoint any samples so obtained by him.

(2) Any such officer shall, before testing or causing to be tested any samples under the last foregoing subsection, give to the dealer or other person from whom they were obtained notice in writing of the place and time at which they are to be tested, and the dealer or other person or any person appointed by him may be present at the testing.

(3) If it appears to the person testing any samples of petroleum obtained under this section that the petroleum is petroleum-spirit, he may give a certificate in writing to that effect, and a certificate so given shall be received in evidence in any proceedings under this Act against the person from whom the samples were obtained, so, however, that if, after hearing any evidence given by or on behalf of that person, the court before which the proceedings are taken is not satisfied as to the correctness of the certificate, the court may appoint some person skilled in testing petroleum to test the samples to which the certificate relates and to report whether the certificate is correct or not (*f*).

(4) Any expenses incurred in testing any samples of petroleum under this section shall, if the person from whom the samples were obtained is convicted of keeping, sending, conveying, selling, or exposing or offering for sale petroleum-spirit in contravention of this Act, be paid by that person, and shall be recoverable as part of the costs of the proceedings against him, but in every other case shall be paid by the local authority.

(5) If any dealer in petroleum or person who keeps petroleum for the purposes of any trade or industry, by himself or by anyone in his employ or acting by his direction or with his consent, refuses to show to an officer authorised by the local authority any place or vessel in which petroleum in his possession is kept, or to give to such an officer such assistance as he may require for examining any such place or vessel, or to give him samples of such petroleum on payment of the value thereof, or wilfully obstructs the local authority or any officer thereof acting in the execution of this Act, that dealer or other person shall be liable on summary conviction to a fine not exceeding twenty pounds.

(*a*) This section reproduces ss. 11 and 12 of the Petroleum Act, 1871, as amended by the Act of 1926, and the Petroleum (Amendment) Act, 1928.

(*b*) As to the local authorities empowered to grant licences, see s. 2, *ante*, p. 2991. The officer authorised must be supplied with a copy of his appointment signed by the clerk.

(*c*) Note that this section relates to the taking of samples of petroleum from dealers, etc. therein, and not only to premises in respect of which a licence under the Act is in force. As to the meaning of petroleum, see s. 23, *post*, p. 3005.

(*d*) Production of the copy appointment is necessary only for purposes of search, and not for purchase only.

(*e*) Before testing samples purchased the provisions of sub-s. (2) must be complied with.

(*f*) It is a question of fact for the court to decide whether the statutory directions as to testing (Sched. II., Part II., *post*, p. 3012) have been complied with (*Beck* v. *Stringer* (1871), L. R. 6 Q. B. 497; 35 J. P. 710).

Warrants to search for and seize petroleum-spirit.

18 (*a*).—(1) If a court of summary jurisdiction is satisfied by information on oath that there is reasonable ground for suspecting that any petroleum-spirit (*b*) is being kept, sent, conveyed, or exposed or offered for sale within the jurisdiction of the court in contravention of this Act, the court shall grant a search warrant authorising any person named therein to enter and examine any place, ship or vehicle named in the warrant and to search for and take samples of petroleum therein and to seize and remove any petroleum-spirit that he may find therein kept, sent, conveyed, or exposed or offered for sale in contravention of this Act, and the vessel containing any such petroleum-spirit, and to detain such petroleum-spirit and vessel until a court of summary jurisdiction has determined whether or not they are to be forfeited.

(2) Where any petroleum-spirit or vessel is seized by virtue of a warrant granted under this section—

(*a*) proceedings shall be commenced forthwith for determining whether or not it is to be forfeited; and

(*b*) the person seizing it shall not be liable to any proceedings for detaining it or for any loss or damage incurred in respect thereof except where the loss or damage is due to any wilful act or neglect while the petroleum-spirit or vessel is so detained; and

(*c*) in the case of any petroleum-spirit or vessel seized in any ship or vehicle, the person seizing it may for the purposes of the removal thereof use, during twenty-four hours, after the seizure, the ship or vehicle in which it was seized, with the tackle, beasts and accoutrements belonging thereto, but if he do so shall pay to the owner of the ship or vehicle reasonable compensation for the use thereof: the amount of such compensation shall, in default of agreement, be assessed by the court of summary jurisdiction before which proceedings are taken for determining whether or not the petroleum-spirit or vessel is to be forfeited, and may be recovered in like manner as fines under this Act may be recovered.

(3) If any person by himself or by anyone in his employ or acting by his direction or with his consent refuses or fails to admit into any place, ship or vehicle occupied by him or under his control any person authorised by a warrant granted under this section to enter that place, ship or vehicle, or obstructs or prevents any person from making any search, examination or seizure or taking any samples which he is authorised by such a warrant to make or take, that person shall be liable on summary conviction to a fine not exceeding twenty pounds and may be ordered by the court to forfeit any petroleum-spirit that is found in his possession or under his control with or without any vessel in which it is contained.

(*a*) This section reproduces s. 13 of the Petroleum Act, 1871.

(*b*) See the definition in s. 23, *post*, p. 3005. Observe that a search warrant can only be granted in respect of petroleum spirit, *cf*. s. 17, *ante*, p. 3002.

Power to apply Act to other Substances.

Power to make Orders in Council applying Act to other substances.

19 (*a*).—(1) His Majesty may by Order in Council apply to any substance (*b*) any of the provisions of this Act specified in the Order, with such modifications, if any, as may seem to His Majesty to be desirable having regard to the nature of the substance to which the Order relates.

(2) While any Order in Council relating to any substance is in force under this section, the provisions of this Act thereby applied shall have effect as if the substance were included in the definition of petroleum-spirit, but subject to such modifications, if any, as may be provided by the Order.

(3) Any Order in Council made under this section may be varied or revoked by any subsequent Order.

(*a*) This section reproduces s. 14 of the Petroleum Act, 1871, as amended by the Petroleum (Amendment) Act, 1928.

(*b*) Orders have been made in respect of disulphide of carbon (July 27th, 1928), of mixtures of petroleum with other substances (November 5th, 1929), and carbide of calcium (November 5th, 1929). These orders will be found set out in App. II., *post*, pp. 3633, 3641, 3640.

Supplementary.

Provisions as to apparatus for and method of testing petroleum.

42 & 43 Vict. c. 47.

20 (*a*).—(1) Models of the apparatus for testing petroleum, of which specifications are contained respectively in Part I of the Second Schedule (*b*) to this Act and in the First Schedule to the Petroleum Act, 1879 (*c*), shall remain deposited with the Board of Trade, and the Board shall, on payment of such fee, not exceeding twenty shillings, as the Board may from time to time prescribe, cause every apparatus constructed in accordance with either such specification which is submitted to them for the purpose to be compared with the appropriate model so deposited and to be verified, and shall stamp with a mark approved by the Board and notified in the London Gazette every such apparatus that is found to be correct, so, however, that no apparatus constructed in accordance with the specification contained in the First Schedule to the Petroleum Act, 1879, shall after the commencement of this Act be so verified and stamped unless it has been previously verified and stamped on or before the third day of August, nineteen hundred and twenty-eight (*d*).

(2) No apparatus for testing petroleum stamped by the Board of Trade in accordance with the provisions of this section shall be deemed to have been verified by the Board unless—

(*a*) it has been stamped within ten years; and

(*b*) no part of the apparatus has been materially altered, repaired, or replaced since the apparatus was last stamped

but save as aforesaid all such apparatus purporting to be so stamped shall be deemed to have been verified by the Board until the contrary is proved (*e*).

(3) All fees payable under this section shall be paid into the Exchequer.

(*a*) This section reproduces s. 3 of the Petroleum Act, 1871, as amended by ss. 2 and 3 of the Petroleum Act, 1926.

(*b*) See this Schedule, *post*, p. 3007.

(*c*) The First Schedule to the Petroleum Act, 1879, is repealed by this Act, but apparatus constructed in accordance with the specification contained in that Schedule may still be used if verified and stamped in accordance with this section. Such apparatus will, however, only be verified and stamped (see sub-s. (2)) if it had already been verified and stamped before August 3rd, 1928. The mode of conducting the test whichever form of apparatus is used must be that prescribed by Part II. of the Second Schedule, *post*, p. 3012.

(*d*) This date is fixed in consequence of the provision in s. 3 of the Petroleum Act, 1926, which enabled apparatus constructed in accordance with the specification contained in the Schedule to the 1879 Act to be originally stamped if submitted to the Board for verification within two years from the passing of the Act.

(e) Prior to the passing of the 1926 Act, apparatus once verified and stamped by the Board of Trade could continue to be used for testing for any length of time without further verification or stamping despite any alterations, etc. Now such apparatus must be re-verified and stamped after ten years from the date of the last stamping, or in the event of any part of the apparatus being materially altered, repaired or replaced.

Note to Section 20.

Regulations and bye-laws to be laid before Parliament.

21 (*a*). All regulations made by the Secretary of State (*b*) and all byelaws made by the Admiralty under this Act (*c*) shall be laid before each House of Parliament as soon as may be after they are made, and, if an Address is presented to His Majesty by either House of Parliament within the next subsequent forty days on which that House has sat next after any such regulation or byelaw is laid before it, praying that the regulation or byelaw may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new regulation or byelaw.

(*a*) This section reproduces s. 10 of the Petroleum Act, 1926, and ss. 3 (2) and 4 (2) of the Petroleum (Amendment) Act, 1928.

(*b*) Regulations may be made by the Secretary of State under ss. 6, 10 and 12, *ante*.

(*c*) The Admiralty may make byelaws under s. 7 (4), *ante*, p. 2994.

Confirmation and publication of byelaws.

22 (*a*). The Secretary of State or the Minister of Transport, as the case may be, may confirm any byelaws (*b*) submitted to him under this Act with or without any modifications, and any byelaws so confirmed shall be published by the authority by whom they were submitted in such manner as the Secretary of State or the Minister of Transport, as the case may be, may direct.

(*a*) This section reproduces part of s. 4 of the Petroleum Act, 1871, and ss. 5 (4) and 6 (3) of the Petroleum (Amendment) Act, 1928.

(*b*) Byelaws requiring confirmation by the Secretary of State may be made by county and borough councils in respect of petrol filling stations under s. 11, *ante*, p. 2996. Byelaws requiring confirmation by the Minister of Transport are those made by harbour authorities under s. 7, *ante*, p. 2994, and canal companies under s. 9, *ante*, p. 2995.

Interpretation.

23. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them (that is to say) :—

"Amenities," in relation to any place, includes any view of or from that place :

"Canal" and "canal company" have respectively the same meanings as in the Regulation of Railways Act, 1873 : 36 & 37 Vict. c. 48.

"Contravention" includes, in relation to any provision, a failure to comply with that provision, and the expression "contravene" shall be construed accordingly :

"Dock" includes any pier, jetty or other place, in or at which ships can ship or unship goods or passengers :

"Government inspector" means a Government inspector under the Explosives Act, 1875 : 38 & 39 Vict. c. 17.

"Harbour" means any harbour whether natural or artificial, and any port, haven, estuary, tidal or other river, canal or inland navigation navigated by sea-going ships and, subject to the provisions of this Act, any dock :

"Harbour authority" means any person or body of persons in whom are vested by or under any Act of Parliament powers and duties of improving, maintaining or managing a harbour, so, however, that where, as respects any dock within a harbour, such powers and duties are separately vested by or under any Act of Parliament in any person or body of persons, that person or body shall, as respects that dock, be the harbour authority, and the dock shall be deemed to be a separate harbour :

Section 23.

41 & 42 Vict. c. 49.

"I.W.G." means the denominations of standards approved by Order in Council made under the Weights and Measures Act, 1878, and dated the twenty-third day of August, eighteen hundred and eighty-three, known as the "Imperial Wire Gauge":

"Licensed premises" means any premises in respect of which a petroleum-spirit licence is in force under this Act:

"Motor vehicles" includes all mechanically-propelled vehicles intended or adapted for use on roads:

"Petroleum" includes crude petroleum, oil made from petroleum, or from coal, shale, peat or other bituminous substances, and other products of petroleum:

"Petroleum filling station" means any premises or place used or intended to be used by way of trade or for purposes of gain for fuelling motor vehicles with petroleum, and includes any building, advertisement, pump or other apparatus in, or used in connection with, any such premises:

"Petroleum-spirit" means such petroleum as when tested in the manner set forth in Part II of the Second Schedule (*a*) to this Act gives off an inflammable vapour at a temperature of less then seventy-three degrees Fahrenheit:

"Petroleum-spirit licence" means a licence authorising the keeping of petroleum-spirit granted by a local authority empowered under this Act to grant such a licence or by the Secretary of State (*b*):

"Ship" includes every description of vessel used in navigation, whether propelled by oars or otherwise.

(*a*) See this part of this Schedule, *post*, p. 3012.

(*b*) As to the grant of licences, see ss. 2 and 3, *ante*, pp. 2991, 2992.

24. [*Application to Scotland.*]

Savings.

25 (*a*).—(1) The powers conferred by this Act shall be in addition to and not in derogation of any other powers conferred on any local authority, harbour authority, or canal company by any Act (not being an enactment repealed by this Act), or by law or custom.

(2) Nothing in this Act shall be deemed to exempt any person from any penalty to which he would otherwise be subject in respect of a nuisance (*b*).

(*a*) This section reproduces s. 16 of the Petroleum Act, 1871, as amended by the Petroleum (Amendment) Act, 1928.

(*b*) See as to common law nuisances by storage of inflammable substances in crowded localities, *R.* v. *Lister* (1857), 26 L. J. M. C. 196; Dears. & B. 209; *Hepburn* v. *Lordan* (1865), 34 L. J. Ch. 293; 2 Hem. & M. 345; *St. Helens Corporation* v. *United Alkali Co.* (1901), Times, June 19th.

Short title, extent, repeal and commencement.

26.—(1) This Act may be cited as the Petroleum (Consolidated) Act, 1928.

(2) This Act shall not extend to Northern Ireland.

(3) The enactments mentioned in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule:

Provided that—

(*a*) any appointment, byelaw, regulation, order, licence, certificate or warrant, made, granted, given or issued and any proceedings taken, under any enactment hereby repealed, shall have effect as if made, granted, given, issued, or taken under the corresponding provision of this Act, and any byelaws made by a harbour authority as defined by this Act with respect to the landing of petroleum-spirit, being byelaws which under the said repealed enactments

Section 26.

applied with the necessary modifications to the loading of ships with such spirit, shall, until revoked, continue so to apply, and references in this Act to any appointment, byelaw, regulation, order, licence, certificate, warrant or proceedings shall have effect accordingly;

(b) any regulations made under section five of the Locomotives on Highways Act, 1896, and continued in force by subsection (4) of section ten of the Petroleum (Amendment) Act, 1928, shall have effect as if made under section ten of this Act, and in so far as any such regulations relate to any substance other than petroleum-spirit, section ten of this Act shall be deemed to have been applied to that substance under section nineteen of this Act;

59 & 60 Vict. c. 36.

18 & 19 Geo. 5, c. 20.

(c) any document referring to any enactment repealed by this Act shall be construed as referring to this Act and to the corresponding enactment, if any, therein.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

52 & 53 Vict. c. 63.

(5) This Act shall come into operation on the fourth day of August, nineteen hundred and twenty-eight.

SCHEDULES.

Section 4.

FIRST SCHEDULE.

Rates of Fees payable in respect of Licences to keep Petroleum-Spirit.

In respect of a licence to keep a quantity—	Rates per annum of fees payable. £	s.	d.
not exceeding 100 gallons	0	5	0
exceeding 100 gallons, not exceeding 500 gallons	0	10	0
,, 500 ,, ,, ,, 1,000 ,,	0	15	0
,, 1,000 ,, ,, ,, 5,000 ,,	1	0	0
,, 5,000 ,, ,, ,, 10,000 ,,	2	0	0
,, 10,000 ,, ,, ,, 20,000 ,,	3	0	0
,, 20,000 ,, ,, ,, 50,000 ,,	4	0	0
exceeding 50,000 gallons	5	0	0

Note.—In the case of a solid substance for which by virtue of an Order in Council made under section nineteen of this Act, a licence is required to be granted under the said section, the fee payable under this schedule shall be calculated as if ten pounds weight of the substance were equivalent to one gallon.

SECOND SCHEDULE.

Section 20.

Test Apparatus to be used and Manner of testing Petroleum therewith so as to ascertain the Temperature at which it will give off Inflammable Vapour.

Part I.

Specification of the Test Apparatus.

General.

The apparatus to be employed shall be the Abel Petroleum Testing apparatus or the Abel apparatus modified by having an oil cup provided with a stirrer. It shall

Sched. II. be constructed to the dimensions herein specified within the limits of accuracy prescribed by the tolerances set forth below.

The Oil Cup.

The oil cup consists of a cylindrical vessel open at the top and fitted on the outside with a flat circular flange projecting at right angles.

Within the cup, fixed through the wall and silver soldered or brazed in place, there is a gauge consisting of a piece of wire bent upwards and terminating in a point.

Material :—brass or gunmetal.

———	Dimension.	Tolerance.
Cup, wall and bottom thickness	17 I.W.G.	—
,, internal diameter	2″	±0·05″
,, internal depth	2·2″	±0·05″
Flange, thickness	17 I.W.G.	—
,, width	0·5″	±0·05″
,, distance of upper side from top edge of cup	0·375″	±0·05″
Gauge, thickness, not less than	10 I.W.G.	—
,, distance of point from level of upper edge of cup	0·7″	±0·005″

The Cover.

The cup is provided with a close-fitting cover with a downward projecting rim barely reaching the flange on the cup. The downward projecting rim is made solid with the top or silver soldered or brazed in place. Upon the cover are mounted a thermometer socket, trunnions to support an oil-test lamp, a pair of guides in which a slide moves, and a white bead. The top of the cover is pierced by three rectangular holes symmetrically placed on a diameter, one in the centre and the other two as close as practicable to the inner sides of the cover-rim and opposite each other. These three holes are covered or uncovered by means of a slide moving in suitably disposed guides. The slide has two perforations, one corresponding in all particulars to the centre hole in the cover and the other to one of the holes at the side. The movement of the slide is restricted by suitable stops, and its length and the disposition of the holes are such, that at the outer extremity of the movement of the slide, the holes in the cover are simultaneously just completely opened and at the inner extremity of the movement of the slide they are completely closed.

The trunnions supporting the test lamp are fixed on the top of the guides and the lamp is mounted in the trunnions so that it is free to oscillate. The lamp is provided with a jet to contain a wick and is so arranged that when the slide is moved so as to uncover the holes, the oscillating lamp is caught by a pin fixed in the slide and tilted over the central hole in such a way that the lower edge of the cover bisects the circle formed by the bore of the jet when in the lowest position. The flame then occupies a central position within the hole in both directions.

A suitably mounted gas-jet may be substituted for the lamp.

The thermometer socket is in the form of a split tube, mounted on a diameter at right angles to the diameter through the centres of the holes, and fitted at such an angle as to bring the bulb of the thermometer, when in place, vertically below the centre of the cover and at the correct distance from it.

A white bead, the dimensions of which represent the size of test flame to be used, is mounted in a visible position on the cover.

Materials :—all parts excepting bead :—brass or gun-metal.
bead :—ivory or other suitable material.

———	Dimension.	Tolerance.
Cover, thickness	0·05″	+0·015″
,, central hole, length (in direction of slide)	0·5″	±0·005″
,, width	0·4″	±0·005″
,, peripheral holes length (in direction of slide)	0·2″	±0·005″
,, width	0·3″	±0·005″
Slide, thickness	20 I.W.G.	—
,, width of upper surface	0·5″	+0·01″ (excess only).
Lamp. Overall length of jet	Approx. 0·6″	To suit the requirements for the position of jet when tilted.
,, Bore of jet at end	0·0625″	±0·005″
Bead. Diameter	0·15″	±0·01″
Thermometer Socket:		
Internal diameter	0·6″	±0·01″
Length of short side measured from under surface of cover	Approx. 0·5″	—
Length of long side measured from under surface of cover	Approx. 0·75″	—
Distance of centre of socket from centre of cover measured on the underside	Approx. 0·7″	—
These dimensions are subject to the correct placing of the thermometer when in position.		
Vertical depth of lowest part of thermometer below centre of underside of cover	1·5″	±0·1″

Cover fitted with stirrer.

Provision may be made in the cover for the reception of a stirrer which projects into the oil cup, for use with viscous materials only.

A bush is mounted on the cover in a position diametrically opposite the thermometer mounting and its length is such and it is set at such an angle that the stirrer rod clears the oil-level gauge and the blades operate below the level of and without fouling the thermometer bulb. The bush is placed as near as practicable to the outer edge of the cover.

The stirrer consists of a round stem having four blades or vanes silver soldered in place at one end. A collar is fixed on the stem so that when the stem is inserted into the bush from below, it is arrested at a position such that the correct length protrudes into the oil cup. The top end of the stem is reduced and screwed.

———	Dimension.	Tolerance.
Stem, length overall	4″	±0·1″
,, ,, Lower end to point of attachment of blades	Approx. 0·1″	—
,, ,, Lower end to upper surface of collar	1·9″	±0·1″
,, ,, Upper surface of collar to lower end of thread	2″	±0·1″
,, ,, Diameter of stem	Approx. 0·125″	—
,, ,, ,, of collar	Approx. 0·25″	—
,, Thread	7 B.A.	—
Blades, Thickness	17 I.W.G.	—
,, Length excluding root	0·5″	±0·01″
,, Breadth (all corners of blades rounded)	$\frac{5}{16}$″ (0·3125″).	±0·01″ —
,, Blade angle	Approx. 45°	
Sleeve. Length, to suit stem, giving free rotation with no appreciable vertical play when screwed home.	—	—
Diameter of bore	Sliding fit on stem,	—
Diameter of collar	Approx. 0·25″	—

Sched. II.

A long sleeve having an internally screwed knurled knob soldered to its upper end, is passed over the upper end of the stem and screwed home. The length of the sleeve is such that a flat-faced collar at its lower end just comes into contact with the upper end of the bush, leaving the stirrer free to rotate without appreciable vertical play.

A flat-headed cylindrical plug is provided for insertion in the bush when the stirrer is not in use.

Material:—brass or gun-metal.

Heating Vessel.

The heating vessel or bath consists of two flat-bottomed cylindrical copper vessels placed coaxially one inside the other and soldered at their tops to a flat copper ring, greater in outside diameter than the larger vessel and of smaller inside diameter than the smaller vessel. The space between the two vessels is thus totally enclosed and is used as a water jacket.

An ebonite or fibre ring of right-angle section is fitted into the hole in the centre of the flat ring forming the top of the bath and, when the apparatus is in use, the oil cup fits into, and its flange rests upon, this ebonite or fibre ring so that the oil cup is centrally disposed within the heating vessel. The ebonite or fibre ring is secured in place by means of six small screws having their heads sunk below the surface of the ring, to avoid metallic contact between the bath and the oil cup.

A split socket, similar to that on the cover of the oil cup, but set vertically, allows a thermometer to be inserted into the water-space. A funnel and overflow pipe also communicate with the water-space through the top plate and two loop handles are provided thereon.

——	Dimension.	Tolerance.
Inner vessel:		
Thickness	24 I.W.G.	—
Internal diameter	3″	±0·05″
Internal depth	2·5″	±0·05″
Outer vessel:		
Thickness, not less than	24 I.W.G.	—
Internal diameter	5·5″	±0·1″
Internal depth	5·75″	±0·1″
Top plate:		
Thickness, not less than	20 I.W.G.	—
Outer flange projection	0·375″	±0·1″
Diameter of central hole	To suit ebonite or fibre ring. Clearance not to exceed 0·1″.	—
Ebonite or fibre ring:		
Internal diameter	Easy fit on oil cup	—
External diameter of flange	2·75″	±0·02″
Overall depth of spigot	0·25″	±0·02″
Thickness, flange and spigot	0·08″	±0·005″
Screws, C.S.	8 B.A. × 0·15″	—
Thermometer socket:		
Internal diameter	0·6″	±0·01″
Height from top of plate	0·75″	±0·05″

The bath rests upon a cast-iron tripod stand, to the ring of which is attached a cylindrical copper jacket not less than 24 I.W.G. flanged inwards at the top, and of such dimensions that the bath, while resting firmly on the iron ring, just touches with its outward projecting flange the inward-turned flange of the jacket. Two handles are provided on the outer jacket.

Diameter of the outer jacket 6·5 inches ± 0·1 inches.

Spirit Lamp.

A spirit lamp is provided for raising the temperature of the water bath, but any other means approved by the Board of Trade may be employed for this purpose.

Thermometers.

Two thermometers are provided with the apparatus, the one for ascertaining the temperature of the bath, the other for determining the flashing point.

Oil Cup Thermometer.

Type	Mercury in glass, nitrogen filled, graduated on the stem, enamel back.
Length	Approximately 9 inches.
Stem	Diameter 0·24 inches to 0·28 inches.
Bulb	Spherical: made of a normal glass approved by the Board of Trade. Diameter, 0·35 inches ± 0·05 inches.
Range	50 degrees Fahrenheit to 150 degrees Fahrenheit with expansion chamber. Distance from the bottom of the bulb to the 50 degree line 2·75 inches to 3·15 inches. Distance from the 50 degree line to the 150 degree line not less than 4·75 inches.
Immersion	A swelling is made in the stem to ensure that the thermometer shall be fixed in its brass collar so that the distance from the top of the collar to the bottom of the bulb is 2·4 inches ± 0·05 inches.
Graduation	Scale graduated in 1 degree Fahrenheit divisions. Every fifth degree and tenth degree to be indicated by longer lines. Figured at every tenth degree in full.
Marking	"Abel Oil Cup": Identification number: "Fahrenheit": Maker's or Vendor's name or trade mark.

Water Bath Thermometer.

Type	Mercury in glass, nitrogen filled, graduated on the stem, enamel back.
Length	Approximately 9 inches.
Stem	Diameter, 0·24 inches to 0·28 inches.
Bulb	Cylindrical: made of a normal glass approved by the Board of Trade. Length approximately 0·8 inches. Diameter not to exceed the diameter of the stem.
Range	90 degrees Fahrenheit to 190 degrees Fahrenheit with expansion chamber. Distance from the bottom of the bulb to the 90 degree line 3·95 inches to 4·35 inches. Distance from the 90 degree line to the 190 degree line not less than 3·55 inches.
Immersion	A swelling is made in the stem to ensure that the thermometer shall be fixed in its brass collar so that the distance from the top of the collar to the bottom of the bulb is 3·5 inches ± 0·1 inches.
Graduation	Scale graduated in 1 degree Fahrenheit divisions. Every fifth degree and tenth degree to be indicated by longer lines. Figured at every tenth degree in full.
Marking	"Abel Water Bath": Identification number: "Fahrenheit": Maker's or Vendor's name or trade mark.

The brass collar of the thermometer is in each case of the following dimensions:—

Outside diameter – push fit in socket.
Thickness of tube – 22 I.W.G.
Thickness of flange – 0·1 inches. ± 0·001 inches.

Note.—A model apparatus is deposited at the Standards Department of the Board of Trade.

Sched. II.

Section 23.

PART II.

Manner of Testing Petroleum.

1. For the purposes of this Act petroleum shall be tested either by means of apparatus constructed in accordance with the specification contained in Part I. of this Schedule, or by means of apparatus constructed in accordance with the specification contained in the First Schedule to the Petroleum Act, 1879, and verified and stamped by the Board of Trade.

2. The test apparatus shall be placed for use in a position where it is not exposed to currents of air or draughts.

3. The heating vessel or water-bath shall be filled by pouring water into the funnel until it begins to flow out at the spout of the vessel. The temperature of the water at the beginning of the test shall be 130 degrees Fahrenheit and no heat shall be applied to the water-bath during the test. When a test has been completed and it is desired to make another test the water-bath shall be again raised to 130 degrees Fahrenheit which may conveniently be done while the petroleum cup is being emptied, cooled and refilled with a fresh sample to be tested. The next test is then proceeded with.

4. If an oil test-lamp is being used it shall be prepared by fitting it with a piece of flat plaited candle-wick, and filling it with colza or rape-oil up to the lower edge of the opening of the spout or wick tube. The lamp shall be trimmed so that when lighted it gives a flame of about 0·15 of an inch diameter, and this size of flame, which is represented by the projecting white bead on the cover of the oil-cup, is readily maintained by simple manipulation from time to time with a small wire trimmer. A gas test-lamp may be employed, and if so, the size of the jet of flame shall be adjusted to the size laid down above.

5. The bath having been raised to the proper temperature, the cup shall be placed on a level surface in a good light and the oil to be tested shall be poured into it, until the level of the liquid just reaches the point of the gauge which is fixed in the cup. Before a test is begun the temperature of the oil shall be determined and shall be brought to approximately 60 degrees Fahrenheit. The cover, with the slide closed, shall then be put on to the cup and pressed down so that its edge rests on the rim of the cup, and the cup shall be placed into the bath or heating vessel, every care being taken to avoid wetting the sides of the cup with the oil. The thermometer in the lid of the cup has been adjusted so as to have the correct immersion when the brass collar of the thermometer is properly seated, and its position shall not in any circumstances be altered. When the cup has been placed in the proper position the scale of the thermometer faces the operator.

6. The test-lamp shall then be placed in position upon the lid of the cup. When the temperature has reached 66 degrees Fahrenheit the operation of testing shall be begun, the test flame being applied once for every rise of one degree, in the following manner :—

> The slide shall be slowly drawn open while a metronome, set so as to beat at the rate of 75 to 80 beats in the minute, beats three times and shall be closed during the fourth beat. A pendulum of 24 inches effective length may be used in place of the metronome, counting one beat from one extremity of the swing to the other.

Section 26.

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
34 & 35 Vict. c. 105.	The Petroleum Act, 1871.	The whole Act.
42 & 43 Vict. c. 47.	The Petroleum Act, 1879.	The whole Act.
13 & 14 Geo. 5, c. 4.	The Fees (Increase) Act, 1923.	Section four.
16 & 17 Geo. 5, c. 25.	The Petroleum Act, 1926.	The whole Act.
18 & 19 Geo. 5, c. 20.	The Petroleum (Amendment) Act, 1928.	The whole Act.

Section 1.

SHOPS (HOURS OF CLOSING) ACT, 1928.

(18 & 19 GEO. 5, c. 33.)

An Act to amend the law relating to the closing of shops; and for purposes connected therewith (*a*). [3rd August, 1928.]

Closing hours.

1.—(1) Every shop shall, save as otherwise provided by this Act, be closed for the serving of customers not later than nine o'clock in the evening on one day in the week (in this Act referred to as "the late day"), and not later than eight o'clock in the evening on any other day in the week, and those hours are in this Act referred to as the "general closing hours (*b*)."

(2) The late day shall be Saturday unless the local authority (*c*) by order fix some other day as the late day, and any such order may fix the same day for all shops, or may fix—

(*a*) different days for different classes of shops; or

(*b*) different days for different parts of the district; or

(*c*) different days for different periods of the year:

Provided that, where the local authority have under the Shops Act, 1912 (*d*) (hereinafter referred to as "the principal Act"), fixed any day as the weekly half-holiday for any class of shop, or for any part of their district, or for any period of the year, they shall, as respects that class, part, or period, fix some other day as the late day.

2 & 3 Geo. 5, c. 3.

(3) Nothing in this Act or in any closing order made under the principal Act shall prevent—

(*a*) the serving of a customer where it is proved that the customer was in the shop before the closing hour, or that reasonable grounds existed for believing that the article supplied after the closing hour to a customer was required in the case of illness (*e*); or

(*b*) any transaction mentioned in the First Schedule to this Act (*f*).

(*a*) This Act amends the Shops Act, 1912, *ante*, p. 2715, and is to be construed as one therewith (s. 10 (2)).

(*b*) As to closing orders under the 1912 Act, see s. 5, *ibid.*, *ante*, p. 2721, and their effect upon this provision, s. 4, *post*, p. 3014. As to penalties for breach of the provisions of this Act or orders made thereunder, see s. 8, *post*, p. 3016. As to the suspension of this provision, see s. 7, *post*, p. 3016.

(*c*) The local authority here referred to is that prescribed by s. 13 (2) of the 1912 Act, *ante*, p. 2725 (s. 10 (2), *post*, p. 3017).

(*d*) See s. 4 of the 1912 Act, *ante*, p. 2718.

(*e*) See the similar proviso to s. 4 (7) of the 1912 Act, and notes thereto, *ante*, p. 2719.

(*f*) See this Schedule at p. 3017, *post*.

Special provisions as to confectionery.

2. Subject as hereinafter provided (*a*), as respects the trade or business of selling table waters, sweets, chocolates, or other sugar confectionery or ice cream, the general closing hours shall be ten o'clock in the evening on the late day and half-past nine o'clock in the evening on any other day (*b*):

Provided that a local authority may, in their area or in any part thereof, by order substitute for either of the general closing hours hereinbefore in this section mentioned an earlier hour, not being earlier than eight o'clock in the evening, if they are satisfied (*c*) that such an order is desired by the occupiers of a majority of the shops to be affected by the order.

(*a*) *I.e.* s. 5 as to exhibitions, s. 6 as to holiday resorts, s. 7 as to Christmas and special occasions, and Sched. I. (*a*), (*d*) and (*e*) as to meals, licensed premises and places of entertainment.

(*b*) As to penalties for breach of the provisions of this Act or orders made thereunder, see s. 8, *post*, p. 3016.

As to the suspension of this provision, see s. 7, *post*, p. 3016.

Note to Section 2.

(*c*) Note that before making such an order, the local authority (see s. 13 (2) of the 1912 Act, *ante*, p. 2725) must be satisfied the order is desired by the majority of the occupiers of the shops affected. No procedure is prescribed to enable the local authority to ascertain the wishes of the majority as in s. 6 (1) of the 1912 Act, *ante*, p. 2721, though it would probably be desirable for the local authority to follow the procedure there laid down, subject to a bare majority being sufficient. As to proof of an order, see s. 18 (1) of the 1912 Act, *ante*, p. 2727. An order under this section may only make the closing hour earlier. An order made under this section may be revoked (s. 18 (2) of the 1912 Act, *ante*, p. 2727). As to the suspension of such an order, see s. 7, *post*, p. 3016.

Special provisions as to tobacco and smokers' requisites.

3. As respects the trade or business of selling tobacco and smokers' requisites, a local authority may, in their area or in any part thereof, by order substitute for the general closing hours fixed by this Act later hours, not being later than ten o'clock in the evening on the late day or half-past nine o'clock in the evening on any other day, if they are satisfied that such an order is desired by the occupiers of at least two-thirds in number of the shops to be affected by the order (*a*).

(*a*) An order under this section can only be made if two-thirds of the occupiers of the shops affected are in favour of the order, *cf.* s. 6 (1) of the 1912 Act, *ante*, p. 2721. An order under this section may only make the closing hour later. As to penalties for breach of the provisions of this Act or orders made thereunder, see s. 8, *post*, p. 3016. As to proof of an order under this section, see s. 18 (1) of the 1912 Act, *ante*, p. 2727. An order made under this section may be revoked, see s. 18 (2), *ibid.*, *ante*, p. 2727.

See also s. 5 as to exhibitions, s. 6 as to holiday resorts, s. 7 as to Christmas and special occasions, and Sched. I. (*a*) (ii), (*d*) and (*e*) as to meals, licensed premises and places of entertainment.

Saving as to closing orders.

4. Save as in this Act otherwise expressly provided, nothing in this Act shall affect—

(*a*) any closing order in force at the commencement of this Act fixing closing hours earlier than the general closing hours fixed by or under the provisions of this Act (*a*); or

(*b*) the power of a local authority by a closing order made and confirmed in manner provided by the principal Act (*b*) to fix, subject to the limits imposed by that Act, closing hours earlier than the general closing hours fixed by or under the provisions of this Act:

Provided that any closing order, whether made before or after the commencement of this Act, shall be of no effect in so far as it authorises sales after the general closing hours fixed by or under the provisions of this Act or contains provisions inconsistent with the provisions of this Act.

(*a*) Closing orders could be made under ss. 5 and 6 of the 1912 Act, *ante*, p. 2721.

Any closing order inconsistent with the provisions of this Act shall be of no effect, see proviso to this section. Any closing order prescribing closing hours earlier than those fixed by s. 1 of this Act will not, therefore, apply to the trades referred to in ss. 2 and 3, *ante*, pp. 3013, 3014.

(*b*) *I.e.* by s. 6 of the 1912 Act, *ante*, p. 2721. See, however, the proviso to this section and note (*a*), *supra*.

Power to grant exemption in respect of exhibitions.

5.—(1) As respects any retail trade or business (*a*) carried on at an exhibition or show (*b*) within the area of a local authority (*c*), the local authority may by order substitute for the general closing hours fixed by or under this Act, or for any closing hour fixed by a closing order made under the principal Act, later hours, not being later than ten o'clock in the evening, if they are satisfied that the retail trade or business so carried on is subsidiary or ancillary only to the main purpose of the exhibition or show.

(2) Any order under this section shall be made subject to such conditions as the local authority may consider necessary for securing that shop assistants (*a*) affected by the order shall not be employed in or about the retail trade or business to which the order relates for more than such number of hours as may be specified by the order.

Note to Section 5.

(a) For the definition of this expression, see s. 19 (1) of the Act of 1912, *ante*, p. 2728.

(b) The Act does not apply to lawful fairs or to bazaars or sales of work for charitable or other purposes from which no private profit is derived (s. 19 (2) of the 1912 Act, *ante*, p. 2728. See s. 10 (2), *post*, p. 3017).

(c) As to the meaning of local authority in this Act, see s. 13 (2) of the 1912 Act, *ante*, p. 2725 (s. 10 (2), *post*, p. 3017).

Special provisions as to holiday resorts and sea fishing centres.

6.—(1) In places frequented as holiday resorts (*a*) during certain seasons of the year, and in places where sea fishing is principally carried on during certain seasons of the year, the local authority (*b*) shall (*c*) by order, during such period (*d*) as may be specified in the order, substitute for the general closing hours fixed by or under this Act such later hours as they may think fit (*e*) if, upon application being made to them for an order under this section, they are satisfied that such an order is desired by the occupiers of a majority of the shops to be affected by the order:

Provided that the local authority shall not in any year by orders under this subsection substitute later hours for the closing hours fixed by this Act for periods exceeding four months in the aggregate in that year.

(2) Any order under this section—

(*a*) may be made so as to apply to the whole or to any part of the area of the local authority, and to all shops, or to shops of any class, within that area or part; and

(*b*) shall be made subject to such conditions as the local authority may consider necessary for securing that shop assistants affected by the order shall not be employed in or about the business of a shop for more than such number of hours as may be specified by the order; and

(*c*) may suspend the operation of any closing order made under the principal Act (*f*) which is, for the time being, in force in the area of the local authority (*g*).

(3) If, while orders made under this section are in force, any shop assistant (*h*) affected by any such order is, in any year, employed in or about the business of a shop (*h*) for extra hours (*j*), he shall, subject to the provisions of the Second Schedule to this Act (*k*), be entitled to corresponding holidays, calculated in accordance with the provisions of that Schedule, with full wages (*j*); and if at the date of the termination of his employment or at the end of the year, whichever first occurs, default has been made in granting to him any holiday or wages to which he is entitled under this subsection, the shop assistant may recover as a debt due from the employer for every day's holiday in respect of which such default has been made a sum equal to one-sixth of the highest weekly rate of wages paid to him in respect of his employment in or about the business of the shop during the year or the part thereof during which he has been employed therein.

(4) For the purposes of this Act—

"Extra hours" means, in relation to any shop assistant, hours in excess of the customary working day (*j*), being hours after the general closing hours fixed by or under this Act (*l*) otherwise than by an order made under this section;

"Customary working day" means, in relation to any shop assistant (*m*), the daily number of hours during which shop assistants of his class are, while unaffected by any order made under this section, customarily employed in or about the business of the shop (*m*) in which he is employed;

"Full wages" means, in relation to any holiday granted to a shop assistant (*m*), wages at a rate equivalent to the rate of wages to which he was entitled immediately before the holiday.

Note to Section 6.

(*a*) As to the meaning of this expression, see note (*b*) to s. 11 of the 1912 Act, *ante*, p. 2724.
(*b*) As to the meaning of local authority in this Act, see s. 13 (2) of the 1912 Act, *ante*, p. 2725 (s. 10 (2), *post*, p. 3017).
(*c*) An obligation is imposed upon local authorities to make orders under this section if application is made to them, and the order is desired by the majority of the occupiers of the shops affected, *cf*. s. 11 of the 1912 Act, *ante*, p. 2724.
(*d*) Not exceeding in the aggregate four months in any one year (proviso to this subsection).
(*e*) Note that no limit is placed upon the local authority's discretion under this section other than the approval of the order by the majority of the occupiers of shops.
(*f*) *I.e.* under ss. 5 and 6 of the 1912 Act, *ante*, p. 2721.
(*g*) As to the penalties for contravention of the order, see s. 8, *infra*. As to proof of an order, see s. 18 (1) of the 1912 Act, *ante*, p. 2727. The order may be revoked (s. 18 (2) of the 1912 Act, *ante*, p. 2727). As to the suspension of an order, see s. 7, *infra*.
(*h*) See the definition in s. 19 (1) of the 1912 Act, *ante*, p. 2728 (s. 10 (2), *post*, p. 3017).
(*j*) See the definition in sub-s. (4).
(*k*) See this Schedule at p. 3018, *post*.
(*l*) *I.e.* as prescribed by s. 1 or an order made under ss. 2 or 3 of this Act, or an order made under ss. 5 and 6 of the 1912 Act, as saved by s. 4 of this Act.
(*m*) See the definition in s. 19 (1) of the 1912 Act, *ante*, p. 2728 (s. 10 (2), *post*, p. 3017).

Power to suspend operation of Act and closing orders on special occasions

7.—(1) The Secretary of State may by order for such periods as he thinks fit suspend the operation of the provisions of this Act relating to general closing hours (*a*) during the Christmas season or in connection with any other special occasion, and while any order made under this subsection is in force the provisions of any closing order made under the principal Act (*b*) shall be deemed to be suspended except in so far as may be otherwise directed by the order of the Secretary of State.

(2) Subject as hereinafter provided, a local authority (*c*) may, in connection with any special occasion, by order suspend (*d*) the operation of the provisions of this Act relating to general closing hours and the provisions of any closing order made by them under the principal Act for such period as they may think fit:

Provided that a local authority shall not in any year by orders under this subsection suspend the operation of the said provisions for more than seven days in the aggregate in that year.

(*a*) *I.e.* under ss. 1 and 2, *ante*, p. 3013.
(*b*) *I.e.* under ss. 5 and 6 of the 1912 Act, *ante*, p. 2721.
(*c*) As to the meaning of local authority in this Act, see s. 13 (2) of the 1912 Act, *ante*, p. 2725 (s. 10 (2), *post*, p. 3017).
(*d*) Note the limitation on the power of local authorities to suspend contained in the proviso to this subsection.

Offences.

8. In the case of any contravention of or failure to comply with any of the provisions of this Act or of a closing order made under the principal Act (*a*), or in the case of any breach of a condition imposed by any order (*b*) made under this Act, the occupier of the shop shall be guilty of an offence against the principal Act (*c*) and liable to a fine not exceeding—

(*a*) in the case of a first offence, five pounds;

(*b*) in the case of a second or subsequent offence, twenty pounds.

(*a*) *I.e.* under ss. 5 and 6 of the 1912 Act, *ante*, p. 2721.
(*b*) *I.e.* under s. 6 (2) (*b*), *ante*, p. 3015.
(*c*) As to offences under the 1912 Act, see s. 14, *ibid.*, *ante*, p. 2726.

Consequential and minor amendments of 2 Geo. 5, c. 3.

9. The amendments in the second column of the Third Schedule to this Act (being consequential amendments and amendments relating to matters of minor detail) shall be made in the provisions of the principal Act specified in the first column of that Schedule.

Short title, citation, construction, extent and repeal.

10.—(1) This Act may be cited as the Shops (Hours of Closing) Act, 1928, and this Act and the Shops Acts, 1912 and 1913, may be cited together as the Shops Acts, 1912 to 1928.

(2) Except where the context otherwise requires, references in this Act to the principal Act shall be construed as references to that Act as amended by this Act, and this Act shall be construed as one with the Shops Acts, 1912 and 1913 (*a*).

(3) This Act shall not extend to Northern Ireland.

(4) The enactments mentioned in the Fourth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(*a*) As to the meaning of this expression, see note to s. 1 of the Private Street Works Act, 1892, *ante*, p. 918.

SCHEDULES.

FIRST SCHEDULE.

Section 1.

TRANSACTIONS NOT PREVENTED BY THIS ACT OR BY CLOSING ORDERS MADE UNDER THE PRINCIPAL ACT.

1. The sale after the closing hour of—

(*a*) meals or refreshments (including table waters, sweets, chocolates, sugar confectionery, and ice cream), for consumption on the premises, or (in the case of meals or refreshments sold on railway premises) for consumption on the trains:

Provided that—

(i) in the case of canteens attached to and situated within or in the immediate vicinity of any works, if persons are employed at such works after the closing hour, and the canteen is kept open only for the use of such persons, meals or refreshments may be sold after the closing hour for consumption anywhere within the works premises; and

(ii) for the purposes of the foregoing provisions tobacco supplied at a meal for immediate consumption shall be deemed to form part of the meal;

(*b*) newly cooked provisions and cooked or partly cooked tripe to be consumed off the premises;

(*c*) intoxicating liquors to be consumed on or off the premises;

(*d*) tobacco, table water or matches on licensed premises during the hours during which intoxicating liquor is permitted by law to be sold on the premises;

(*e*) tobacco, matches, table waters, sweets, chocolates, or other sugar confectionery or ice cream, at any time during the performance in any theatre, cinema, music hall, or other similar place of entertainment so long as the sale is to a bonâ fide member of the audience and in a part of the building to which no other members of the public have access;

(*f*) medicine or medical or surgical appliances, so long as the shop is kept open only for such time as is necessary for serving the customer;

(*g*) newspapers, periodicals and books from the bookstalls of such terminal and main line stations as may be approved by the Secretary of State;

(*h*) aircraft, motor, or cycle, supplies or accessories for immediate use, so long as the shop is kept open only for such time as is necessary for serving the customer;

(*i*) victuals, stores, or other necessaries required by any naval military or air force authority for His Majesty s forces or required for any ship on her arrival at or immediately before her departure from a port, so long as the shop is kept open only for such time as is necessary for serving the customer.

2. The transaction after the closing hour of any post office business.

Section 6.

SECOND SCHEDULE.

METHOD OF CALCULATING THE HOLIDAYS TO WHICH ANY SHOP ASSISTANT IS ENTITLED UNDER SUBSECTION (3) OF SECTION SIX (*a*) OF THIS ACT.

1. The number of extra hours (*b*) for which a shop assistant has been employed in or about the business of the shop while any one or more orders have been in force under section six of this Act shall be added together, any fraction of an hour not exceeding half being treated as half an hour, and any fraction of an hour exceeding half being treated as an hour.

2. For the purposes of this Schedule the number of hours comprised in the customary working day (*b*) on days other than half holidays shall be taken as the standard unit.

3. The aggregate number of the extra hours, as calculated in accordance with the provisions of paragraph 1 of this Schedule shall be divided by the standard unit, and the quotient, fractions thereof being disregarded, shall be the number of the days' holiday to which the shop assistant shall be entitled.

(*a*) See this subsection at p. 3015, *ante*.
(*b*) See the definition in s. 6 (4), *ante*, p. 3015.

Section 9.

THIRD SCHEDULE.

CONSEQUENTIAL AND MINOR AMENDMENTS OF THE SHOPS ACT, 1912.

Enactments amended.	Amendment.
Section 9 - -	For the words " to such exemptions and conditions (if any) as may be contained in closing orders " there shall be substituted the words " in so far as the prohibition is affected by any " closing order, to such exemptions and conditions, if any, " as may be contained in the order."
Section 10 - -	The following subsection shall be inserted after subsection (1):— " (1A) Where several trades and businesses are carried " on in the same shop and any of those trades or businesses " consist only of transactions of such a nature that if they " were the only transactions carried on in the shop the " provisions of this Act relating to general closing hours " would not apply to the shop, the shop may be kept open " after the general closing hour for the purposes of those " transactions alone, subject, however, to such conditions " as may be prescribed "; and in subsection (3) for the word " under " there shall be substituted the words " or any proportion or number of occupiers " or of shops for the purposes of "
Section 11 - -	The following subsection shall be inserted after subsection (1):— " (1A) Any order made under this section may be made " so as to apply to the whole or to any part of the area of " the local authority, and to all shops, or to shops of any " class, within that area or part."

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

Section 10.

Session and Chapter.	Short Title.	Extent of Repeal.
2 Geo. 5, c. 3.	The Shops Act, 1912.	In section five, sub-sections (4) and (5) thereof; in section twelve, paragraph (*c*) of sub-section (1) thereof; and the Third Schedule.
10 & 11 Geo. 5, c. 58.	The Shops (Early Closing) Act, 1920.	The whole Act.
11 & 12 Geo. 5, c. 60.	The Shops (Early Closing) Act, 1920 (Amendment) Act, 1921.	The whole Act.

RAG FLOCK ACT (1911) AMENDMENT ACT, 1928.

(18 & 19 GEO. 5, c. 39.)

An Act to amend the Rag Flock Act, 1911 (*a*). [3rd August, 1928.]

1. For the removal of doubts it is hereby declared that the expression "flock manufactured from rags" means flock which has been produced wholly or partly by tearing up woven or knitted or felted materials, whether old or new, but does not include flock obtained wholly in the processes of the scouring and finishing of newly woven or newly knitted or newly felted fabrics.

Interpretation of 1 & 2 Geo. 5, c. 52, s. 1.

(*a*) This Act amends the Rag Flock Act, 1911, *ante*, p. 2712, by importing a definition. See the notes thereto.

2. This Act may be cited as the Rag Flock Act (1911) Amendment Act, 1928, and this Act and the Rag Flock Act, 1911, may be cited together as the Rag Flock Acts, 1911 and 1928.

Short title and construction.

ELECTRICITY (SUPPLY) ACT, 1928.

(19 GEO. 5, c. 4.)

An Act to amend section sixteen of the Electricity (Supply) Act, 1919 (*a*). [19th December, 1928.]

1. Section sixteen of the Electricity (Supply) Act, 1919, shall have effect as if the words "before the said eighth day of May" wherever they occur in that section were omitted.

Amendment of 9 & 10 Geo. 5, c. 100, s. 16.

(*a*) See this section at p. 2791, *ante*.

2. This Act may be cited as the Electricity (Supply) Act, 1928, and shall be construed as one with the Electricity (Supply) Acts, 1882 to 1926 (*a*), and those Acts and this Act may be cited as the Electricity (Supply) Acts, 1882 to 1928.

Short title and construction.

(*a*) See as to these Acts, note (*a*) to the Electricity (Supply) Act, 1926, *ante*, p. 2909.

FACTORY AND WORKSHOP (COTTON CLOTH FACTORIES) ACT, 1929.

(19 GEO. 5, c. 15.)

An Act to empower the Secretary of State to make regulations with respect to cotton cloth factories and for purposes connected with the enforcement of the enactments relating to such factories. [27th March, 1929.]

Power to make regulations as to cotton cloth factories.

1.—(1) The Secretary of State may make regulations (*a*) for the purpose of giving effect to the recommendations contained in the Report, dated the twenty-third day of January, nineteen hundred and twenty-eight, of the Committee appointed by the Secretary of State on the fifth day of November, nineteen hundred and twenty-four, to consider and report whether, and, if so, what modifications of the existing statutory regulations governing the use of artificial humidity in cotton cloth factories (*b*) are desirable and practicable.

(2) Section ninety-five of the principal Act (*c*) (which relates to penalties for non-compliance with the provisions of that Act with regard to cotton cloth factories) shall apply to any contravention of or failure to comply with any regulations in force under this Act, and both in its application to those regulations and in its application to the provisions of the principal Act, shall have effect as if there were therein substituted for the words " twelve months " the words " twenty-four months."

(3) Before any regulations are made under this Act, a draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and if either House before the expiration of that period resolves that the regulations shall not come into force, no further proceedings shall be taken thereon, but without prejudice to the making of any new draft regulations.

(*a*) The Cotton Cloth Factories Regulations, 1929 (S. R. & O., 1929, No. 300), have been made under this section.

(*b*) See the definition in s. 3 (2), *post*, p. 3021.

(*c*) *I.e.* the Factory and Workshop Act, 1901. See the section set out at p. 2630, *ante*.

Certificates required before approval of building plans relating to cotton cloth factories.

2. No plans or sections relating to the erection or conversion of a building proposed to be used as a cotton cloth factory (*a*) shall be approved by any local authority to whom they have been submitted in pursuance of any Act or of any byelaw made under any Act unless they are accompanied by a certificate in writing issued by the superintending inspector of factories for the division in which the building is proposed to be erected or converted, certifying that the building to which the plans and sections relate would not, if erected or converted in accordance therewith, contravene or fail to comply with the regulations in force under this Act (*b*).

(*a*) See the definition in s. 3 (2), *post*, p. 3021.

(*b*) This section imposes a statutory prohibition on the approval of plans to which the section refers by a local authority unless the certificate of the superintending inspector of factories accompanies the submitted plans. If this certificate accompanies the plans, the authority may consider if the plans comply with the byelaws and if satisfied that they do so, must approve them. See notes to s. 158, P. H. A., 1875, *ante*, p. 370.

Short title, citation, construction, repeal and extent.

3.—(1) This Act may be cited as the Factory and Workshop (Cotton Cloth Factories) Act, 1929, and this Act and the Factory and Workshop Acts, 1901 to 1920, may be cited together as the Factory and Workshop Acts, 1901 to 1929.

(2) In this Act—

"Cotton cloth factory" means any room, shed or workshop, or part thereof, in which the weaving of cotton cloth is carried on:

"Principal Act" means the Factory and Workshop Act, 1901. 1 Edw. 7, c. 22.

(3) This Act shall be construed as one with (a) the principal Act, so, however, that the provisions of the principal Act relating to regulations made under that Act shall not apply to regulations made under this Act.

(4) The provisions of sections ninety, ninety-one, ninety-two and ninety-four of the principal Act and of the Fourth Schedule to that Act, so far as those provisions relate to cotton cloth factories, and the Factory and Workshop (Cotton Cloth Factories) Act, 1911, are hereby repealed: 1 & 2 Geo. 5, c. 21.

Provided that any regulation or requirement made or certificate or notice given under the Factory and Workshop (Cotton Cloth Factories) Act, 1911, or any regulation made thereunder, which is in force at the commencement of this Act, shall continue in force and have effect as though it had been made or given under this Act or under the regulations made thereunder as the case may be.

(5) This Act shall not extend to Northern Ireland.

(a) As to the meaning of this expression, see note to s. 1 of the Private Street Works Act, 1892, *ante*, p. 918.

THE COMPANIES ACT, 1929.

(19 & 20 GEO. 5, C. 23.)

An Act to consolidate the Companies Act, 1908 *to* 1928, *and certain other enactments connected with the said Acts.* [10th May, 1929.]

* * * * * *

Payments of certain debts out of assets subject to floating charge in priority to claims under the charge.

78 (*a*).—(1) Where, in the case of a company registered in England, either a receiver is appointed on behalf of the holders of any debentures (*b*) of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up (*c*), the debts which in every winding-up are under the provisions (*d*) of Part V. of this Act relating to preferential payments to be paid in priority to all other debts, shall be paid out of any (*e*) assets coming to the hands of the receiver, or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures (*f*).

(2) The periods of time mentioned in the said provisions of Part V. of this Act shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(3) Any payments made under this section shall be recouped (*g*) as far as may be out of the assets of the company available for payment of general creditors.

(*a*) It was held in *Richards* v. *Kidderminster Overseers*, [1896] 2 Ch. 212, that the Preferential Payments in Bankruptcy Act, 1888, now repealed and re-enacted by 4 & 5 Geo. 5, c. 59, *ante*, p. 2734, which then applied also to companies being wound up, did not give a preferential charge in respect of rates where a receiver for debenture holders had taken possession of the goods of a liquidating company. In consequence of this decision, the Preferential Payments in Bankruptcy Amendment Act, 1897, was passed. That Act (which was held not to be retrospective in *In re Waverley Typewriter, Ltd.*, [1898] 1 Ch. 699) was repealed by the Companies (Consolidation) Act, 1908, and re-enacted in practically identical language in ss. 107 and 209, *ibid.* (see *per* TOMLIN, J., in *In re Glyncorrwg Colliery Co.*, [1926] Ch., at p. 959). That Act is now repealed and the sections referred to are re-enacted in the section in the text and s. 264.

Note to Section 78.

(*b*) Debentures include debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not (s. 380 (1)).

(*c*) If the company is being wound up, s. 264 (1) (b), *infra*, makes the rates a preferential charge.

(*d*) For such provisions, see s. 264, *infra.*

(*e*) " Any assets " in this section is limited to any assets subject to the floating charge (*In re Lewis Merthyr Consolidated Collieries, Ltd.*, [1929] 1 Ch. 498).

(*f*) A judgment in a debenture holders' action formerly directed an inquiry as to creditors entitled to preferential payment under the Acts of 1888 and 1897 (*In re Meaby & Co.* (1899), W. N. 58; *In re Birmingham Breweries, Ltd.*, [1899] W. N. 92). The later practice was for every order appointing a receiver in such an action to direct him to pay forthwith the debts of the company having by virtue of the Acts priority over the debentures (Practice Note, [1900] W. N. 58; Seton, 6th ed., vol. 3, p. 2040).

It was held that the repealed enactment applied where a receiver appointed by the debenture holders under a power contained in the debentures had taken possession, though no receiver had been appointed by the court (*In re Barnby's, Ltd.*, [1899] W. N. 103). By a bank mortgage the defendants conveyed and assigned to the plaintiff's (*inter alia*) their electric theatre business, specific business premises, and all chattels then or thereafter placed therein. The mortgage was to secure the defendants' banking account, and it was intended that they might use the chattels in carrying on their business. The chattels came to be in the possession of a receiver appointed in a foreclosure action at a time when certain rates were due from the defendants. It was held that so far as both present and future chattels were concerned the mortgage was only a floating security, so that the charge on the chattels ranked after claims for rates which were preferential over such a floating charge under the sections of the 1908 Act corresponding to this section and s. 264, *post* (*National Provincial Bank of England, Ltd.* v. *United Electric Theatres, Ltd.*, [1916] 1 Ch. 133; 80 J. P. 153).

(*g*) As to such recoupment, see *In re Mannesmann Tube Co.*, [1901] 2 Ch. 93.

* * * * * *

Preferential payments.

264 (*a*).—(1) In a winding up there shall be paid in priority to all other debts—

(a) All parochial or other local rates (*b*) due from the company at the relevant date, and having become due and payable within twelve months next before that date, and all assessed taxes, land tax, property or income tax assessed on the company up to the fifth day of April next before that date, and not exceeding in the whole one year's assessment;

(b) All wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the company during four months next before the relevant date (*c*), not exceeding fifty pounds; and

(c) All wages of any workman or labourer not exceeding twenty-five pounds, whether payable for time or for piece work, in respect of services rendered to the company during two months next before the relevant date: Provided that where any labourer in husbandry has entered into a contract for the payment of a portion of his wages in a lump sum at the end of the year of hiring, he shall have priority in respect of the whole of such sum, or a part thereof, as the court may decide to be due under the contract, proportionate to the time of service up to the relevant date; and

(d) Unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, or unless the company has at the commencement of the winding up under such a contract with insurers as is mentioned in section seven of the Workmen's Compensation Act, 1925, rights capable of being transferred to and vested in the workman, all amounts due in respect of any compensation or liability for compensation under the said Act accrued before the relevant date.

Section 264.

(e) Unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all amounts due in respect of contributions payable during the twelve months next before the relevant date by the company as the employer of any persons under either

(i) the National Health Insurance Acts, 1924 to 1928 ; or

(ii) the Widows', Orphans' and Old Age Contributory Pensions Act, 1925 ; or

(iii) the Unemployment Insurance Acts, 1920 to 1929.

(2) Where any compensation under the Workmen's Compensation Act, 1925, is a weekly payment the amount due in respect thereof shall, for the purposes of paragraph (d) of subsection (1) of this section, be taken to be the amount of the lump sum for which the weekly payment could, if redeemable, be redeemed if the employer made an application for that purpose under the said Act.

(3) Where any payment on account of wages or salary has been made to any clerk, servant, workman or labourer in the employment of a company out of money advanced by some person for that purpose, that person shall in a winding up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman or labourer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made.

(4) The foregoing debts shall—

(a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions ; and

(b) In the case of a company registered in England, so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures (*d*) under any floating charge created by the company and be paid accordingly out of any property comprised in or subject to that charge (*e*).

(5) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them, and in the case of the debts to which priority is given by paragraph (e) of subsection (1) of this section formal proof thereof shall not be required except in so far as is otherwise provided by general rules.

(6) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof :

Provided that in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(7) In this section the expression "the relevant date" means—

(a) In the case of a company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding-up order ; and

(b) in any other case (*f*), the date of the commencement of the winding up.

(*a*) The 1908 Act repealed the Preferential Payments in Bankruptcy Act, 1888, so far as it related to companies, and the amending Act of 1897 (see note (*a*) to s. 78, *ante*,

Note to Section 264. p. 3021, which only applied to companies. It re-enacted their provisions without substantial alteration. The sections in the text now contain similar provisions.

Until the Act of 1888 came into force, rates due and payable before the commencement of a winding up had no similar priority (notwithstanding s. 10 of the Judicature Act, 1875, and s. 40 of the Bankruptcy Act, 1883) (*Re Art Engraving Co., Ltd.* (1889), 60 L. T. 381).

As to rates made during the winding up, see *In re Blazer Fire Lighter Co.*, [1895] 1 Ch. 402, following *In re National Arms and Ammunition Co.* (1885), 28 Ch. D. 474 ; see also *In re International Marine Hydropathic Co.* (1884), 28 Ch. D. 470. For the earlier rule upon the point, see *In re West Hartlepool Iron Co.* [1876), 34 L. T. 568 ; *In re Watson, Kipling & Co.* (1883), 23 Ch. D. 500. As to obtaining leave to distrain for rates during a winding up by or under the supervision of the court, see ss. 172, 174, 177 and 258 of the present Act, and *In re Watson, Kipling & Co., supra ; In re International Marine Hydropathic Co., supra ; In re National Arms and Ammunition Co., supra ; Re Dry Docks Corporation* (1888), 39 Ch. D. 306.

As to distraint upon a liquidator personally if he is the rated occupier, see conflicting decisions in *R.* v. *Curzon* (1882), 46 L. T. 159, and *Dent* v. *Commondale Overseers* (1892), 56 J. P. 519 ; and *cf. In re Wearmouth Crown Glass Co.* (1882), 19 Ch. D. 640.

In *Kershaw Leese & Co.* v. *Stockport Overseers*, [1923] 2 K. B. 129, it was held that where the valuation list and consequently the rate were altered as a result of an objection to the valuation list, the rates did not become due and payable until it had been so altered.

The director of a company who under a guarantee pays rates on behalf of the company can stand in the place of the principal creditor and claim preferential payment under this section (*In re Lamplugh Iron Ore Co., Ltd.*, [1927] 1 Ch. 308).

As to the application of this section to the winding up of an unregistered company, see s. 338. As to companies within the Stannaries, see ss. 298, 299.

(*b*) As to the meaning of parochial or other local rates, clerk or servant, see note (*c*), *ante*, p. 2735.

(*c*) Where a voluntary winding up of a company is succeeded by a compulsory order, the four months for which a clerk or servant can claim preferential payment of wages are the four months next before the resolution for the voluntary winding up (*Re Havana Exploration Co., Ltd., Nathan's Claim*, [1916] 1 Ch. 8).

(*d*) Debentures include debenture stock, bonds and any other securities of a company whether constituting a charge on the assets of the company or not (s. 330 (1)).

(*e*) The effect of sub-s. (1) (*a*), sub-s. 4 (*b*), and sub-s. (5) is to make the costs and expenses of the winding up payable out of the assets not comprised in the debenture security before the payment of the preferential debts, but if the general assets after the discharge of the costs and expenses of the winding up are insufficient for the payment of these preferential debts, then to the extent to which they are insufficient, the amount must be made up by the debenture holder whose security creates a floating charge upon the company's property, out of the property comprised in or subject to that charge ; or in other words, whether a creditor is an unsecured creditor or a debenture holder whose only security is that of a floating charge, he is equally to be postponed in respect of any claim of his against the assets of the company, until their preferential debts have been paid, but the free general assets must be exhausted before recourse is had to the assets charged. Where in a winding up the general assets are insufficient for the payment of the preferential creditors of the company the proper plaintiff in an action under this section to recover contribution from a debenture holder with a floating charge towards payment of the preferential debt is the liquidator acting in the name of the company (*Westminster Corporation* v. *Chapman*, [1916] 1 Ch. 161 ; 80 J. P. 74).

An injunction was granted to restrain a lessor from levying distress under his lease so as to enable the preferential claims to be paid in full (*In re South Rhondda Colliery Co.* (1898), *Ltd.*, [1928] W. N. 126).

(*f*) By s. 227 a voluntary winding up is deemed to commence at the time of the passing of the resolution authorising the winding up ; *i.e.* of the extraordinary or confirmatory resolution, as the case may be.

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GAS UNDERTAKINGS ACT, 1929.

(19 & 20 GEO. 5, c. 24).

An Act to amend the law with respect to gas undertakings, and for purposes connected therewith (*a*). [10th May, 1929.]

Power of Board of Trade to make orders increasing authorised amount of share capital or of loans (*b*).

1.—(1) Notwithstanding anything in any enactment (including this Act) imposing a limit on the amount of share capital which may be raised or of money which may be borrowed by undertakers, not being a local authority (*c*), for the purposes of their undertaking, the Board of Trade may, on the application of any such undertakers and subject to the provisions of this section, by order authorise the undertakers on such conditions as may be specified in the order for the purposes of their undertaking—

(a) to raise, at any time during the period of three years after the date on which the order comes into operation, any such amount of share capital as may be specified in the order; and

(b) to borrow on mortgage of their undertaking or by the creation and issue of debenture stock any amount not exceeding the aggregate amount of the paid up share capital of the undertaking for the time being and of any premiums paid in respect thereof.

(2) An order shall not be made under this section except with the consent of the local authority (*c*):

Provided that if, in the opinion of the Board of Trade, the consent of the local authority is unreasonably withheld, the Board may, in the case of applicants who have within the period of fifteen years preceding the date of the application obtained in relation to their undertaking either a special Act or a provisional order confirmed by an Act, make the order notwithstanding that such consent has not been given (*d*).

(3) An order under this section may contain such modifications of any enactment applying to the undertakers in respect of whom the order is made as, in the opinion of the Board, are necessary in order to give full effect to the order.

(*a*) This Act amends the Gas Regulation Act, 1920, *ante*, p. 2807.

(*b*) See the Gas (Capital & Borrowing Powers) Rules, 1929 (S. R. & O., 1929, No. 454). Observe that this section does not apply to local authority undertakers but that the consent of the local authority must be obtained to the making of an order (sub-s. (2)).

(*c*) For the definition of local authority, see s. 18 of the Gas Regulation Act, 1920, *ante*, p. 2817 (s. 10 (2), *post*, p. 3029).

(*d*) Observe that it is only in the case of applicants to whom this proviso applies, that the consent of the local authority can be dispensed with, however unreasonably it may have been withheld.

Authorised amount of loans (*a*).

2. Notwithstanding anything in any enactment, undertakers, not being a local authority, may borrow for the purposes of their undertaking on mortgage of their undertaking or by the creation and issue of debenture stock, any amount not exceeding one half of the aggregate amount of the paid up share capital for the time being of the undertaking and of any premiums paid in respect thereof.

(*a*) This section does not apply to local authorities.

Increase of authorised amount of reserved fund or of special purposes fund (*b*).

3.—(1) Section thirty-one of the Gasworks Clauses Act, 1847 (*a*) (which provides for the formation of a reserved fund of a limited amount) and section thirty-three of that Act (which provides for the case where that fund amounts to the prescribed sum) shall, in the case of undertakers not being a local authority, have effect as if for the references therein to a sum equal

10 & 11 Vict. c. 15.

to one-tenth of the nominal capital of the undertakers there were substituted references to a sum equal to one-tenth of the aggregate amount of the paid up share capital of the undertakers, of any premiums paid in respect thereof and of any outstanding loans raised by the undertakers on mortgage or by the creation and issue of debenture stock.

(2) Where any enactment applying to any such undertakers as aforesaid authorises the formation of a special purposes fund and limits the amount of that fund by reference to the paid up capital of the undertaking, the said enactment shall have effect as if for the reference to the paid up capital of the undertaking there were substituted a reference to the aggregate amount of the paid up share capital of the undertaking, of any premiums paid in respect thereof and of any outstanding loans raised by the undertakers on mortgage or by the creation and issue of debenture stock.

(3) Where at any time, by reason of any reduction in the amount of outstanding loans, the amount of a reserved fund formed by undertakers in pursuance of the said section thirty-one is in excess of the amount authorised by that section as amended by this section, the amount of the excess shall forthwith be carried by the undertakers to the credit of their net revenue account.

(4) Any special purposes fund formed by undertakers in pursuance of any enactment may be maintained at any amount to which it has lawfully been raised in pursuance of that enactment as amended by this section, notwithstanding any subsequent reduction in the amount of outstanding loans.

(*a*) See this section at p. 2174, *ante*.
(*b*) This section does not apply to local authorities.

Extension of powers of purchase of residual products (*a*).

4.—(1) Any undertakers may, notwithstanding anything to the contrary contained in any Act or Order relating to them, purchase in such quantities as they think fit from any company, body or person carrying on a gas undertaking (whether with or without statutory authority) or operating coke ovens or carrying on any process of carbonisation or gasification of coal or coke any residuals arising from the manufacture of gas, or the carrying on of any such operation or process and products arising from a primary treatment of those residuals by such company, body or person, and may exercise in relation to residuals or products so purchased the powers which would have been exerciseable by them if such residuals or products had arisen in carrying on their gas undertaking in accordance with their statutory powers.

(2) The powers conferred by this section shall be in addition to and not in derogation of any powers conferred or to be conferred upon the undertakers by any special Act.

(*a*) This section applies to local authority undertakers.

Supply of gas by undertakers to premises outside limits of supply (*a*).

5.—(1) The Board of Trade, if they are satisfied that the owner or occupier of any premises, not being within a distance of twenty-five yards from any main of the undertakers within whose limits of supply the premises are situate, desires to obtain a supply of gas from other undertakers, may, subject to the provisions of this section, by order authorise the last mentioned undertakers to supply gas to those premises on such conditions as may be specified in the order.

(2) An order under this section may contain such modifications of any enactment applying to the undertakers in respect of whom the order is made as, in the opinion of the Board, are necessary in order to give full effect to the order.

(3) An order shall not (unless, in the opinion of the Board, consent is unreasonably withheld) be made except with the consent of the undertakers within whose limits of supply the premises are situate and of the local authority (*b*) within whose area the premises are situate.

(4) Notwithstanding anything in this section, every order thereunder in respect of any undertakers shall be framed so as to secure that the provisions of the Gasworks Clauses Act, 1847, with respect to the breaking up of streets for the purpose of laying pipes (*c*) shall apply in relation to pipes for the supply of gas by the undertakers under the order as they apply in relation to pipes for the supply of gas by the undertakers under the enactments applying to them before the making of the order.

(*a*) This section applies to local authority undertakers. As to applications for orders under this section, see the Gas (Bordering Premises) Rules 1929, in App. II., *post*, p. 3346. Apart from this provision gas cannot be supplied to premises outside the area of the supply of the undertakers (see note (*b*) to the Gasworks Clauses Act, 1847, s. 1, *ante*, p. 2165), premises which may be supplied under an order made under this section must be within 25 yards from a main of the supplying undertakers although outside their area of supply. As to the calculation of this distance, see the cases cited in note (*e*) to s. 23 of the P. H. A., 1875, *ante*, p. 90.

(*b*) Observe that the consent of both the undertakers and of the local authority in whose area the premises to be supplied are situate must be obtained but can be dispensed with in any case if unreasonably withheld.

(*c*) *I.e.* ss. 6–12, *ante*, pp. 2167–2170.

Undertakers supplying more than a certain quantity of gas to charge on basis of British thermal units (*a*).

6.—(1) Where any undertakers who are not authorised by any enactment or by any order under section one of the principal Act to charge for gas according to the number of British thermal units supplied, have, in any year subsequent to the year nineteen hundred and twenty-seven, supplied more than twenty million cubic feet of gas, they shall, in respect of gas supplied by them on or after the appointed day (*b*), charge therefor according to the number of British thermal units supplied, and the maximum or standard price, in respect of gas supplied by any such undertakers on or after the appointed day, shall be a price per therm of such an amount as is produced by dividing by five the maximum or standard price per thousand cubic feet authorised immediately before the appointed day by any enactment applying to the undertakers.

(2) For the purpose of giving effect to this section, the Board of Trade shall, in respect of each of the undertakers to whom this section applies, make an order which may contain such provisions as are authorised or required by subsection (4) (*c*) of section one of the principal Act to be contained in an order under that section.

(3) Sections two, five, six, seven and nine (*d*) of the principal Act shall apply to all undertakers to whom this section applies as if those undertakers were undertakers with respect to whom an order under that Act had been made and as if the provisions contained in this section or in any order made thereunder were contained in that Act.

(4) So much of any special Act or provisional order applying to any such undertakers as makes provision with respect to the quality, pressure, or purity of gas supplied by them shall, as from the appointed day, cease to have effect.

(5) For the purposes of this section, the appointed day shall—

(*a*) as respects any undertakers who, in the year nineteen hundred and twenty-eight, have supplied more than twenty million cubic feet of gas, be such day not later than the first day of April, nineteen hundred and thirty, as the Board of Trade may prescribe by the order made under this section in respect of these undertakers; and

(*b*) as respects any other undertakers to whom this section applies, be the first day of January in the second year after the year in which they first supplied more than twenty million cubic feet of gas.

(*a*) This section applies to local authority undertakers. The Board of Trade had power under s. 1 (5) of the Gas Regulation Act, 1920, to make orders applying a thermal basis of charge to any undertakers who had not applied for such an order before August 4th, 1922. The section in the text requires an order of a similar nature to be made in the case of undertakers who have supplied more than 20,000,000 cub. ft. of gas in any year since 1927. An order made under this section will have a similar effect to one made under the 1920 Act.

(*b*) As to this date, see sub-s. (5).

(*c*) See this subsection at p. 2808, *ante*.

(*d*) See these sections at pp. 2809, 2811, 2812 and 2813, *ante*.

Extension of Board of Trade's power to make special orders under principal Act (*a*).

7. The power of the Board of Trade to make special orders under section ten (*b*) of the principal Act shall include powers to make a special order—

(*a*) authorising the applicants therefor to construct gasworks or manufacture or supply gas in any area within the limits of supply of any existing undertakers who have failed to lay down or provide mains for the supply of gas in the area, and prohibiting the existing undertakers from exercising in the area any of the powers conferred on them in respect of their undertaking (*c*);

(*b*) providing, where the applicants for the order are a company authorised by any enactment to supply water or electricity as well as gas, that any loan lawfully raised by the company for the purposes of so much of their undertaking as relates to gas may be secured by a charge upon the whole of their undertaking (*d*);

(*c*) making provision for modifying any enactment regulating the gas undertaking to which the order relates by inserting therein provisions corresponding to provisions contained in any special Acts or provisional orders regulating other gas undertakings (*e*):

Provided that no order shall be made under paragraph (*a*) of this section in relation to any area within the limits of supply of existing undertakers unless five years have elapsed since the date on which those undertakers first obtained their powers to lay down or provide mains for the supply of gas in that area.

(*a*) This section applies to local authority undertakers.

(*b*) See this section at p. 2814, *ante*.

(*c*) Such an order will enable a progressive undertaking to extend its limits of supply to the detriment of an undertaking which is not serving its whole area of supply. See the proviso to this provision at the end of the section.

(*d*) An order of this nature may be of use to a local authority with a successful electricity undertaking in expanding a small gas undertaking.

(*e*) This provision will enable special orders to be kept up to date and will avoid the necessity for applications to Parliament for private bills to secure powers which have been obtained by one undertaker from Parliament.

Minor amendments of principal Act.

8. The amendments specified in the second column of the Schedule to this Act, being minor amendments of the principal Act, shall be made in the provisions of that Act specified in the first column of that Schedule (*a*).

(*a*) These amendments have been incorporated in the text of the Act of 1920, where it is set out at pp. 2807 *et seq.*, *ante*.

Interpretation.

9. In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Debenture stock" in relation to any undertakers means debenture stock created and issued subject to, and in accordance with, the provisions of Part III. of the Companies Clauses Act, 1863, as applying to those undertakers:

26 & 27 Vict. c. 118.

Section 9.

"Enactment" includes any public general Act, any special Act, and any provisional order confirmed by an Act:

"Principal Act" means the Gas Regulation Act, 1920: 10 & 11 Geo. 5, c. 28.

"Share capital" includes stock not being debenture stock:

"Undertaking" means gas undertaking.

Short title, citation, construction and extent.

10.—(1) This Act may be cited as the Gas Undertakings Act, 1929, and the principal Act and this Act may be cited together as the Gas Undertakings Acts, 1920 and 1929.

(2) Except where the context otherwise requires, references in this Act to the principal Act shall be construed as references to that Act as amended by this Act, and this Act shall be construed as one (*a*) with that Act.

(3) This Act shall not extend to Northern Ireland.

(*a*) As to the effect of this provision, see note to s. 1 of the Private Street Works Act, 1892, *ante*, p. 918.

SCHEDULE.

Section 8.

MINOR AMENDMENTS OF GAS REGULATION ACT, 1920 (*a*).

(*a*) These amendments have been incorporated in the text of the Act of 1920, at pp. 2807 *et seq.*, *ante.*

ARTIFICIAL CREAM ACT, 1929.

(19 & 20 GEO. 5, C. 32.)

An Act to regulate the sale and manufacture of artificial cream (*a*).

[10th May, 1929.]

Regulation of sale of artificial cream.

1.—(1) No person shall sell or offer or expose for sale for human consumption under a description or designation including the word "cream" any substance purporting to be cream or artificial cream as defined in this Act (*b*) unless—

(*a*) the substance is cream as defined in this Act, or

(*b*) where the substance is artificial cream as defined in this Act, the word "cream" is immediately preceded by the word "artificial."

(2) Every receptacle used for the conveyance of artificial cream for sale for human consumption, or containing artificial cream at any time when it is exposed for such sale, shall have the words "artificial cream" printed in large and legible type either on the receptacle itself or on a label securely attached thereto.

(3) If any person contravenes any of the provisions of this section, he shall be guilty of an offence against this Act (*c*).

(*a*) The enforcement of this Act must be carried out by the Food and Drugs Authority as defined in s. 13 of the Food and Drugs (Adulteration) Act, 1928, *ante*, p. 2966.

(*b*) See the definitions in s. 6, *post*, p. 3031.

(*c*) As to the penalties for offences against the Act, see s. 5, *post*, p. 3031.

Registration of premises where artificial cream is manufactured or sold.

2.—(1) Artificial cream (*a*) shall not be manufactured, sold or exposed or kept for sale for human consumption except at premises registered with the Food and Drugs Authority (*b*):

Provided that this requirement shall not apply—

(*a*) to the manufacture of artificial cream, by any person solely for his domestic purposes; or

Section 2.

(*b*) to the manufacture on any premises of artificial cream for use in the preparation on those premises of some other article of food; or

(*c*) to the sale, exposure or keeping for sale of artificial cream on any premises where it is not supplied otherwise than in the properly closed and unopened receptacles in which it was delivered to those premises.

(2) The Food and Drugs Authority (*b*) shall keep a register of premises under this section, and shall on application being made by the owner or occupier of any premises enter the premises in the register (*c*) and shall from time to time revise the register as occasion may require.

(3) Any officer of the Food and Drugs Authority (*b*) duly authorised in that behalf by the authority may at all reasonable times enter and inspect any premises registered with the authority under this section (*d*).

(4) If a justice of the peace is satisfied by information on oath that there is reasonable ground for supposing that any unregistered premises are being used for the manufacture of artificial cream contrary to the provisions of this section, he may grant a search warrant authorising any such officer as aforesaid to enter and inspect the premises and to search for and seize any machine suitable for use in the manufacture of artificial cream.

(5) If any person uses any unregistered premises for the manufacture or sale of artificial cream in contravention of this section, or obstructs any such officer as aforesaid in the execution of his powers under this section, or fails to give any such officer all reasonable assistance in his power, or to furnish him with any information he may reasonably require, he shall be guilty of an offence against this Act (*e*).

(*a*) See the definition in s. 6, *post*, p. 3031.
(*b*) As to this authority, see s. 13 of the Food and Drugs (Adulteration) Act, 1928, *ante*, p. 2966.
(*c*) Observe that the authority must register if application is made: The Act makes no provision for refusal or cancellation of registration.
(*d*) This right of inspection can only be exercised in relation to registered premises, a search warrant must be obtained under the next subsection before unregistered premises can be entered.
(*e*) As to the penalties for an offence against the Act, see s. 5, *post*, p. 3031.

Application to artificial cream of provisions relating to cream.

5 & 6 Geo. 5, c. 66.

3. Such of the provisions of the Public Health Acts, 1875 to 1926 (*a*) (or, in London, the Public Health (London) Acts, 1891 to 1926), and the Milk and Dairies (Consolidation) Act, 1915 (*b*), and of any order or regulation made under any of those Acts, as relate to cream (*c*) (other than those relating to registration) shall apply to artificial cream (*c*).

(*a*) See, for example, ss. 116–119 of the P. H. A., 1875, *ante*, pp. 231–239, as extended by s. 28 of the P. H. A., 1890, *ante*, p. 892, the P. H. (Regulations as to Food) Act, 1907, *ante*, p. 1098, and the regulations made thereunder.
(*b*) This Act is set out and annotated at pp. 1217 *et seq.*
(*c*) See the definition in s. 6, *post*, p. 3031.

Enforcement of Act.

18 & 19 Geo. 5, c. 31.

4. It shall be the duty of every Food and Drugs Authority (*a*) to enforce the provisions of this Act, and any expenses incurred by the authority for that purpose shall be defrayed as expenses under the Food and Drugs (Adulteration) Act, 1928 (*b*):

Provided that this section shall not apply to such of the provisions of any Act, order or regulation applied by this Act as are enforceable by any other authority.

(*a*) As to these authorities, see s. 13 of the Food and Drugs (Adulteration) Act, 1928, *ante*, p. 2966.
(*b*) As to these expenses, see s. 26, *ibid.*, *ante*, p. 2977.

Penalties.

5.—(1) If any person commits an offence against this Act, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, five pounds, in the case of a second or subsequent offence, fifty pounds, and in any case where the offence is a continuing offence (*a*), to a further fine not exceeding forty shillings for each day during which the offence continues.

(2) For the purposes of proceedings under this Act—

(*a*) where artificial cream is sold or offered, exposed or kept for sale, it shall be presumed to be sold or offered, exposed or kept for sale for human consumption unless the contrary is proved;

(*b*) where any article having the composition of cream or artificial cream is sold or exposed or kept for sale on premises registered under this Act, it shall be presumed to be artificial cream unless the contrary is proved.

(3) The provisions of subsection (6) of section twenty-seven (*b*) and of sections twenty-nine (*b*) and thirty (*b*) of the Food and Drugs (Adulteration) Act, 1928, relating to offences and warranties under that Act, as set out with the appropriate modifications in the Schedule to this Act, are hereby incorporated with this Act and shall apply to proceedings under this Act.

(*a*) As to continuing offences, see note (*h*) to s. 158 of the P. H. A., 1875, *ante*, p. 375.

(*b*) These sections are set out and annotated at pp. 2978, 2981, and 2984, *ante*. Reference should, however, be made to the Schedule, *infra*, in which they are printed as modified and applied to this Act.

Definitions.

6. In this Act—

"Food and Drugs Authority" has the same meaning as in the Food and Drugs (Adulteration) Act, 1928 (*a*);

"Cream" means that portion of natural milk rich in milk fat which has been separated by skimming or otherwise;

"Artificial cream" means an article of food resembling cream and containing no ingredient which is not derived from milk except water or any ingredient or material which by virtue of the proviso to subsection (2) of section two (*b*) of the Food and Drugs (Adulteration) Act, 1928, may lawfully be contained in an article sold as cream.

(*a*) See s. 13 of the 1928 Act, *ante*, p. 2966.

(*b*) See this proviso and notes thereto at p. 2949, *ante*.

7. [*Application to Scotland.*]

Short title, commencement and extent.

8.—(1) This Act may be cited as the Artificial Cream Act, 1929.

(2) This Act shall come into operation on the first day of June, nineteen hundred and twenty-nine.

(3) This Act shall not extend to Northern Ireland.

SCHEDULE.

Provisions of Food and Drugs (Adulteration) Act, 1928, applied.

1 (*a*). Where an employer is charged with an offence against this Act, he shall be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the employer proves to the satisfaction of the court that he had used due diligence to enforce the execution of this Act, and that the said other person had committed

Schedule. the offence in question without his knowledge, consent or connivance, the said other person shall be summarily convicted of the offence, and the employer shall be exempt from any penalty.

2 (*b*). Subject to the provisions of this schedule a defendant shall be discharged from any prosecution under this Act for selling, or offering or exposing for sale artificial cream, if he proves to the satisfaction of the court that he had purchased the article in question as cream, and with a written warranty or invoice to that effect, and that he had no reason to believe at the time of the commission of the alleged offence that the article was not cream and that at that time the article was in the same state as when he purchased it.

3 (*b*). A warranty or invoice shall only be a defence to proceedings under this Act if—

(*a*) the defendant has within seven days of the service of the summons sent to the prosecutor a copy of the warranty or invoice with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person; and

(*b*) in the case of a warranty or invoice given by a person resident outside the United Kingdom the defendant proves that he had taken reasonable steps to ascertain, and did in fact believe in the accuracy of the statement contained therein.

4 (*b*). The person by whom the warranty or invoice is alleged to have been given shall be entitled to appear at the hearing and to give evidence, and the court may, if it thinks fit, adjourn the hearing to enable him to do so.

5 (*b*). Where the defendant is a servant of the person who purchased the article under a warranty or invoice he shall be entitled to rely on the provisions of this schedule in the same way as his employer would have been entitled to do if he had been the defendant, provided that the servant further proves that he had no reason to believe that the article was not cream.

6 (*c*). Every person who wilfully applies to an article in any proceedings under this Act a warranty or invoice given in relation to any other article, shall be guilty of an offence against this Act.

7 (*c*). Every person who, in respect of artificial cream sold by him as principal or agent, gives to the purchaser a false warranty in writing, shall be guilty of an offence against this Act, unless he proves to the satisfaction of the court that when he gave the warranty he had reason to believe that the statements or descriptions contained therein were true.

8 (*c*). Where the defendant in a prosecution under this Act has been discharged under the provisions of this schedule relating to warranties, any proceedings under this schedule for giving the warranty relied on by the defendant in the prosecution, may be taken as well before a court having jurisdiction in the place where the contravention of this Act took place as before a court having jurisdiction in the place where the warranty was given.

(*a*) This paragraph corresponds with s. 27 (6) of the 1928 Act, *q.v.* with notes thereto at p. 2978, *ante.*

(*b*) This paragraph and paragraphs 3, 4 and 5 correspond with s. 29 of the 1928 Act, *q.v.* with notes thereto at p. 2981, *ante.*

(*c*) This paragraph and paragraphs 7 and 8 correspond with s. 30 of the 1928 Act, *q.v.* with notes thereto at p. 2984, *ante.*

FIRE BRIGADE PENSIONS ACT, 1929.

(19 & 20 GEO. 5, c. 35.)

An Act to amend section eighteen of the Fire Brigade Pensions Act, 1925 (*a*).
[10th May, 1929.]

Amendment of 15 & 16 Geo. 5, c. 47, s. 18.

1. The following amendments shall be made in section eighteen of the Fire Brigade Pensions Act, 1925 (which provides for the return of rateable deductions in certain cases) that is to say:

(*a*) at the end of subsection (1) there shall be inserted the words "together with any sum paid by him to the local authority under subsection (2) of section twenty-two of this Act";

(*b*) in subsection (2), after the words "rateable deductions," in both places where those words occur, there shall be inserted the words "and sum";

(*c*) after subsection (2) there shall be inserted "the following subsection";

> "(3) Where a professional fireman while serving in the fire brigade, dies in such circumstances that no pension, allowance, or gratuity is payable under section three of this Act at his death, the local authority shall pay to his widow or if he leaves no widow, to his personal representatives the whole of the rateable deductions which have been made from his pay, together with any sum paid by him to the local authority under subsection (2) of section twenty-two of this Act.
>
> Provided that, where the deceased leaves no widow, the local authority may, if in the circumstances of the case they consider that it would be unreasonable to require probate or other proof of the title of his personal representatives, pay or distribute the amount payable under this subsection to or among the persons appearing to the local authority to be beneficially entitled to the personal estate of the deceased or to or among any one or more of those persons as the local authority may think fit, and the local authority, and any officer of the local authority making the payment, shall be discharged from all liability in respect of any such payment or distribution."

(*a*) See this section at p. 2894, *ante*. The amendments effected by this Act have been incorporated in the text of the section.

Short title and citation. 15 & 16 Geo. 5. c. 47.

2. This Act may be cited as the Fire Brigade Pensions Act, 1929, and shall be construed as one with the Fire Brigade Pensions Act, 1925, and that Act and this Act may be cited together as the Fire Brigade Pensions Acts, 1925 and 1929.

APPENDIX II.

COMPRISING ORDERS, ETC., AND OTHER DOCUMENTS ARRANGED IN ALPHABETICAL ORDER OF SUBJECTS.

Reference may also be made to the annual volumes of "Local Government" issued by Messrs. Butterworth, containing all official documents relating to matters, included in this work, which have appeared during each year since 1908.

ACCOUNTS AND AUDIT.

See also Rating and Valuation.

Although by section 58 of the L. G. A., 1894 (*ante*, p. 1023), it is (amongst other things) enacted that the accounts of district councils shall be made up in such form as the L. G. B. prescribe, neither the Board nor their Successors, the Ministry of Health, have since prescribed any such form. The L. G. B. stated in a circular of December 24th, 1894, that, pending the issue of an Order for Accounts, rural district councils should keep their accounts in the form adopted by their predecessors the rural sanitary authorities. As regards the accounts of urban district councils, in previous editions there has been included the General Order of March 22nd, 1880, this order is still applicable to urban authorities, but is, for all practical purposes, now obsolete and it has accordingly been omitted.

PURCHASE OF PERIODICAL PUBLICATIONS—MEMORANDUM.

Memorandum as to the Legality of Expenses incurred by Local Authorities in purchasing Periodical Publications.

The Local Government Board have recently had under consideration the question of the legality of the purchase by local authorities, at the cost of the funds under their control, of periodical publications which contain reports of decisions of the courts of law, or other information connected with matters subject to their jurisdiction.

Hitherto the Board have generally considered that the local rates could not legally be expended in the purchase of the publications referred to.

Recently, however, they have seen reason to doubt whether this view could be supported, and they have therefore consulted the law officers of the Crown upon the point. The effect of the opinion given by the law officers is, that if the publications referred to contain information so immediately connected with the discharge of their duties by the local authorities as to be likely to enable them to discharge those duties more efficiently than they could without such publications, the local authorities may legally make the purchase at the cost of the rates.

* * * * * *

S. R. & O., 1921, No. 1895.

THE AUDIT STAMP DUTY (LOCAL AUTHORITIES) ORDER, 1921, DATED DECEMBER 14th, 1921, MADE BY THE TREASURY UNDER SECTION 61 (1) OF THE FINANCE ACT, 1921.

Whereas by sub-section (1) of section 61 of the Finance Act, 1921, it is provided that the stamp duty charged on local authorities by the District Auditors Act, 1879, as amended by any other Act, in respect of the audit of their accounts by district auditors shall, instead of being calculated according to the scale contained in the First Schedule to that Act, be calculated according to a scale to be fixed from

Appendix II.

time to time by the Treasury, after consultation with the Minister of Health and with such associations of local authorities as appear to the Minister to be concerned:

Now, therefore, the Lords Commissioners of His Majesty's Treasury, in pursuance of the said section and after such consultation as is therein mentioned, hereby make the following Order:—

1.—(1) This Order may be cited as the Audit Stamp Duty (Local Authorities) Order, 1921.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as applies to the interpretation of an Act of Parliament.

2. The stamp duty charged on a local authority by the District Auditors Act, 1879, as amended by any other Act, in respect of the audit of their accounts by district auditors, shall be calculated according to the scale set out in the Schedule hereto.

3. This Order shall come into operation upon the 24th day of December, 1921:

Provided that nothing herein contained shall apply to or affect the amount of the stamp duty chargeable in respect of the audit of the accounts of a local authority for a financial year or period ended—

(*a*) on any day prior to the 30th day of September, 1921; or

(*b*) on or after the 30th day of September, 1921, if, before the commencement of this Order, the district auditor has given, upon the relevant financial statement, the certificate required by section 3 of the District Auditors Act, 1879.

4. Nothing in this Order shall apply to or affect the amount of the stamp duty chargeable on the Metropolitan Water Board for the purposes of the District Auditors Act, 1879, in pursuance of section 19 of the Metropolis Water Act, 1902.

THE SCHEDULE.

SCALE OF STAMP DUTIES PAYABLE BY LOCAL AUTHORITIES.

Where the net expenditure on which stamp duty is payable				The sum shall be
Does not exceed	£25			5/-
Exceeds	£25	but does not exceed	£50	10/-
,,	£50	,, ,, ,, ,,	£100	£1
,,	£100	,, ,, ,, ,,	£250	£2
,,	£250	,, ,, ,, ,,	£500	£3
,,	£500	,, ,, ,, ,,	£1,000	£5
,,	£1,000	,, ,, ,, ,,	£2,500	£8
,,	£2,500	,, ,, ,, ,,	£5,000	£12
,,	£5,000	,, ,, ,, ,,	£10,000	£20
,,	£10,000	,, ,, ,, ,,	£25,000	£35
,,	£25,000	,, ,, ,, ,,	£50,000	£50
,,	£50,000	,, ,, ,, ,,	£100,000	£75
,,	£100,000	,, ,, ,, ,,	£150,000	£100
,,	£150,000	,, ,, ,, ,,	£200,000	£125
,,	£200,000	,, ,, ,, ,,	£250,000	£150
,,	£250,000	,, ,, ,, ,,	£300,000	£175
,,	£300,000	,, ,, ,, ,,	£350,000	£200
,,	£350,000	,, ,, ,, ,,	£400,000	£220
,,	£400,000	,, ,, ,, ,,	£450,000	£240
,,	£450,000	,, ,, ,, ,,	£500,000	£260
,,	£500,000	,, ,, ,, ,,	£550,000	£280
,,	£550,000	,, ,, ,, ,,	£600,000	£300
,,	£600,000	,, ,, ,, ,,	£700,000	£325
,,	£700,000	,, ,, ,, ,,	£800,000	£350
,,	£800,000	,, ,, ,, ,,	£900,000	£375
,,	£900,000	,, ,, ,, ,,	£1,000,000	£400
,,	£1,000,000			£400 plus £20 for each additional £100,000 or part thereof.

For the purpose of this Schedule, the net expenditure on which stamp duty is payable shall be calculated by deducting from the expenditure comprised in the financial statement of the local authority, as audited and allowed by the district auditor, such of the following items as may be included in the expenditure so audited and allowed :—

(1) Any sum paid in pursuance of a precept ;

(2) Any grant paid to another local authority in conformity with a statutory requirement or direction of a Government Department ;

(3) Any repayment of loan made out of money re-borrowed, or out of funds which will be replaced by money reborrowed ;

(4) One-half of any expenditure (exclusive of any repayment of loan to which paragraph (3) of this Schedule extends) which may have been met by loan during the financial period to which the financial statement relates ;

(5) Any payment into the Motor Tax Account of sums payable into the Exchequer by virtue of the Roads Act, 1920.

THE FINANCIAL STATEMENTS ORDER, 1921, DATED DECEMBER 14TH, 1921, MADE BY THE MINISTER OF HEALTH.

The Minister of Health in pursuance of his powers under sections 3 and 8 of the District Auditors Act, 1879, and of all other powers enabling him in that behalf, hereby makes the following Order :—

1.—(1) This Order may be cited as the Financial Statements Order, 1921.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2. The provisions of this Order shall apply in relation to the financial statement to be prepared and submitted to the district auditor in duplicate by :—

(*a*) The Council of every administrative county and the Council of the Isles of Scilly ;

(*b*) The Mayor, Aldermen, and Burgesses of every borough whose accounts or any part thereof are for the time being required to be audited by a district auditor ;

(*c*) The Council of each metropolitan borough ;

(*d*) The Urban District Council of every urban district (not being a borough) ;

(*e*) The Rural District Council of every rural district ; and

(*f*) The Guardians of the Poor of every poor law union and of every out-relief union.

3. Subject to any direction which may be given by the Minister of Health :—

(1) The financial statement shall be prepared in the form and in accordance with the instructions set forth in the Schedule to this Order.

(2) The financial statement shall contain the particulars specified in the said form, so far as they are applicable, and the certificate of the district auditor to be appended to each duplicate shall be in the form set forth in the Schedule to this Order.

(3) Where a part only of the accounts of the mayor, aldermen, and burgesses of a borough are required to be audited by a district auditor, the financial statement shall relate only to that part of the accounts.

(4) This Article shall apply to any financial statement for a financial year or other period ended on the 30th day of September, 1921, or on any later day :

Provided that this Article shall not extend to any financial statement, prepared in accordance with the Financial Statements Order, 1918, upon which the district auditor has, before the commencement of this Order, given the certificate required by section 3 of the District Auditors Act, 1879.

4. The Rural District Councils (Notice of Audit and Publication of Accounts) Order, 1915, and the Audit (Abstracts and Reports) Order, 1916, shall in relation to the audit of the accounts of rural district councils, of such of the accounts of the receipts and expenditure of the mayor, aldermen and burgesses of a borough as are for the time being audited by a district auditor, and of the accounts of every urban district council (not being the council of a borough) have effect as if the words " and statutory financial statement " were omitted from Article 2 of each of those Orders.

5. The Financial Statements Order, 1918, and the Order of the Local Government Board, dated the 30th day of June, 1902, prescribing the form of the financial statement to be prepared by the Council of a metropolitan borough, are hereby rescinded:

Provided that, notwithstanding such rescission, the said Orders shall continue to apply in respect of the audit of the accounts of a local authority or of the Council of a metropolitan borough (as the case may be) for a financial year or period ended on any day prior to the 30th day of September, 1921.

6. This Order shall come into operation on the 24th day of December, 1921.

CIRCULAR OF MINISTRY OF HEALTH TO LOCAL AUTHORITIES, DATED DECEMBER 20TH, 1921.

I.—AUDIT STAMP DUTY.

SIR,—I am directed by the Minister of Health to forward the enclosed copy of an Order made by the Lords Commissioners of His Majesty's Treasury in pursuance of section 61 (1) of the Finance Act, 1921, fixing a new scale of stamp duty to be charged on local authorities in respect of the audit of their accounts by District Auditors. The Associations representing the principal classes of local authorities have been consulted on the subject.

The Order, which is termed the Audit Stamp Duty (Local Authorities) Order, 1921, comes into force on the 24th instant, and, with the exception specified in Article 3 (*b*), will apply to the accounts of local authorities for any financial period ending on or after the 30th September last. The old scale will apply to all accounts for periods ended before that date.

It will be observed that under the new scale deduction may be made from the expenditure comprised in the financial statement, as audited and allowed by the district auditor, of the following items in calculating the net expenditure on which stamp duty is payable:—

(1) Sums paid in pursuance of a precept;
(2) Grants paid to other local authorities in conformity with a statutory requirement or direction of a Government Department;
(3) Repayment of loan made out of money reborrowed or out of funds which will be replaced by money reborrowed;
(4) One half of any expenditure (exclusive of any repayment of loan as in (3)) met by loan during the period to which the financial statement relates; and
(5) Payment to the Motor Tax Account of sums payable into the Exchequer by virtue of the Roads Act, 1920.

No deductions other than the above are allowable.

II.—STATUTORY FINANCIAL STATEMENT.

In connection with the new scale of audit stamp duty it has been found necessary to revise the form of statement in which the expenditure of the principal classes of local authorities should be presented to the district auditor for certification. After consultation with representatives of the Institute of Municipal Treasurers and Accountants, a new Order, entitled the Financial Statements Order, 1921, has been made by the Minister, a copy of which is enclosed. This Order, which comes into operation on the same date as the Audit Stamp Duties (Local Authorities) Order, 1921, prescribes the form of financial statement to be used by local authorities in respect of such of their accounts as are audited by the District Auditor, and, with the exception mentioned in Article 3 (4), will apply to any statement for a financial period ending on or after 30th September last.

The only instructions appended to the form of statement in the new Order are as follows:—

(1) For the purpose of ascertaining the figures to be entered in the financial statement, the officer responsible for the statement shall make up from the ledger a schedule setting out the total amount credited and debited to each account, but so that no one item is included more than once in such Schedule,

and shall include all the expenditure under each heading without deduction of any income connected therewith.

(2) The schedule shall be submitted to the District Auditor at the audit, and preserved for future reference.

The direction in these instructions that the same item is not to be included more than once is of importance in connection with deduction items, which appear as credits in expenditure accounts, such as—

(*a*) correcting or adjusting transfers,
(*b*) recoveries of overpayments, or
(*c*) discounts obtained.

On the other hand, the direction that expenditure is to be entered in full without deduction of income connected therewith, will preclude the deduction of credit entries appearing in expenditure accounts when the items represent actual income arising out of the expenditure, and not transfers of expenditure to other accounts or corrections of overpayments. Thus, items of the following classes which sometimes appear as *contra* credits are to be treated as income—

(*a*) charges for work executed,
(*b*) contributions in aid of expenditure, or
(*c*) proceeds of sale of any kind.

There does not appear to be any difficulty in applying these principles in distinguishing between the cases which demand net entry and those which demand gross entry. The same principles should be applied on the income side. Thus, abatements of charge should always be treated as deductions from income, but costs connected with income and its collection should be treated as expenditure.

Under the Financial Statements Order, 1918, now rescinded, contributions to sinking funds and other similar funds, as well as payments out of such funds, were treated as expenditure. The new Order contemplates that transfers from one fund to another fund of the same authority should not be regarded as expenditure of the authority, and therefore provides that only the final payments out of the fund shall be treated as expenditure. The change will secure uniformity in the treatment of contributions to reserve funds, sinking funds, pension funds, trading revenue accounts, housing (assisted scheme) revenue accounts, &c., where there is now great diversity of treatment. The effect of the change will be that in all cases stamp duty will be charged only on the final expenditure of the funds, and not, as hitherto, sometimes on the contributions to the fund, sometimes on the fund expenditure, and sometimes on both.

Payments in respect of rate or rent charges, services rendered, or supplies made by one fund to another, should not be treated as contributions but should rank as expenditure of the authority.

The new form of financial statement has been so arranged as to provide for the exclusion of any duplication, while at the same time allowing the charges falling upon the several funds or revenues to be shown at their correct amounts.

Moneys invested and remaining as part of the unexpended balances of the authority, including loans advanced by them, should not be treated as expenditure. Conversely, the proceeds of sale of investments and the repayment of loans advanced by the authority should not be treated as income. Profits and losses on such transactions, however, should be treated as income or expenditure, as the case may be, and costs connected with the transactions should also be treated as expenditure.

Where the new form of epitome of accounts is in use for the purposes of the Local Taxation Returns it will take the place of the schedule referred to in the instructions. It will be found that the totals required for the financial statement can be readily extracted from the epitome.

In connection with the stamping of the statement the Commissioners of Inland Revenue require that in every case, where the duty chargeable exceeds £5, it shall be denoted by an impressed stamp. In no such case should an adhesive stamp be used for the purpose.

S. R. & O., 1922, No. 899.

THE ACCOUNTS (ANNUAL AUDIT) ORDER, 1922, DATED AUGUST 11TH, 1922, MADE BY THE MINISTER OF HEALTH.

* * * * * *

2. Where any accounts subject to audit by district auditors have hitherto been made up and audited half-yearly but will in future by virtue of the Audit (Local Authorities &c.) Act, 1922, be made up yearly to the 31st day of March, or such other date as the Minister may by General or Special Order direct, and audited once in every year, any provisions of any General or Special Order made by the Poor Law Commissioners, the Poor Law Board, the Local Government Board or the Minister which relate to the form, period, closing date, making up, balancing and audit of such accounts, or to the form and preparation of any financial, statistical or other statement connected with such accounts, or to be submitted therewith, shall apply with the necessary modifications as though they referred to the annual making up, balancing and audit of the accounts therein mentioned to the 31st day of March (or other prescribed date) in every year.

S. R. & O., 1922, No. 1404.

THE ACCOUNTS (PAYMENT INTO BANK) ORDER, 1922, DATED DECEMBER 28TH, 1922, MADE BY THE MINISTER OF HEALTH.

* * * * * *

3.—(1) Where money is received by an officer of a local authority for payment by him into a banking account of the local authority or of their treasurer, the local authority shall secure that a paying-in book is provided for the use of the officer.

(2) Every such book shall contain a number of paying-in slips, for the entry of money paid into the bank, together with either a counterfoil or a duplicate of each paying-in slip.

4. Every officer who pays any money into a banking account of a local authority or of their treasurer shall, unless the Minister otherwise directs, enter on a paying-in slip, and on the counterfoil or duplicate thereof, particulars of such payment, including in the case of each cheque paid in :—

(*a*) the amount of such cheque and

(*b*) some reference (such as the number of the receipt given or the name of the debtor) which will connect the cheque with the debt or debts in discharge or partial discharge of which it was received :

Provided that where any cheque paid in was not received in discharge or partial discharge of a debt due to the local authority the officer shall note the fact on the counterfoil or duplicate of the paying-in slip.

5. Any officer of a local authority by whom a paying-in book is used in pursuance of this Order shall produce the book for examination as and when required by the local authority or the district auditor.

6. Where a portion only of the accounts of a local authority is subject to audit by a district auditor, this Order shall apply to the local authority and their officers in relation to that portion of those accounts.

7. In the application of this Order to overseers—

(*a*) Any collector of poor rates, assistant overseer or other person duly authorised to collect the poor rate, or any other local rate levied by overseers in any parish or part of any parish, shall be deemed an officer of the overseers ;

(*b*) Any overseer by whom money is paid into the account of the overseers at a bank shall be subject to the same obligations as an officer of a local authority.

S. R. & O., 1922, No. 987.

THE CLERK OF THE PEACE (TAXATION ALLOWANCE) ORDER, 1922, DATED SEPTEMBER 1ST, 1922, MADE BY THE MINISTER OF HEALTH.

Whereas by an Order dated the 21st day of November, 1844, issued in pursuance of section 39 of the Poor Law Amendment Act, 1844 (hereinafter referred to as "the Act of 1844"), the Poor Law Commissioners declared that the Clerk of the Peace of every county or place in England and Wales should be allowed for the taxation of every bill due to any solicitor in respect of business performed on behalf of any parish or union after the rate of fourpence per sheet or folio of seventy-two words;

And whereas by an Order dated the 20th day of April, 1877, issued in pursuance of section 249 of the Public Health Act, 1875 (hereinafter referred to as "the Act of 1875"), the Local Government Board made similar provision in regard to the taxation of every bill due to any solicitor in respect of legal business performed on behalf of any local authority whose accounts are required by the Act of 1875 to be audited;

And whereas the Master of the Crown Office has fixed the rate of allowance to Clerks of the Peace in respect of taxations under section 39 of the Act of 1844 and under section 249 of the Act of 1875 as herein declared in lieu of the rate hereinbefore recited:

Now therefore the Minister of Health in pursuance of his powers under the Act of 1844, the Act of 1875 and any other statutes in that behalf, hereby orders and declares as follows:—

1. This Order may be cited as "The Clerk of the Peace (Taxation Allowance) Order, 1922," and shall come into operation forthwith.

2. A Clerk of the Peace shall be entitled to remuneration after the rate of sixpence per folio of seventy-two words for the taxation of bills under section 39 of the Act of 1844 and section 249 of the Act of 1875.

3. The said Orders of the 21st day of November, 1844, and the 20th day of April, 1877, are hereby rescinded.

AUDIT (LOCAL AUTHORITIES) ACT, 1927.

DECISIONS OF A DISTRICT AUDITOR.

INSTRUCTIONS AS TO THE MODES OF APPEALING AND OF APPLYING FOR A DECLARATION.

A.—*Appeals or Applications to the High Court or the Minister of Health.*

1.—(*a*) Any person aggrieved by a district auditor's decision may appeal, where the decision relates to an amount exceeding five hundred pounds, to the High Court and, in any other case, to the High Court or to the Minister of Health. The Court or Minister, as the case may be, upon the receipt of the appeal is empowered to confirm, vary or quash the auditor's decision.

(*b*) Any person surcharged by a district auditor, whether or not he appeals as above, may apply to the High Court or to the Minister of Health, as the case may be, for a declaration that in relation to the subject matter of the surcharge he acted reasonably or in the belief that his action was authorised by law, and the Court or Minister, if satisfied that there is proper ground for doing so, may make a declaration to that effect and may, if satisfied that the person surcharged ought fairly to be excused, relieve him either wholly or partly from personal liability in respect of the surcharge.

(*c*) In any case in which an appeal is made to the Minister of Health, he may, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the Court any question of law arising in the course of the appeal, but otherwise the decision of the Minister shall not be subject to appeal to any Court. An appellant may apply to the Court to direct the Minister of Health to state a special case.

2. The procedure in respect of appeals and applications to the High Court, including applications to that Court for an Order directing the Minister of Health to state a special case in accordance with paragraph 1 (*c*) above is laid down by Rules of Court which have been made under section 2 (3) of the Act.

[*These Rules are set out at p.* 3042, *post.*]

B.—*Appeals or Applications to the Minister of Health.*

3. Any person appealing or applying to the Minister of Health under paragraphs 1 (*a*) or 1 (*b*) above should do so within six weeks from the date of the auditor's decision. He may also apply for a personal hearing by a person appointed for the purpose by the Minister.

4. Any person desiring to appeal, should, unless the auditor has already entered his reasons in the book of account in which his certificate is entered, apply to him to enter his reasons in that book; and for this purpose the book should be submitted to the auditor.

5. When the auditor has entered his reasons, an exact copy of them and also a copy of his certificate, including his signature and the date of the entry, should be forwarded to the Ministry with the appeal.

An application for a declaration under paragraph 1 (*b*) above, in any case in which an appeal is not made, should also be accompanied by these documents.

6. The appeal and/or application should be by letter on foolscap paper, addressed to the Secretary, Ministry of Health, Whitehall, London, S.W.1, and must be signed by the appellant in his own handwriting. Where two or more persons are mentioned in the auditor's certificate, the appeal and/or application should be signed by each of those desirous of appealing or making an application.

7. The appeal and/or application should contain a full statement of the facts which the appellant or applicant may desire to lay before the Minister; and the grounds upon which the appeal or application is made should be explicitly set out. If there are any documents bearing upon the matter, they should be forwarded to the Ministry; and where there are resolutions of the local authority with reference to the subject-matter of the expenditure, copies of the resolutions should also be sent.

Unless an appeal and/or application be made against the auditor's decision, the sum certified by him to be due should be paid over as follows:—

(i) Money certified to be due in the accounts (including accounts of committees and officers) of a—

(1) County council, or
(2) Visiting committee of a lunatic asylum, or
(3) Metropolitan borough council, or
(4) Town council, or
(5) District council, or
(6) Port sanitary authority, or
(7) Parish council or parish meeting, or
(8) Any other authority to whom section 247 (9) of the Public Health Act, 1875, applies should be paid within fourteen days from the date of the auditor's certificate, to the treasurer of the authority; or in the case of a parish council or parish meeting having no treasurer, to the person or persons who receive money on their behalf.

(ii) Money certified to be due in the accounts (including the accounts of officers) of a—

(1) Board of guardians, or
(2) Board of management for a Poor Law School or Asylum District,
should be paid over within seven days to the treasurer of the authority.

The reference to officers in paragraph (i) above applies to the managers of any school to whom any receipts or payments of money under the Education Act, 1921, are entrusted by the local education authority—see section 130 of the Act.

MINISTRY OF HEALTH.

AUDIT (LOCAL AUTHORITIES) ACT, 1927.

Appeals and Applications to High Court, R. S. C., Order 55 *B, rr.* 59–70.

59. An appeal to the High Court under sub-section (1) of section 2 of the Act and an application to the High Court under sub-section (2) of that section shall be made to a Divisional Court of the King's Bench Division by an originating notice of motion.

60. The evidence upon the hearing of an appeal or application shall be by affidavit except in so far as the Court at the hearing may direct oral evidence to be given.

61. The notice of motion shall be served, before the expiration of six weeks after the date of the decision to which it relates, upon the district auditor for the time being in charge of the audit district in which the matter has arisen, and also on the local authority in relation to whose accounts or to the accounts of whose officer the decision was given, if that authority is not the appellant.

62. The notice of motion shall state the grounds of appeal or the grounds for the application, as the case may be, and the date mentioned in the notice for the hearing of the appeal or application shall be not less than twenty-eight days after the service of the notice.

63.—(1) The appellant or applicant, as the case may be, shall within seven days after service upon the district auditor of the notice of motion file at the Crown Office a copy of the notice and an affidavit or affidavits setting out the reasons stated by the auditor for his decision and the facts upon which the appellant or applicant intends to rely at the hearing and thereupon the motion shall be set down for hearing in the Crown paper.

(2) If the notice of motion is not set down in accordance with this Rule, either the local authority or the district auditor may apply to the Court, upon notice to the appellant or applicant, as the case may be, for an order discharging the notice of motion and for the costs of the application.

64. In the case of an application under subsection (2) of section 2 of the Act—

(*a*) The applicant shall cause notice of his intended application to be published once at least in each of two successive weeks in some newspaper circulating in the area of the authority to whose accounts or to the accounts of whose officer the surcharge relates, and one at least of such publications shall be made before the date on which a copy of the notice of motion is filed at the Crown Office;

(*b*) The notice shall set out the nature of the intended application and shall state that any ratepayer or owner of property in the area may, upon payment at the usual rate, obtain at an address to be specified in the notice copies of the notice of motion and of any affidavit intended to be used in support thereof, and may appear at the hearing of the application and may, whether he so appears or not, file an affidavit in opposition to the application;

(*c*) Upon the hearing of any application any ratepayer or owner of property in the area may appear and be heard in opposition thereto;

(*d*) Any such ratepayer or owner, in lieu of appearing in opposition to the application, may, not less than four days before the hearing, transmit by post to the Crown Office, together with a fee of 5*s*., an unstamped affidavit setting forth the grounds of his opposition and any facts which he may consider to have a material bearing upon the application, and the Court shall take into consideration the contents of such affidavit;

(*e*) No order shall be made for the payment of costs by or to a ratepayer or owner of property who files an affidavit, or appears in opposition to the application;

(*f*) An affidavit proving compliance with paragraphs (*a*) and (*b*) of this Rule shall be filed at the hearing of the application.

65. The appellant or applicant, as the case may be, shall deliver forthwith to the authority and to the district auditor a copy of any affidavit filed under Rule 63 in support of the motion, and any person (including a ratepayer or owner of property)

intending to oppose the motion shall, four days at least before the hearing, deliver to the appellant or applicant, as the case may be, a copy of any affidavit intended to be filed by him in opposition to the motion. Except by leave of the Court an affidavit shall not be used at the hearing unless a copy or copies thereof have been delivered in accordance with this Rule.

66. Notice of appeal against a surcharge and notice of an application in respect of the same surcharge may be combined in one notice of motion, and facts relevant either to the appeal or to the application may be set out in one affidavit.

67. Where under Rule 61 a notice of motion is served upon a district auditor other than the auditor who gave the decision, that auditor may appear in opposition thereto in all respects as if he were the auditor by whom the decision was given, and these Rules and any statutory provisions as to costs or otherwise shall apply accordingly.

68.—(1) An application for an Order directing the Minister of Health to state a special case under subsection (1) of section 2 of the Act shall be made to a Divisional Court of the King's Bench Division by way of an *ex parte* motion for a rule *nisi* supported by affidavit.

(2) No such motion shall be entertained by the Court unless—

(*a*) application was made to the Minister to state a special case before his decision upon the appeal was communicated to the appellant; and

(*b*) the motion is made on one of the first three days on which the Court sits for hearing *ex parte* motions next after the date on which the Minister's refusal to state a special case is communicated to the appellant.

69.—(1) A special case stated by the Minister of Health under subsection (1) of section 2 shall be signed by him or by such person as he may authorise in that behalf.

(2) The Minister shall deliver copies of the special case to each party to the appeal and shall file it at the Crown Office and it shall thereupon be set down for argument in the Crown paper as if it were a case stated by justices.

70. In this Part of this Order "the Act" means the Audit (Local Authorities) Act, 1927.

S. R. & O., 1928, No. 177.

LOCAL AUTHORITIES, ENGLAND.

AUDIT OF ACCOUNTS.

THE LOCAL AUTHORITIES (AUDIT) ORDER, 1928, DATED MARCH 19, 1928, MADE BY THE MINISTER OF HEALTH.

Whereas by the Orders of which particulars are given in the first schedule to this Order, the Local Government Board made rules under subsection (3) of section 58 of the Local Government Act, 1894, section 14 of the Local Government (Emergency Provisions) Act, 1916, and other enactments, modifying in relation to the accounts of certain local authorities the provisions of subsections (3) and (10) of section 247 of the Public Health Act, 1875, in their application to the notice of audit, the abstract of accounts and the report of the auditor;

And whereas the provisions of section 14 of the Local Government (Emergency Provisions) Act, 1916, were by section 1 of the Expiring Laws Act, 1925, made permanent;

And whereas it is expedient that the said Orders should be consolidated and amended and further provision made as hereinafter mentioned:

Now, therefore, the Minister of Health, in pursuance of his powers under section 58 of the Local Government Act, 1894, section 14 of the Local Government (Emergency Provisions) Act, 1916, and any other powers in that behalf, hereby orders as follows:—

PART I.—PRELIMINARY.

Short Title and Commencement.

1.—(1) This Order may be cited as the Local Authorities (Audit) Order, 1928.

(2) This Order shall come into operation on the 1st day of April, 1928, but shall apply only to accounts for a financial period ending on the 31st day of March, 1928, or any later day.

Interpretation.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order—

"District council" includes the council of a borough, whether a county borough or not;

"Joint committee" means a joint committee appointed by a district council, parish council or parish meeting with one or more of the bodies hereinbefore mentioned, and whose accounts are liable, under section 58 of the Local Government Act, 1894, to audit by a district auditor;

"Parish meeting" means the parish meeting of any parish not having a parish council.

Rescission of Orders.

3. The Orders mentioned in the first schedule to this Order are hereby rescinded to the extent specified in the third column of that schedule:

Provided that this rescission shall not affect the application of any such Order to accounts for a period ending before the 31st day of March, 1928.

PART II.—PROVISIONS RELATING TO PARISH COUNCILS, PARISH MEETINGS AND JOINT COMMITTEES TO WHOM THIS ORDER APPLIES.

Notice of Audit.

4. In the application of paragraph (3) of section 247 of the Public Health Act, 1875, to the audit of the accounts of—

(*a*) any parish council or parish meeting; and

(*b*) any joint committee within the meaning of this Order; that paragraph shall be modified so as to read as follows:—

"(3) Before each audit of the accounts of—

(*a*) a parish council, the clerk of the parish council, or if there is no clerk the chairman of the parish council;

(*b*) a parish meeting of any parish not having a parish council, the chairman of the parish meeting;

(*c*) a joint committee to whom the Local Authorities (Audit) Order, 1928, applies, the clerk of the joint committee, or if there is no clerk the chairman of the joint committee;

shall, after receiving from the auditor an intimation of the time and place of the audit, give at least fourteen days' notice of the time and place at which the audit will be commenced, and of the deposit of the accounts for the inspection of all persons interested required by this section, by causing notices in the prescribed form to be published in the prescribed manner:

"Provided that where one of the authorities appointing the joint committee is a district council, the notice required by the foregoing provision may be published by advertisement in one or more of the local newspapers circulating in the area of the joint committee, instead of being published in the prescribed manner.

"The clerk or chairman, immediately after such notice is posted or such advertisement is published, as the case may be, shall forward to the auditor a certificate in the prescribed form of his compliance with this provision, and the production of a certificate in accordance with this enactment, or of the newspaper containing an advertisement of a notice of audit, shall, in any proceeding whatsoever, be deemed to be sufficient proof of due notice of the audit having been given.

"In this enactment 'prescribed' means prescribed by the Minister of Health."

Form and Publication of Notice of Audit.

5.—(1) The prescribed form of notice of audit and of deposit of accounts for the inspection of persons interested, to be given under paragraph (3) of section 247 of the Public Health Act, 1875, as modified by this Order, shall be in the form No. 1 contained in the second schedule to this Order or in a form to the like effect.

(2) Where a notice referred to in paragraph (1) of this Article is by paragraph (3) of section 247 of the Public Health Act, 1875, as modified by this Order, required to be published in the prescribed manner, the notice shall be published by posting a copy of it on or near the principal door of each church and chapel in the parish or in the area of the joint committee and on some conspicuous place or places in that parish or area.

Certificate of Posting or of Advertisement of Notice of Audit.

6. Any certificate of compliance with the provision as to publication of the notice of audit, contained in paragraph (3) of section 247 of the Public Health Act, 1875, as modified by this Order, shall be in the form No. 2 contained in the second schedule to this Order or in a form to the like effect, and shall be entered on a copy of the notice of audit:

Provided that where the notice of audit has been published by advertisement in a local newspaper, any such certificate shall be in the form No. 3 contained in the second schedule to this Order or in a form to the like effect.

Report of Auditor.

7.—(1) In the application of paragraph (10) of section 247 of the Public Health Act, 1875, to the audit of the accounts of any parish council or parish meeting, that paragraph shall have effect as modified and set out in the third schedule to this Order.

(2) In the application of paragraph (10) of section 247 of the Public Health Act, 1875, to the audit of the accounts of—

(*a*) any joint committee appointed by parish councils or parish meetings, or by parish councils and parish meetings, that paragraph shall have effect as modified and set out in the third schedule to this Order;

(*b*) any joint committee within the meaning of this Order appointed by a district council in conjunction with other bodies, that paragraph shall have effect as modified and set out in the fourth schedule to this Order.

PART III.—PROVISIONS RELATING TO DISTRICT COUNCILS, DISTRESS AUTHORITIES, ETC.

Publication of Abstract of Accounts.

8. In the application of paragraph (10) of section 247 of the Public Health Act, 1875, to the audit of—

(*a*) such of the accounts of the council of any borough as are subject to audit by a district auditor;

(*b*) the accounts of every district council, not being the council of a borough;

(*c*) the accounts of any central body established under the Unemployed Workmen Act, 1905, and of any distress committee having the powers of a central body so established;

that paragraph shall be modified by the addition of the proviso set out in the fifth schedule to this Order.

Appendix II.

SCHEDULES.

FIRST SCHEDULE.

Orders rescinded in whole or part.

Date of Order.	Subject-matter or Title of Order.	Extent of Rescission.
20th May, 1895	Audit of accounts of rural district councils, parish councils, parish meetings, and joint committees of parish councils and parish meetings.	The whole Order.
26th July, 1895	Audit of accounts of any combination of district councils (including borough councils appointing with other councils not being borough councils) parish councils or parish meetings.	The whole Order.
20th April, 1900	Financial statement of parish councils and forms of notice of audit of parish councils and certificate of publication of the notice.	Articles III. and IV. of the Order, prescribing the form of notice of audit and the certificate of the publication of the notice.
26th April, 1900	Form of notice of audit of joint committees of any combination of district councils (including borough councils appointing with other councils not being borough councils) parish councils or parish meetings.	The whole Order.
20th March, 1911	Financial statement of parish meetings and forms of notice of audit of parish meetings and certificate of publication of the notice.	Articles II. and III. of the Order, prescribing the form of notice of audit and the certificate of the publication of the notice.
16th December, 1915	The Rural District Councils (Notice of Audit and publication of Accounts) Order, 1915.	The whole Order.
24th May, 1916	The Audit (Abstracts and Reports) Order, 1916.	The whole Order so far as not already rescinded.
30th April, 1919	The Audit (Reports) Order, 1919.	The whole Order.

SECOND SCHEDULE.

FORM NO. 1.

Form of notice of audit.

Parish Council for the Parish of……………………………………………………
or Parish Meeting for the Parish of ……………………………………………………
or Joint Committee appointed by the (1) ……………………………………………
for the purpose of ……………………………………………………………………

Notice is hereby given, that the district auditor has appointed the audit of the accounts of the above-named (2) (and their committees and officers), for the ended 19 , to commence at , on day, the day of , 19 , at the hour of o'clock in the noon. [(3) And Notice is hereby further given that the said audit will not be proceeded with until day, the day of , 19 , at the hour of o'clock in the noon, at the place aforesaid], when and where any ratepayer in the Parish (*or* area of the Joint Committee) may be present, and may make any objection to the said accounts before the district auditor.

And Notice is hereby further given that the accounts of the (2) (and of their committees and officers), duly made up and balanced, together with all books, accounts, and documents relating thereto, will be deposited at and be open during office hours to the inspection of all persons interested for seven clear days immediately before the audit.

Dated this day of 19 .

..............................Clerk to (*or* Chairman of) the Parish Council (*or* the Joint Committee) or Chairman of the Parish Meeting.

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(1) Insert the name of each Council and Parish Meeting by whom the Committee is appointed.

(2) Insert " Parish Council " *or* " Parish Meeting " *or* " Joint Committee."

(3) If the Auditor has not fixed a different time for proceeding with the Audit from that at which it is to be commenced, strike out the words within [ ].

(4) Where any words in brackets are not appropriate, they should be struck out.

FORM No. 2.

Form of certificate of publication of notice of audit.

I, the undersigned clerk to (*or* chairman of) the above-named Parish Council (*or* Parish Meeting *or* Joint Committee), do hereby certify that I have published the foregoing notice by causing the same to be posted on or near the principal door of each church and chapel in the parish (*or* area of the joint committee) and on some conspicuous place or places in the said parish (*or* area).

As witness my hand this day of 19 .

Clerk to (*or* Chairman of) the Parish
Council (*or* Joint Committee) or
Chairman of the Parish Meeting.

To

District Auditor of the Audit District.

FORM No. 3.

Form of certificate of advertisement of notice of audit.

I, the undersigned, clerk to (*or* chairman of) the Joint Committee, do hereby certify that I have caused to be inserted in the issue of (give date) of the , being a newspaper (*or* newspapers) circulating in the area of the Joint Committee, an advertisement of the audit and deposit of the accounts of the Joint Committee, of which advertisement the following is a copy :—

(Attach cutting from newspaper.)

As witness my hand this day of 19 .

(Clerk to (*or* Chairman of) the Joint Committee.

To

District Auditor of the Audit District.

THIRD SCHEDULE.

REPORT OF AUDITOR.

Paragraph (10) *of Section* 247 *of the Public Health Act,* 1875, *as modified in its application to the accounts of parish councils, parish meetings and joint committees of those bodies.*

(10) Within fourteen days after the completion of the audit of the accounts of—

(*a*) a parish council ;

(*b*) a parish meeting for any parish not having a parish council ;

(*c*) a joint committee appointed by parish councils or parish meetings, or by parish councils and parish meetings ;

the auditor shall send the Minister of Health a report on the accounts audited and examined by him. Every parish council shall submit to the parish meeting held for the parish next after the completion of the audit a copy of the financial statement of the accounts of that council as certified by the district auditor.

Appendix II.

FOURTH SCHEDULE.

REPORT OF AUDITOR.

Paragraph (10) *of Section* 247 *of the Public Health Act,* 1875, *as modified in its application to joint committees, where one of the appointing bodies is a district council.*

(10) Within fourteen days after the completion of the audit of the accounts of any joint committee within the meaning of the Local Authorities (Audit) Order, 1928, appointed by a district council in conjunction with any other body, the auditor shall send the clerk to the joint committee, or if there is no clerk the chairman of the joint committee, a report on the accounts audited and examined by him. Every such joint committee shall, within six weeks after receiving the report of the auditor, send to the several authorities by whom they have been appointed, a copy of the auditor's report and of the financial statement of the accounts of the joint committee as certified by him.

FIFTH SCHEDULE.

PUBLICATION OF ABSTRACT OF ACCOUNTS.

Proviso to be added to paragraph (10) *of Section* 247 *of the Public Health Act,* 1875, *in its application to district councils and authorities under the Unemployed Workmen Act,* 1905.

Provided that—

(*a*) the council of a borough as respects such of their accounts as are subject to audit by a district auditor;

(*b*) every district council not being the council of a borough;

(*c*) any central body established under the Unemployed Workmen Act, 1905, and any distress committee having the powers of a central body so established;

may on the completion of the audit, if they think fit, in lieu of publishing an abstract of their accounts in some one or more of the local newspapers circulating in their district, cause to be advertised in some one or more of those newspapers notice that the audit has been completed, and that the audited accounts and statutory financial statement will be open for inspection, without payment, by any ratepayer in the district at all reasonable times within the period of fourteen days next following some later date to be mentioned in the notice.

Given under the Official Seal of the Minister of Health this nineteenth day of March in the year nineteen hundred and twenty-eight.

(L.S.)

E. H. RHODES,
Assistant Secretary,
Ministry of Health.

ALLOTMENTS.

See SMALL HOLDINGS AND ALLOTMENTS, *post*, p. 3765.

ANIMALS: DISEASES OF.

THE DISEASES OF ANIMALS ACTS, 1894 TO 1927 (*a*).

(*a*) The Diseases of Animals Acts are not printed in this work, as they are outside the scope of the work and the local authorities for the purposes of the Acts are the county and borough councils. In view, however, of the interrelation between the diseases of animals and the public health of the inhabitants it has been considered desirable to print this summary of the Acts prepared and published by the Ministry of Agriculture and Fisheries.

The suppression of contagious and infectious diseases in animals is of primary importance to the agricultural industry of every country, and practically every country in the world has adopted measures of some kind for that purpose.

Appendix II.

Records exist of serious loss suffered for several centuries past from animal epidemics, but no organised attempt at control was made in Great Britain until 1848, when the prevalence of sheep-pox, introduced from the Continent, led to the passing of two Acts of Parliament under which that disease and the cattle-plague outbreaks of 1865 were dealt with. These Acts proved insufficient to prevent the spread of cattle plague throughout the country until the Cattle Diseases Prevention Act, 1866, was passed; this required the compulsory slaughter, with compensation, of all affected animals, and empowered the slaughter of animals in contact therewith. This measure succeeded in eradicating the disease by September, 1867, and the experience of these two diseases led to the passing of the Contagious Diseases (Animals) Act, 1869, which conferred extensive powers upon the Privy Council and local authorities to deal with animal diseases, including pleuro-pneumonia and foot-and-mouth disease, as well as cattle-plague and sheep-pox. The Act of 1869 also imposed the first effective restrictions on the importation of animals from certain foreign countries where disease was prevalent. Agricultural opinion was not, however, favourable to the full exercise of the powers conferred by the Act of 1869, and the country had to experience two more outbreaks of cattle-plague (1872 and 1877), and very extensive outbreaks of foot-and-mouth disease and contagious pleuro-pneumonia of cattle, before the Act of 1869 was revised by the Contagious Diseases (Animals) Act, 1878, which laid the foundation for the methods now in force. The Act of 1878 and its subsequent amendments were consolidated by the Diseases of Animals Act, 1894, which, with its nine amending Acts of 1896 to 1927, confers the powers upon which State action at the present time is based.

Main Objects of the Acts; Central and Local Organisation.—Generally speaking, the Acts impose upon the Minister of Agriculture and Fisheries, as the central authority, the duty of devising and putting into operation measures for the control and eradication of contagious diseases amongst animals in England, Wales and Scotland. They confer upon the Minister wide powers to make Orders for these and other specified purposes, including—

(*a*) The declaration of infected places and areas;

(*b*) The prohibition or regulation of the movement of animals into, out of, or within such places and areas, and of the exposure of animals at markets, sales and exhibitions;

(*c*) The control of the importation of foreign animals, carcasses, fodder, etc., for the purpose of preventing the introduction of disease from without;

(*d*) The muzzling and control of dogs; and

(*e*) The protection of animals and poultry from unnecessary suffering during transit by land or sea.

Thus, while indicating the general lines of the procedure to be adopted, the Acts empower the Minister to prescribe the details by administrative Orders which have the full force of an Act of Parliament.

For the discharge of these duties the Minister has established the Diseases of Animals Division of the Ministry, under the direction of the chief veterinary officer, assisted by a professional staff consisting of a deputy chief veterinary officer, 9 superintending inspectors, 32 divisional inspectors and 63 inspectors, and also by a lay administrative and clerical staff numbering 40. The professional staff is distributed between the head office, general field work, inspection of animals at ports and the Ministry's laboratory. Two of the senior inspectors are stationed in South America.

With certain exceptions, the Acts require the local authorities and the police generally to execute and enforce the provisions of the Acts, and of the Orders of the Minister thereunder. The local authorities constituted for the purposes of these Acts number 332, and comprise the county councils, the county borough councils and the councils of certain other boroughs and burghs. All these authorities are required to appoint their own veterinary and other inspectors to carry out the duties imposed upon them, and the expenses of the local authorities, with certain exceptions, have to be defrayed out of the local rate. In most of the counties the police have been appointed as inspectors. An inspector of the Ministry or of a local authority has special powers of entry upon any premises or on any vessel on which he has reason to believe that disease exists, or that the Acts or Orders of the Minister, or the Regulations of a local authority, are being infringed. In addition, an inspector of the Ministry may enter any premises to ascertain whether pleuro-pneumonia, foot-and-mouth disease or swine fever exists thereon.

Diseases dealt with under the Acts.—The Acts and Orders of the Minister at the present time require the notification of cases or suspected cases of the following twelve diseases: cattle plague, contagious pleuro-pneumonia of cattle, foot-and-mouth disease, sheep-pox, swine fever, sheep scab, anthrax, rabies, glanders, epizootic lymphangitis, parasitic mange in horses, asses or mules, and certain forms of bovine tuberculosis. These may be divided into two classes:—

(1) Those in which the diagnosis is in the hands of the Ministry's officers, *i.e.* cattle-plague, pleuro-pneumonia, foot-and-mouth disease, sheep-pox and swine fever; and

(2) Those in which the diagnosis is carried out primarily by officers of the local authorities, *i.e.* anthrax, sheep scab, glanders, rabies, epizootic lymphangitis, parasitic mange of equines and bovine tuberculosis. In anthrax and rabies, however, the diagnosis is subject to confirmation by the Ministry, and in sheep scab, glanders and tuberculosis the owner has a right of appeal to the Ministry against the diagnosis.

Of the above diseases, no outbreaks have occurred in Great Britain of cattle plague since 1877, pleuro-pneumonia since 1898, sheep-pox since 1850, epizootic lymphangitis since 1906, or of rabies since 1922. The efforts of the authorities are therefore directed mainly against other diseases.

Responsibilities of Stock Owners and Veterinary Practitioners; Reporting of Disease and Separation of Affected Animals.—Every person having in his possession or under his charge an animal or carcass affected with or suspected of any of the notifiable diseases above-named is required:

(*a*) As far as practicable to keep that animal or carcass separate from animals not so affected; and

(*b*) With all practicable speed to give notice, to a police constable, of the fact that the animal or carcass is so affected or suspected.

Section 57 (1) of the Act of 1894 provides that the owner or person in charge of an animal, charged with an offence against the Act relative to disease, shall be presumed to have known of the existence of the disease or illness, unless and until he shows to the satisfaction of the Court that he had not knowledge thereof, and could not with reasonable diligence have obtained that knowledge.

Any veterinary surgeon who finds any notifiable disease is likewise required to report such cases to the local authority.

An important provision contained in the Orders of the Minister dealing with the specified diseases is the prohibition of the exposure of any affected or suspected animal in a market, fairground, saleyard or place of exhibition, and of the movement or grazing of such an animal on a highway, road or lane, or on common or unenclosed land, or of its movement by rail or water.

The Acts and Orders impose upon stockowners and the public generally an obligation to afford inspectors and police all necessary facilities for the performance of their duties, and any obstruction is an indictable offence. Persons guilty of an offence in respect of these or other matters referred to in the Acts and Orders are liable to a penalty of £50, or £5 in respect of each animal where more than 10 animals are concerned, and in certain cases to imprisonment.

Slaughter and Compensation: Remedial Treatment.—In the case of cattle plague and pleuro-pneumonia the Acts render it obligatory upon the Ministry to slaughter all affected animals, with payment of compensation. In the case of sheep-pox slaughter by the local authority is compulsory.

In foot-and-mouth disease slaughter is not obligatory, but may be carried out at the discretion either of the Ministry or of the local authority. In practice, in cases of foot-and-mouth disease, slaughter of affected and in-contact animals, accompanied by stringent restrictions on movement of animals in infected areas, is adopted by the Ministry as being the most effective and economical method of maintaining the comparative freedom of this country from the disease, regard being had to present pathological knowledge. This disease is the subject of investigation by a scientific research committee appointed by the Minister of Agriculture.

In the case of swine fever also, slaughter is within the discretion of the Ministry. As a "stamping out" policy, slaughter in swine fever was given a prolonged trial over many years at considerable public expense, but without success. The attempt to stamp it out was abandoned in 1915 in favour of control by isolation of infected herds, and slaughter is now carried out only where necessary to provide a means of diagnosis by post-mortem examination.

Of the other notifiable diseases, slaughter of affected animals is obligatory upon the local authority in cases of glanders and certain forms of bovine tuberculosis, with compensation to the owners; and also of dogs and cats (but without compensation) found to be affected with rabies, or known to have been bitten by a rabid dog or cat.

Cases of sheep scab and parasitic mange in equines are dealt with by the application of remedial measures; sheep scab by the dipping of the affected sheep twice with a short interval (not less than 7 days and not more than 14 days) between the two dippings; and mange by a dressing or other remedy approved by a veterinary surgeon. Anthrax in animals is nearly always fatal, and slaughter is expressly avoided, as the spilling of the blood, which swarms with anthrax bacilli, is attended with great danger both to other animals and to human beings. All stockowners and butchers are cautioned against the cutting of the carcasses of animals which have died of anthrax or suspected anthrax. Cremation is the usual method of destruction of the carcasses.

The above measures are accompanied in every case by restrictions on the movement of the animals on the infected premises, with the object of preventing the spread of infection to other stock.

Principles of Compensation.—The amount of compensation payable for animals slaughtered by the Ministry or local authority varies with the disease and according to whether the animal is diseased or not. The object of the provision made in the Act of 1894 for the payment of compensation is frequently misinterpreted. Compensation is not provided for the purpose of reimbursing an owner for losses incurred through outbreaks of disease amongst his stock; such losses are ordinary trade risks connected with the live stock industry, and are to some extent insurable. Compensation is provided to enable the Ministry or local authority compulsorily to acquire the ownership of any animals which it considers should be slaughtered in the public interest. These animals become the property of the Ministry or local authority, and the owner is paid compensation according to a prescribed scale based upon the market value of the animals when slaughtered. The Ministry and the local authority have power, however, to withhold compensation, either wholly or partially, in respect of an animal slaughtered under the Acts and Orders where the owner or person in charge of the animal has, in the judgment of the Ministry or the local authority, as the case may be, been guilty, in relation to the animal, of any offence against the Diseases of Animals Acts or Orders made thereunder. This power to withhold compensation is sometimes exercised, more particularly in cases in which the owner or person in charge has been convicted for the very serious offence of failing to report disease.

Other Diseases: Provision for Research.—The Act of 1894 empowers the Minister, by Order, to add other diseases to the list of those to be dealt with by State action. Some of the more serious diseases in animals, such as contagious abortion in cattle, Johne's disease, etc., are not suitable for addition to the list of notifiable diseases, either because the nature of the disease renders this impracticable, or because the imposition of such measures of control as would be necessary would interfere unduly with the industry and thus make the remedy worse than the disease. Such diseases, therefore, are not notifiable, but the more important are dealt with in leaflets of advice which are available for the use of farmers.

In addition, scientific research is conducted into various contagious and infectious diseases of animals, including foot-and-mouth disease, contagious abortion in cattle, mares and ewes, various sheep diseases such as louping ill and scrapie, tuberculosis, Johne's disease, mastitis in cows, quarter evil in cattle, etc. These researches are conducted either at the Ministry's Veterinary Laboratory (New Haw, Weybridge, Surrey) or at various institutes aided by Government grants.

Measures for Preventing Introduction of Infection from Abroad.—One of the most important aspects of the problem of keeping Great Britain free from disease is the prevention of the introduction of disease from abroad. Our insular position gives us special advantages in this respect, but these are limited by the fact that we are not self-supporting either in regard to foodstuffs or various raw materials for manufacture,

Appendix II. etc. Without undue interference with these necessities, it has been possible to provide a considerable measure of protection against the introduction of infection by live animals, carcasses, hay, straw, packing materials and animal foodstuffs by the following action :—

(i) Prohibition of landing of live animals from abroad, except—

(*a*) From Ireland, the Channel Islands and the Isle of Man, subject to certain conditions ;

(*b*) Canadian store cattle for feeding purposes, subject to the provisions of the Act of 1922 ; and

(*c*) Fat cattle or sheep from Canada, the United States, the Union of South Africa (including the Mandated Territory of South West Africa), Southern Rhodesia, Iceland and the Faroe Islands, subject to slaughter at an imported animals' wharf at the port of landing within 10 days after landing.

(ii) Prohibition of the landing of fresh carcasses and animal products from the Continent of Europe, with certain minor exceptions.

(iii) Prohibition of landing of hay and straw from countries infected with foot-and-mouth disease.

(iv) Requirement that packing materials used for goods and meat, whether imported or not, shall not be brought into contact with animals and shall be destroyed when their use as packing material is finished.

(v) Requirement that all waste animal foodstuffs or swill containing animal matter, whether of foreign or home origin, shall be boiled before being fed to or brought into contact with animals.

(vi) Prohibition of landing of dogs and other canine animals from abroad, except by licence from the Ministry and subject to six months' quarantine on approved premises, as a protection against rabies.

(vii) Control of importation of horses, asses and mules, which are required to be accompanied by a veterinary certificate in specified terms, as a protection against glanders, epizootic lymphangitis, dourine, and certain other diseases of equines.

Protection of Animals and Poultry from Avoidable Suffering during Transit.—In addition to the measures above described for the suppression and prevention of animal diseases, the Ministry is charged under the Diseases of Animals Acts with the duty of making such regulations as may be considered necessary for protecting animals and poultry from avoidable suffering during transit on land or by sea, and for securing to them a proper supply of food and water. Orders with this object in view have been made as follows :

(*a*) Transit of Animals Order of 1927, dealing with the carriage of animals between ports in Great Britain and between Great Britain and Ireland, the Channel Islands and the Isle of Man, and also the carriage of animals by rail in Great Britain. This Order includes requirements as to the nature of the fittings for vessels engaged in the trade, and also the method of construction of railway vehicles carrying animals by railway.

(*b*) Conveyance of Live Poultry Order of 1919, to protect live poultry during transit by sea, road or rail, or during exposure for sale, from exposure to bad weather or excessive heat, and to prevent overcrowding or the use of unsuitable receptacles.

(*c*) The Exportation and Transit of Horses Order of 1921, which regulates the traffic in horses exported to the Continent or elsewhere, prevents the export of decrepit horses, *i.e.* horses unfit to travel or work, lays down stringent provisions as to the construction of the stalls in which the horses are to travel, and requires the provision of an adequate supply of food and water at all stages of the journey.

The Dogs Act, 1906.—Section 2 of the Act of 1906 is the only part of the Act with which the Ministry is directly concerned as the administering authority. That section adds to the purposes for which the Ministry may make Orders under the Diseases of Animals Act, 1894, the following :—

(*a*) For prescribing the wearing by dogs, whilst in a highway or place of public resort, of collars bearing the name and address of the owners ; and

(*b*) For preventing dogs from straying during the hours of darkness, the object being to prevent the worrying of cattle and sheep.

Collar Regulations are now in force throughout Great Britain, and local authorities are empowered to make regulations requiring dogs to be kept under adequate control during the hours of darkness. These powers have been exercised in nearly every county in Great Britain.

10, Whitehall Place, London, S.W.1.
September, 1928.

S. R. & O., No. 290.

ORDER OF THE MINISTER OF AGRICULTURE AND FISHERIES.

(Dated 4th April, 1927.)

ANIMALS (MISCELLANEOUS PROVISIONS) ORDER OF 1927.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1925, and of every other power enabling him in this behalf, hereby orders as follows :—

Interpretation.

1. In this Order—

"Animal" means cattle, sheep, goats, all other ruminating animals and swine; horses, asses, mules, dogs, and other canine animals;
"Inspector" includes veterinary inspector;
"Local Authority" means a local authority for the purposes of the Act of 1894;
"The Act of 1894" means the Diseases of Animals Act, 1894;
"The Minister" and "the Ministry" mean respectively the Minister and the Ministry of Agriculture and Fisheries.

Other terms have, where the context so permits, the same meaning as in the Act of 1894.

* * * * * *

Power to require Special Disinfection of Slaughterhouses in Particular Cases, with a view to Prevent the Spread of Disease.

4.—(1) Where an inspector considers it necessary or expedient for the purpose of preventing the spread of disease, he may serve a notice on the owner, lessee, or occupier of any slaughterhouse requiring him to cleanse and disinfect such slaughterhouse at the expense of such owner, lessee, or occupier, at such time or times and in such manner as may be prescribed in the notice.

(2) If any person fails to cleanse and disinfect any slaughterhouse in accordance with the requirements of a notice served upon him hereunder, it shall be lawful for the Minister or a local authority, without prejudice to the recovery of any penalty, to cause such slaughterhouse to be cleansed and disinfected, and the owner, lessee, and occupier thereof shall give all reasonable facilities for that purpose. The Minister or the local authority, as the case may be, may recover from such person summarily as a civil debt the expenses of such cleansing and disinfection.

(3) In this Article—

"Disease" means anthrax, cattle-plague, contagious pleuropneumonia of cattle, foot-and-mouth disease, sheep-pox, sheep-scab or swine fever.
"Slaughterhouse" means any premises where animals are habitually slaughtered.

* * * * * *

Appendix II.

Construction of Orders where Boundaries of Districts are altered.

6. Where an Order of the Minister is declared to be applicable to any county, city, borough, burgh, or other district, and the boundary thereof is altered by Act, Order or other instrument, then subject to the terms of the Act, Order or other instrument the Order of the Minister shall thenceforth apply to the county, city, borough, burgh or other district as extended or restricted by such alteration of boundary.

* * * * * *

Information to be given as to Diseased or Suspected Animals or Animals in contact therewith.

12.—(1) Every person who has or has had in his possession or under his charge an animal affected with or suspected of disease, or any animal which has been in contact, or in the same stable, building, shed, field, or other place, with an animal so affected or suspected, or which has otherwise been exposed to the risk of contagion or infection, and every person who as auctioneer or otherwise has sold or offered for sale any such animal shall, if so required in writing by the Ministry or the local authority, or an inspector of the Ministry or of the local authority, give the Ministry or the local authority, or the inspector, as the case may be, all such information as he possesses as to the animal and its movement and as to the persons in whose possession or under whose charge it is or has been, and any person who refuses to give such information or gives false information shall according to and in respect of his own acts and defaults be deemed guilty of an offence against the Act of 1894; Provided that any information given under this Article shall not be available as evidence against the person giving the same in any prosecution under the Act of 1894 except in respect of an offence under this Article.

(2) In this Article the expression "disease" includes any disease which by an Order of the Minister is declared to be a disease for the purposes of the Act of 1894, or any of its provisions, either generally or in their application to a district or part of a district.

* * * * * *

Commencement.

18. This Order shall come into operation on the 1st June, 1927.

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AREAS OF LOCAL GOVERNMENT.

See also LOCAL GOVERNMENT, *post*, pp. 3492, 3518.

THE LOCAL GOVERNMENT ACTS (INQUIRIES AND NOTICES) ORDER 1921, DATED SEPTEMBER 26TH, 1921, MADE BY THE MINISTER OF HEALTH.

[NOTE.—This order replaces orders of 1889, 1902, and 1914 (*see* Article 9).]

The Minister of Health, in pursuance of his powers under section 57 and subsection (4) of section 87 of the Local Government Act, 1888, and of all other powers enabling him in that behalf, hereby makes the following Order prescribing the inquiry to be made, and the notices to be given, by the council of an administrative county or county borough, or by a joint committee appointed by two or more such councils, preliminary to an order under section 57 of the Act of 1888, and prescribing the notice to be given of the provisions of any such order and the manner in which copies of the order are to be supplied:—

Appendix II.

1. This Order may be cited as the Local Government Acts (Inquiries and Notices) Order, 1921, and shall come into operation on the 1st day of October, 1921.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires:—

"The Act of 1888" means the Local Government Act, 1888;

"Council" means the council of an administrative county or county borough;

"County district" means any municipal borough (not being a county borough) or other urban district, or any rural district;

"District council" means the council of any county district;

"Joint committee" means a joint committee appointed by two or more councils, as already defined, for the purpose of dealing under section 57 of the Act of 1888, with any area or matter in which such councils are jointly interested.

3.—(1) A local inquiry, at which all persons interested may attend and be heard shall, prior to any order being made by a council or joint committee under section 57 of the Act of 1888, be held in regard to the proposal, either by a committee of the council or joint committee, or by some person appointed by the council or joint committee to hold such inquiry, as the council or joint committee may direct.

(2) The inquiry shall be held at some convenient place within one of the areas affected by the proposal, or at such place in the neighbourhood of those areas as may, in the opinion of the committee or person by whom the inquiry is to be held, be most convenient for the purpose.

(3) At least ten days before the day on which the inquiry is to be held, public notice of the purport of the proposal, and of the day, time, and place fixed for the inquiry, shall be given by the Council or joint committee—

(*a*) By advertisement in some local newspaper circulating in the county districts or parishes referred to in the proposal, and

(*b*) By affixing printed copies of a notice containing the particulars aforesaid to such places in each county district or parish referred to in the proposal as are ordinarily used for the publication of parochial or other public notices.

4. At least ten days before the day on which the inquiry is to be held, a printed notice of the purport of the proposal, and of the day, time, and place for the inquiry shall be sent by the council or joint committee to the local authorities indicated in column 1 of the First Schedule to this Order, and to the Government Departments indicated in column 2 of that schedule:

Provided that if the proposal relates only to the division of a district into wards or the alteration of the number of wards or of the boundaries of a ward, or of the number of the members of a district council, or of the apportionment of the members among the wards, it shall not be necessary that notice of the proposal should be sent to the Board of Education, to the Commissioners of Customs and Excise, to the Public Works Loan Commissioners, or to the Receiver for the Metropolitan Police District.

5.—(1) Public notice of the provisions of any order made by a council or joint committee under section 57 of the Act of 1888 shall be given by the insertion by the council or joint committee of an advertisement in some local newspaper circulating in the county districts or parishes affected by the order, and such advertisement shall be published within ten days after the making of the order.

(2) The advertisement shall contain a statement of the effect of the order, and of the time and place at which copies of the order may be inspected by any local government elector, owner or ratepayer in any area affected by the order during a period of twenty-one days from the date of the publication of such advertisement, and the Order shall be open to inspection by any such elector, owner or ratepayer during that period.

(3) Any such Order shall also be published by affixing a copy of the Order, or a

Appendix II. statement of its effect, to such places in the county districts or parishes affected by the Order as are ordinarily used for the publication of parochial or other public notices.

6. A copy of any Order made under section 57 of the Act of 1888 by a council or joint committee shall, at any time while copies of the order are open to inspection as aforesaid, and in the case of an Order which requires to be confirmed by the Minister of Health, at any time before the expiration of six weeks from the publication of the advertisement of the Order, be supplied by the clerk of the council or joint committee to any local government elector, owner or ratepayer in any area affected by the Order, upon payment by such elector, owner or ratepayer of a sum not exceeding sixpence.

7. On or before the date of the publication of the advertisement of any Order made as aforesaid, three copies of the Order shall be forwarded to the Minister of Health and to each of the other Government Departments to whom a copy of the notice of the inquiry preliminary to the Order was required to be sent in pursuance of this Order, and one copy of the Order shall also be sent to each of the local authorities to whom a copy of such notice was so required to be sent.

8. The advertisement in pursuance of Article 5 of this Order of the provisions of any Order made by a council or joint committee under section 57 of the Act of 1888 shall be deemed to be the " first notice " for the purposes of sub-section (3) of that section as amended by section 41 of the Local Government Act, 1894.

9. The Orders of the Local Government Board, of which particulars are given in the Second Schedule to this Order, are hereby revoked, but this revocation shall not affect anything done in pursuance of those Orders.

THE FIRST SCHEDULE.

Local Authorities and Government Departments to whom notices of local inquiries and copies of Orders under section 57 of the Act of 1888 are to be sent.

Column 1. Local Authorities.	Column 2. Government Departments.
The district council of any county district affected by the proposal or within whose district any parish so affected is situate or extends. The board of guardians of any poor law union within which any county district or parish affected by the proposal is situate or extends. The parish council (or where there is no parish council, the parish meeting) of every rural parish affected by the proposal. The overseers of the poor of every parish affected by the proposal. Any burial board or any joint committee appointed for the purposes of the Burial Acts, 1852 to 1906, whose area is situate within or extends into any parish affected by the proposal. Any joint board or other local authority who, in the opinion of the council or joint committee by whom the local inquiry is directed, are specially interested in the proposal.	The Minister of Health. The Secretary of State, Home Office. The Registrar General. The Minister of Agriculture and Fisheries. The Board of Education (*a*). The Commissioners of Customs and Excise (*a*). The Public Works Loan Commissioners (*a*). The Receiver for the Metropolitan Police District, but only where any county district or parish affected by the proposal is situate or extends into the Metropolitan Police District (*a*).

(*a*) See the proviso to Article 4 of this Order, *ante*, p. 3055.

THE SECOND SCHEDULE.

Orders of the Local Government Board revoked.

Date of Order.	Description or Short Title of Order.
14th September, 1889 . .	Regulations as to Inquiries and Notices by County Councils under section 57 of the Act of 1888.
29th November, 1902 . .	The Local Government Acts (Inquiries and Notices) County Boroughs Order, 1902.
8th September, 1914 . .	Order amending the aforesaid Order of the 14th September, 1889, as to Inquiries and Notices by County Councils.

P. O. Inst. C.

ALTERATIONS OF BOROUGH BOUNDARIES.

(LOCAL GOVERNMENT ACT, 1888, SECTION 54.)

PROVISIONAL ORDER INSTRUCTIONS * FOR TOWN COUNCILS (DATED JULY 3, 1928, ISSUED BY THE MINISTRY OF HEALTH).

PART I.

PROCEDURE.

1. FORM OF APPLICATION.

(i) The application, called in the Act a representation, should be in the form of a memorial of the council under the corporate seal.

(ii) It should be either printed or neostyled and in foolscap size.

(iii) For facility of reference, the information in the memorial should be arranged strictly in the order and manner set out in Part II. of these instructions.

2. MAPS.

The following maps should accompany the memorial:—

(i) An ordnance map on a scale of 6″ to the mile (Map A) mounted on linen and folded to about 12″ by 9″, showing clearly the proposed alterations of boundary. The colouring and notation defined in Appendix A should be employed, and the items should, in so far as applicable, be clearly indicated.

(ii) A 6″ ward map (Map B), mounted on linen and folded to about 12″ by 9″, showing the existing and proposed wards of the borough and the existing and proposed apportionment of councillors, but omitting the particulars shown on Map A.

(iii) A key map, on a scale of 1″ to the mile (Map C), showing the main outlines of the proposal and the whole of any district of which part is scheduled for inclusion, and indicating (without showing the whole) adjoining districts not so scheduled.

(iv) A map on a scale of 1″ to the mile (Map D), showing the existing county electoral divisions affected by the proposal, and the alterations proposed.

(v) A small-scale diagram in distinctive colours showing the borough and each of the areas which it is proposed to include. This diagram should be bound with or otherwise incorporated in the representation and is required for the use of the Parliamentary committees by whom the Bill will be considered.

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* In the case of county boroughs these instructions apply subject to the provisions of the Local Government (County Boroughs and Adjustments) Act, 1926, *ante*, p. 1793. A county borough can proceed by way of a provisional Order only if no objection to that procedure is made by any local authority concerned.

Appendix II.

3. PRESENTATION OF THE MEMORIAL.

In the consideration and making of Provisional Orders *time is an essential factor.* Intervals must be allowed for the notification of possible objections, the publication of notice of the local inquiry of an inspector, the proceedings at the inquiry, the preparation by the inspector of his report, the consideration of the report at the Ministry, and the drafting of the Order. The time at which the confirmation Bill must be introduced is regulated by the Standing Orders of Parliament.

It is accordingly very desirable that the department should be informed at as early a date as possible of any intended application for an Order and that the application itself should be submitted in good time and in any case *not later than the* 1st *September.* The early submission of an application may also allow of an unopposed extension Order being brought into operation in April of the following year instead of six or twelve months later.

4. DEPOSIT AND DISTRIBUTION OF DOCUMENTS.

Simultaneously with the transmission of the memorial and maps to the Ministry, a duplicate of the map or maps should be deposited in—

(i) The Town Clerk's Office, and be open to inspection without payment at all reasonable hours by all local authorities or persons affected.

(ii) The Private Bill Office. } * (Standing Order 39 of both
(iii) The Office of the Clerk of the Parliaments. } Houses of Parliament.)

(iv) Further copies of the memorial and maps should be distributed as follows :

Ministry of Health	14 copies of memorial.
Home Office	1 copy of memorial and Maps B and C.
Ministry of Agriculture and Fisheries	1 copy of memorial and Map A.
County council(s)	1 copy of memorial and Map A.
All other local authorities affected .	1 copy of memorial.

NOTE.—The lists and documents referred to in sections 16 and 17 below must accompany the copy of the memorial to the Ministry of Health but need not be furnished with the other copies.

* Extract from Standing Order 39 :

" *Standing Order* 39.

" Whenever Plans, Sections, Books of Reference or Maps are deposited in the case of a "Provisional Order . . . proposed to be made by any Public Department . . . duplicates of "the said Documents shall also be deposited in the {Private Bill Office / Office of the Clerk of the Parliaments} : "provided that with regard to such deposits as are so made at any Public Department . . . "after the Prorogation of Parliament, and before the 30th day of November in any year, "such duplicates shall be so deposited on or before the 30th day of November."

5. ADVERTISEMENT, NOTICE, OBJECTIONS, ETC.

(i) The deposit of the documents in the town clerk's office should be advertised in the London Gazette and, in two successive weeks, in some one and the same local newspaper circulating in the areas affected. The first advertisement in the local newspaper should appear within seven days after the date of the deposit. A model form of advertisement is given in Appendix B.

(ii) Notice in writing of the deposit should be given to each local authority affected at the time when the memorial is forwarded to them.

(iii) Each local authority should at the same time be informed that, if they intend to put forward objections to the proposals, they must notify the Ministry and the town council *within two weeks* and forward a full statement of their objections to the Ministry and the town council within a further period of *four weeks.*

6. CERTIFICATE AND AFFIDAVIT.

The town clerk should furnish the Ministry with a certificate and an affidavit (in proof of compliance with Standing Order 39 of both Houses of Parliament) in the forms given in Appendices C and D.

The affidavit should be furnished immediately after the deposit of the maps and the certificate as soon thereafter as practicable.

7. PARLIAMENTARY FEES.

The following fees are charged on Provisional Order Confirmation Bills :—

(i) On the second reading in the House of Lords, a fee of £15 to be paid on demand to the Accountant, House of Lords, S.W.1, direct or through Parliamentary agents. Cheques to be made payable to the " House of Lords Fee Fund " and be crossed " Bank of England, Western Branch."

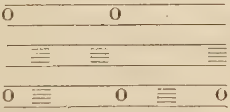
(ii) On the second reading in the House of Commons of a Bill for the confirmation of a Provisional Order a fee of £15 is charged to the applicants in respect of each Provisional Order, to be paid on demand to the Clerk of the Fees, House of Commons, S.W.1, direct or through Parliamentary agents. Cheques to be made payable to the " Clerk of the Fees," and crossed.

(iii) At the committee stage in the case of an opposed confirmation Bill in the House of Lords and for proceedings before the Court of Referees or any committee of the House of Commons, fees are charged to applicants and opponents which are the same as in the case of local and private Bills. These should be paid as in (i) and (ii) above.

No other Parliamentary fees are charged.

APPENDIX A TO PART I.

1. Care should be exercised when mounting the map to retain the marginal notes showing the date of the survey.
2. A reference table of the colour and notation scheme should be attached to the map.
3. In no case should colouring or edging be applied so thickly as to hide the lines printed on the ordnance sheets.

Areas and Boundaries.	Colouring of Maps.
Existing borough	Light pink wash.
Proposed new boundary	Edged on inner side darker pink.
Parish boundaries	Fine green line.
Boundaries of special drainage districts, under section 277 of the Public Health Act, 1875.	Dotted green line.
Proposed added areas—	
Urban districts, parishes, etc. . .	Distinctive light colour washes.
Proposed excluded parts of—	
Urban districts, parishes, etc. . . .	Edged on inner side with same colours as proposed added parts
Streets and Buildings.	
New streets (*i.e.* since last survey) . .	Red lines.
New buildings (*i.e.* since last survey) . .	Red.
Proposed streets and roads	Broken red lines.
County main roads	Burnt sienna.
Tramways.	 Indicated thus and coloured venetian red.
Omnibus routes	
Tramways and omnibus routes . . .	
Land and Property.	
Burial grounds and cemeteries (however provided).	Yellow wash, green edging.
Public recreation grounds and playing fields.	Dark green wash.
Private recreation grounds (including sports and playgrounds, etc.).	Light green wash, edged green.
Proposed public recreation grounds and playing fields.	Light green wash, hatched dark green.
Proposed private recreation grounds and playing fields.	Hatched and edged light green.
Allotments and small holdings—	
(*a*) Existing	Burnt sienna wash, edged green.
(*b*) Proposed	Hatched burnt sienna, edged green.

Areas and Boundaries.	Colouring of Maps.	
Housing sites—		
(*a*) Developed	Yellow	Municipal schemes to be marked "M," public utility schemes "P.U.," and private estates "P.E."
(*b*) Undeveloped or proposed . . .	Yellow hatched	
Areas unsuitable for building . . .	Brown hatched.	
Sewage disposal works	Burnt sienna wash, hatched green (vertical).	
Waterworks—		
(*a*) Reservoirs	Pale blue wash.	
(*b*) Catchment areas	Edged pale blue.	
(*c*) Other works	Dark blue.	
Government or municipal buildings . .	Orange circle.	
Public Buildings.	*Notation* (in *red*).	
Public elementary schools	S.	
Secondary schools	S.S.	
Police stations	P.	
Refuse destructors	D.	
Refuse tips	T.	
Gasworks	G.	
Electricity works	E.	
Public baths and washhouses . . .	B.	
Public libraries	L.	
Hospitals	H.	
Fire stations	F.	
Poor law institutions	I.	

APPENDIX B TO PART I.

Advertisement.

Ministry of Health.
Session. . . . . .

$\frac{\textit{(County) Borough}}{\textit{City}}$ *of* .

NOTICE IS HEREBY GIVEN, that the Mayor, Aldermen and of the of have applied to the Minister of Health for a Provisional Order under section 54 of the Local Government Act, 1888, to alter the boundaries of the (County) $\frac{\text{Borough}}{\text{City}}$ so as to include and that (a) duplicate(s) of the Map(s) * deposited with the Minister and showing (amongst other things) the existing boundaries of the Borough and the proposed alterations thereof, $\frac{\text{have}}{\text{has}}$ been deposited at my Office and will be open to inspection at all reasonable hours, without payment, by any local authority or person affected by the proposals.

Dated this day of .

Town Clerk.

* Map A and, where there is a ward map, also Map B.

APPENDIX C TO PART I.

Form of Certificate.

Ministry of Health.
Session. . . . . .

Representation by the Mayor, Aldermen and of the of for a Provisional Order under section 54 of the Local Government Act, 1888, for the alteration of the boundaries of the .

Appendix II.

I, , Town Clerk of the of DO CERTIFY AS FOLLOWS :—

1. I have personally verified by every means in my power the existing boundaries of the as shown on Map A which accompanied the Memorial to the Minister of Health.

In County Borough cases only.

2*a*. That in accordance with the provisions of section 2 (1) (*a*) and (*b*) of the Local Government (County Boroughs and Adjustments) Act, 1926, on the day of and before making the representation to the Minister of Health I sent written notice of the Town Council's intention (together with a draft of the proposed Provisional Order) to the following local authorities affected by the proposal (including the County Council).

Names of Authorities.

2*b*. That at the same time I informed each of the above-mentioned authorities, that, if they objected to the proposed procedure by Provisional Order, they should inform the Ministry of Health and the Town Council within four weeks of the receipt of the notice.

2*c*. That no such objection has been received.

In all cases.

2. That simultaneously with the transmission of the Memorial and maps to the Minister of Health I deposited at my Office in for inspection without payment at all reasonable hours by any local authority or person affected by the proposals (*a*) duplicate(s) of the Map(s) * . . . forwarded to the Minister of Health.

3. That on the day of I delivered a copy of the Memorial to the Home Office, the Ministry of Agriculture and Fisheries and to each of the following local authorities (including the County Council) having jurisdiction within the area affected by the proposals :

Names of Local Authorities.

4. That at the same time I delivered to the Home Office copies of Maps B and C and to the Ministry of Agriculture and Fisheries and to the Clerk of the said County Council a copy of Map A.

5. That at the same time I informed each of the above-mentioned local authorities in writing of the deposit of the duplicate Map(s) * . . . and that if they intended to put forward objections to the proposals, they should notify the Ministry of Health and the Town Council within two weeks and forward a full statement of their objections to the Ministry and to the Town Council within a further period of four weeks.

6. That notice of the deposit of the said duplicate(s) of the Map(s) * . . . in my Office has been advertised in the London Gazette on the and in two successive weeks in the , being a local newspaper circulating in the areas affected, namely on the and . The first advertisement in the local newspaper appeared within seven days of the first-mentioned deposit. Copies of the London Gazette and the newspapers containing the advertisement are annexed hereto and marked " A," " B " and " C " respectively.

Town Clerk.

---

* Map A and, where there is a ward map, also Map B.

Appendix II.

half-crown
impressed
stamp.

APPENDIX D TO PART I.

FORM OF AFFIDAVIT.

Ministry of Health.
Session. . . . . . .

Representation by the Mayor, Aldermen and of the of , for a Provisional Order under section 54 of the Local Government Act, 1888, for the alteration of the boundaries of the .

I, of make Oath and say as follows :—

On the day of (that day not being a Sunday) I deposited between the hours of 8 o'clock in the forenoon and 8 o'clock in the afternoon at the office of the Clerk of the Parliaments of the House of Lords, and in the Committee and Private Bill Office of the House of Commons (a) duplicate(s) of the Map(s) * . . . deposited at the Ministry of Health.

Sworn at ____________ ______________

____

this day of

Before me

____

* Maps A, C and D, and, where there is a ward map, also Map B.

PART II.

CONTENTS AND ARRANGEMENT OF THE MEMORIAL.

The memorial should give, in so far as it is applicable, the information outlined below, and *strictly in the order and the manner defined.*

1. THE MAIN PROPOSAL.

(i) The proposed alterations in the boundary of the borough and of districts, parishes and unions affected should be briefly outlined, with reference to the map. Where it is proposed to include in the borough parts of parishes, information should be given as to how the remainder of these parishes is to be dealt with. If the proposals entail the abolition of an urban or rural district or parish or of a union, this should be clearly stated.

(ii) General statistics should be furnished in the following form :—

Borough, district or parish.	Area at last two Censuses and at present.			Population at last two Censuses and at present.			Density per acre (present estimate).	Rateable Value.			Produce of 1*d*. rate in the £.
	Census.	Census.	Present estimate.	Census.	Census.	Present estimate.		At last census.	At present.	Per head of population.	

2. REASONS FOR THE PROPOSAL.

The reasons for making the application should be fully stated.

Any general or historical observations should appear under this heading.

3. PRINCIPAL CONSEQUENTIAL PROPOSALS.

(i) *Organisation for Local Government Elections.*

Statements should be furnished in the following forms :—

(*a*) BOROUGHS.

1. *Electoral.*

Existing Wards.			Proposed Wards.		
Name.	No. of L.G. electors.	No. of clrs.	Name.	No. of L.G. electors.	No. of clrs.

NOTE.—If there are no wards and none are proposed, give existing and proposed number of town councillors.

State—

Number of aldermen of existing borough.
Proposed number of aldermen of extended borough.
Years of retirement.

2. *Rateable Value.*

Existing Wards R.V.					Proposed Wards R.V.				
Name.	Co. *and* corpn. property.	Dwelling-houses.	Other property.	Total.	Name.	Co. *and* corpn. property.	Dwelling-houses.	Other property.	Total.
	£	£	£	£		£	£	£	£

(*b*) URBAN DISTRICTS.

U.D.	Existing Wards for Council Elections.			Proposed Wards (except where district to be abolished).	
	Name.	No. of clrs.	Date of retirement.	Name.	No. of clrs.

NOTE.—If there are no wards and none are proposed, give existing and proposed number of urban district councillors and dates of retirement.

Appendix II.

(c) PARISHES, RURAL DISTRICTS AND UNIONS.

1. *Parishes.*

Parishes.	Situate in		Wards of Parish for Gdns. or R.D.C. Elections.				
			Existing.		Proposed.		
	Borough or district.	Union.	Name of ward.	No. of gdns. or R.D. clrs.	Name of ward.	Name of parish.	No. of gdns. or R.D. clrs.

NOTE.—If there are no wards and none are proposed, give existing and proposed number of rural district councillors or guardians for each parish.

2. *Union and Rural District.*

Total No. of Gdns. for Union.				Total No. of R.D. Clrs. for R.D.			
Union.	No. of gdns. at present.	Dates of retirement.	No. of gdns. proposed.	R.D.	No. of R.D. clrs. at present.	Dates of retirement.	No. of R.D. clrs. proposed.

(d) PARISH COUNCILS.

Information to be given for all rural parishes which have a P.C.

Parish.	Wards for P.C. Elections.			
	Existing.		Proposed.	
	Name.	No. of clrs.	Name.	No. of clrs.

NOTE.—If there are no wards and none are proposed, give existing and proposed number of parish councillors for each parish.

Appendix II.

(ii) *Justice, Coroner and Police.*

(*a*) Has the borough a separate—
  (1) Court of Quarter Sessions.
  (2) Commission of the Peace.
  (3) Police Force. If so give names of any county police buildings in proposed added area.
  (4) Coroner.

(*b*) A statement in the following form for all petty sessional divisions affected :—

Petty Sessional Divisions.					
Existing.			Proposed.		
Name.	Areas comprised.	Population.	Name.	Areas comprised.	Population.

(*c*) A similar statement for the coroner's districts concerned.

4. PREVIOUS PROPOSALS RELATING TO THE SAME AREA.

Particulars of any previous unsuccessful application made to Parliament, the Local Government Board or the Ministry of Health. Copies of any Bill promoted for this purpose, and of the minutes of evidence given before the committee to which any such Bill was referred by Parliament, should be sent to the Minister of Health with the representation.

If no such proposal has previously been made this should be stated.

5. INDUSTRIES, OCCUPATIONS AND WORKPLACES.

(i) State the principal industries, and the principal occupations (with figures) of the inhabitants of the borough and of each added area.

(ii) The following table as to the inhabitants' workplaces to be given :—

Name of place.	Number of occupied persons :—					
	Living in place.	Working in A.	Working in B.	Working in C.	Working in D.	Working elsewhere.
A The borough .						
B C D Particulars for each U.D. or parish affected.						

NOTE.—Where no later information is available the figures in (i) and (ii) above may be taken from the latest census returns as regards areas for which separate figures are given. As regards rural parishes, where the census figures are of importance, they can be obtained from the Registrar-General, Census Office, 13 Tavistock Street, W.C.2, on payment of the usual charges but, where the figures are not of importance, a general indication will be sufficient.

Appendix II.

The following is an actual example worked out from census information :—

WORKPLACES.

Name of place.	Number of occupied persons :—						
	Living in place.	Working in :—					
		Borough.	U.D. (A)	R.D. (B)	R.D. (C)	R.D. (D)	Other areas or not known.
Borough .	59,734	54,397	27	159	77	566	4,508
U.D. (A) * .	731	467	192	—	—	25	47
R.D. (B) * .	10,569	1,276	—	7,033	—	126	2,134
R.D. (C) * .	6,790	595	—	—	4,092	—	2,103
R.D. (D) * .	15,033	3,593	—	322	—	8,337	2,781

* Names of districts or parishes to be stated in the table.

6. STATEMENT OF LOANS.

Tables as in Appendix A (1) to be given for each county, borough, urban or rural district affected, in Form A (2) for rural parishes, and in Form A (3) for joint-boards, etc.

7. PROPERTY.

Statement as under of properties owned by the corporation, *in the proposed added areas.*

Property.	Situation.	Acreage.	Purpose for which acquired.	Statutory authority.

8. RATES, DIFFERENTIAL RATING, AND RATING AND VALUATION ACT, 1925.

(i) Tabular statements as in Appendix B.

(ii) State whether and, if so, what differential rates for any added areas are proposed by the town council.

(iii) State the deduction proposed to be made, in accordance with paragraph 3 of Part III. of the second schedule to the Rating and Valuation Act, 1925, from the net annual value of hereditaments in the added areas, belonging to Class 3a, mentioned in Part II. of that schedule.

(iv) Give the names of any assessment areas for purposes of the above Act, the districts included in them, and the alterations proposed.

(v) State whether it is proposed to transfer to the borough any rating officer of an urban or rural district. If so, give particulars.

(vi) State the rateable value of the borough and each of the added areas as follows :

Borough, district or parish.	Rateable Value.				
	Agricultural land and buildings.	Industrial property.	Railway and other freight-transport property.	Other property.	Total.
	£	£	£	£	£

9. LOCAL ACTS, PROVISIONAL ORDERS, ADOPTIVE ACTS, BYELAWS AND REGULATIONS, ETC.

(i) *Local Acts and Provisional Orders.*

(*a*) A complete statement as under of Local Acts and Provisional Orders in force in the borough and in each of the added areas—

Name of authority.	Year when passed or confirmed.	Chapter.	Indicate whether Provisional Order (P.O.) or Local Act (L.A.).	Subject (in brief).

(*b*) If it is proposed to alter any Local Act in force in any area affected by the representation, a detailed statement of the desired amendments should be forwarded.

(ii) *Adoptive Acts.*

A separate form as under to be submitted for the borough and each of the proposed added areas—

Town Council of .
Urban District Council of
Rural District Council of .
Parish Council or Meeting of .

Act.	Date of adoption (if not adopted, state so).	Parts or sections adopted.
The Lighting and Watching Act, 1833 . .		
The Baths and Washhouses Acts, 1846–1925 .		
The Burial Acts, 1852–1906. . . .		
The Public Improvement Act, 1860 . .		
The Infectious Disease (Prevention) Act, 1890		
The Public Health Acts Amendment Act, 1890		
The Museums and Gymnasiums Act, 1891 .		
The Public Libraries Acts, 1892–1919 . .		
The Private Street Works Act, 1892 . .		
The Small Dwellings Acquisition Acts, 1899–1923		
The Health Resorts and Watering Places Act, 1921		
The Local Government and other Officers' Superannuation Act, 1922 . . .		
The Public Health Act, 1925 . . .		

Where an Act has been adopted for *part* of a rural parish, state the precise area and the name of the authority for the execution of the Act.

(iii) *Byelaws and Regulations.*

A statement as under of the byelaws and regulations in force in the borough and in each added area.

Borough, urban or rural district.	Date.	Subject.	Extent to which byelaws have been repealed, if any.

Appendix II.

(iv) *Parish Council Powers.*

A statement as under of the powers of a parish council conferred on the borough council, or an urban district council affected, by Orders of the Ministry or their predecessors under section 33 of the Local Government Act, 1894.

(NOTE.—Any Order conferring on the council power to appoint overseers or assistant overseers has been superseded by the Rating and Valuation Act, 1925, and may be excluded from the statement.)

Borough or urban district.	Date of Order.	Powers conferred.

NOTE.—THE INFORMATION INDICATED IN SECTIONS NOS. 10–14 BELOW SHOULD BE DRAWN UP IN THE FORM OF A SEPARATE TABLE FOR EACH SERVICE, WITH PARALLEL COLUMNS FOR THE BOROUGH AND EACH ADDED AREA.

IF THE INFORMATION ON ANY POINT OR POINTS IS TOO LENGTHY TO BE CONVENIENTLY EMBODIED IN THE TABLE, IT SHOULD BE FURNISHED SEPARATELY AT THE END OF THE TABLE.

10. SANITATION AND HEALTH.

(i) *Sewerage and Sewage Disposal.*

(*a*) Is the area wholly or partly sewered ?

(*b*) If only partly, state—
  (1) Population served by system.
  (2) Number of premises not connected to sewers.

(*c*) If any areas are drained to sewers of an adjoining authority, or joint board or committee, state—
  (1) Areas so drained.
  (2) Name of adjoining authority, etc.
  (3) Number of premises.
  (4) Population affected.

(*d*) Is the sewerage system "separate," "partially separate" or "combined" ?

(*e*) If the sewage is treated, state method or methods (broad irrigation, tanks and land, tanks and bacterial filters, activated sludge process or by combinations of these systems).

(*f*) If the sewage is not treated, state—
  (1) Where it is discharged, and
  (2) If discharged to tidal waters, state under what conditions of control, if any (*e.g.* whether at all states of tide or otherwise).

(ii) *Water Supply.*

(*a*) Is a piped supply general ?
(*b*) If so, is it into houses or by standpipes ?
(*c*) If not, state number of premises supplied by—
  (1) Wells.
  (2) Springs.
  (3) Rainwater.
  (4) Other sources.
(*d*) Name of undertakers.
(*e*) Statutory area of supply.
(*f*) Area actually supplied.
(*g*) Source of supply.

(*h*) Capacity of reservoirs (if any)—
  (1) Impounding or storage.
  (2) Service.
(*i*) Capacity of pumps (if any).
(*j*) Average quantity supplied in gallons per 24 hours—
  (1) Domestic.
  (2) Trade.
(*k*) Is the supply constant and sufficient ?

(iii) *Scavenging and Refuse Disposal.*

(*a*) *Collection of House Refuse.*
  (1) Is collection undertaken by local authority; and, if so, by direct labour or contract ?
  (2) If refuse is not collected by local authority has the duty of cleansing or removal been imposed upon occupiers or have voluntary arrangements been made ?
  (3) How often is refuse collected ?
(*b*) *Disposal of House Refuse.*
  (1) Method of disposal, *e.g.* tipping, incineration, separation and incineration, pulverisation or other method.
  (2) If refuse is tipped, are proper precautions on the lines recommended by the Ministry taken to prevent nuisances ?

(iv) *Collection and Disposal of Night-soil* (*if any*).

Statements on the lines of (iii) (*a*) and (iii) (*b*) above.

(v) *Sanitary Statistics, etc.*

(*a*) Number of—
  (1) W.C.'s.
  (2) Pan or pail closets.
  (3) Midden Privies.
  (4) Ashpits separate from midden privies.
  (5) Cesspools.
(*b*) (1) Are cesspools watertight ?
  (2) Are there any overflows ?
  (3) If so, where do overflows discharge ?
(*c*) (1) Steps being taken to convert privies, etc.
  (2) The total number of privies converted in last three years.

(vi) *Sanitary Inspection.*

Summary of action taken in each of past three years as follows :
(*a*) Number of premises visited.
(*b*) Number of nuisances or defects discovered.
(*c*) Number of nuisances or defects remedied as result of informal action.
(*d*) Number of statutory and informal notices served.
(*e*) The results of the service of such notices.

(vii) *Hospitals.*

(*a*) *Infectious Diseases.*
  (1) Has a hospital been provided ?
  (2) If so, by what authority ?
  (3) Is the hospital a permanent building ?
  (4) If not, state nature of construction.
  (5) Accommodation for patients.
  (6) Accommodation for staff.
  (7) Area served by hospital.
  (8) Population served by hospital.

(*b*) *Smallpox.*
Similar information.

(viii) *Medical Officers of Health and Sanitary Inspectors.*

A statement as under in respect of each officer for the borough and each of the added areas—

(*a*) Whether employed whole time.
(*b*) Whether he acts for more than one district.
(*c*) If so, names of such districts.

(ix) *Maternity and Child Welfare.*

State names of the responsible authorities in the borough and each of the added areas.

11. HOUSING AND TOWN PLANNING.

(i) *Housing.*

NOTE.—In the case of rural districts, this information is required only in respect of the parishes affected by the proposals and should be given separately for each parish.

(*a*) Approximate area covered by water, rivers, canals, railways, roads, parks, recreation grounds, etc., which cannot be built over.

(*b*) Other land not available for building, giving reasons why it is not available.

(*c*) Area of land (unbuilt on) economically available for building.

(*d*) Number of houses—
  (1) Now inhabited.
  (2) Voids.
  (3) Percentage of working-class houses included in (2).
  (4) Back to back.

(*e*) Summary of action taken in each of the past three years with regard to the inspection and reconditioning of defective and unfit dwelling-houses, under the Public Health Act and the Housing Acts, as follows:
  (1) Total number of inspections in each year.
  (2) Number of formal notices served.
  (3) Number of houses rendered fit in consequence of formal notices.
  (4) Number of houses rendered fit by informal action (including informal notice).

(*f*) Number of working-class houses needed—
  (1) To meet shortage.
  (2) To meet overcrowding (other than shortage).
  (3) To replace unfit houses.

(*g*) (1) Number of houses of all classes now in course of erection.
  (2) Number completed in each of last two years.
  (3) Total number of houses built in preceding years since 1919—
    By local authority.
    By public utility societies.
    By private enterprise.

(*h*) Number and total length of private streets not yet taken over.

(ii) *Town Planning.*

(*a*) State approximate area for which any action has been taken.
(*b*) State stage which scheme has reached.
(*c*) Give brief particulars of any features which are considered to have a bearing on the extension proposals.

12. BURIAL ARRANGEMENTS.

(i) Have the town council the powers of a burial board ?

(ii) Is there any burial board within the borough other than the town council, and if so for what area does it act ?

(iii) Is any part of the borough within the area of a joint burial committee appointed under s. 53 (2) of the Local Government Act, 1894 ? If so, give the names of the civil parishes or parts of civil parishes for which the joint burial committee act.

(iv) Has a cemetery been provided by the town council under the Public (Interments) Act, 1879 ?

NOTE.—Information on the above lines should also be supplied with regard to each of the proposed added areas.

(v) Description of proposed alterations in areas, etc., of burial authorities.

13. EDUCATION.

(i) The name of the authority for elementary education.

(ii) The name of the authority for higher education.

14. TRADING SERVICES (OTHER THAN WATER).

(i) *Electricity.*
  (*a*) Who owns undertaking ?
  (*b*) Limits of supply.
  (*c*) Area actually supplied.

(ii) *Gas.*
  Similar information.

(iii) *Tramways and Omnibuses.*
  (*a*) Tramways—
    (1) Are there any tramways ?
    (2) If so, are they owned by the local authority ?
    (3) If owned, are they operated by them or leased ?
  (*b*) Omnibuses.
    Similar information as in (iii) (*a*).

(iv) *Markets.*
  (*a*) Are any markets situate in the area ?
  (*b*) If so, state undertaker.
  (*c*) Who are the owners of the market rights ?
  (*d*) Whether by statute, charter or franchise.

(v) *Docks.*
  (*a*) Is there a dock or harbour undertaking ?
  (*b*) If so, state undertaker.

(vi) In the case of any other public utility undertakings, state
  (*a*) Purpose.
  (*b*) Undertaker.

15. JOINT BOARDS AND OTHER COMBINATIONS.

A statement as under of any combinations effected under such enactments as sections 191 and 286 of the Public Health Act, 1875, and section 57 of the Local Government Act, 1894, of any united district for sanitary purposes any port sanitary

Appendix II. authority, any regional committee for town planning or other joint board in which any affected area is included.

United district or other combination.	Purpose.	Act or Order.	Constituent authorities.	Number of members from each.	How expenses apportioned.

16. LISTS, ETC.

(i) A list of Charters in force in the borough. If the borough was established since 1870, a copy of the Charter of Incorporation and of any scheme of the Privy Council.

(ii) *Agreements.*—A list as under of all agreements made by the town council or the council of any area affected, under such enactments as sections 28, 61, 131, 285 of the Public Health Act, 1875, or with the standing joint committee of the county as to police.

Authority by whom made.	With whom made.	Date.	Nature and purpose.	Act and section.

(iii) A list of all the electoral divisions in the county, existing and proposed, distinguishing between electoral divisions consisting (*a*) wholly of urban districts; (*b*) wholly of rural districts; (*c*) partly of each and giving the area, population and the number of local government electors in each electoral division.

17. DOCUMENTS, ETC.

The following documents should be attached to the memorial—

(i) A copy of any agreement between the local authorities which is considered to have an important bearing on the proposal.

(ii) A copy of every Local Act and of every Act confirming a Provisional Order in force in the borough and in each of the added areas.

(iii) A copy of each Order made by the county council or by a joint committee under the Local Government Act, 1894, affecting the added areas.

(iv) A copy of the last printed abstract of the borough treasurer's accounts.

(v) A copy of the scale of water charges levied in each area.

MINISTRY OF HEALTH,
WHITEHALL, S.W.1.
16*th July*, 1928.

APPENDIX A (1).

(*See paragraph* 6.)

LOANS STATEMENT.

Loans outstanding at the end of last financial year.

Purpose (as far as applicable).	Total amount of loans outstanding.	Total amount in sinking funds.	Total amount remaining to be provided for.
	£	£	£
1. *Non Grant-aided Services*—			
Sewerage and sewage disposal .			
Parks, pleasure grounds and open spaces			
Lunacy			
Hospitals			
Corporation estates . . .			
Collection and disposal of house refuse			
Baths and washhouses . . .			
Fire protection			
Public libraries and museums. .			
Allotments			
Council offices			
Other purposes			
Total .			
2. *Grant-aided Services*—			
Housing :			
Under Act of 1919 . . .			
Under other Acts . . .			
Total .			
Roads and bridges :			
Main roads			
District roads			
Total .			
Education :			
Elementary			
Higher			
Total .			
Small holdings			
Police			
Other purposes			
Total .			
3. *Trading Undertakings*—			
Waterworks.			
Electricity works			
Tramways			
Gasworks			
Markets			
Cemeteries			
Other undertakings . . .			
Total .			
4. *Summary*—			
Total Non Grant-aided Services .			
Total Grant-aided Services . .			
Total Trading Undertakings . .			
Grand total . . .			
Temporary loans or overdrafts under the Local Authorities (Financial Provisions) Act, 1921 . . .			

APPENDIX A (2).

(*See paragraph* 6.)

LOANS STATEMENT.

Loans outstanding at the end of last financial year.

Loans chargeable upon each contributory place affected by the proposal. Rural district of .

Purpose (so far as applicable).	Name of Contributory Place.			Name of Contributory Place.		
	Total amount of loans outstanding.	Total amount in sinking funds.	Total amount remaining to be provided for.	Total amount of loans outstanding.	Total amount in sinking funds.	Total amount remaining to be provided for.
	£	£	£	£	£	£
Loans contracted by rural district council :—						
Sewerage and sewage disposal						
Water supply .						
Other loans, viz.						
Totals .						
Loans contracted by parish council or parish meeting :—						
Allotments .						
Recreation grds.						
Burial grds. .						
Other loans, viz.						
Totals .						

APPENDIX A (3).

(*See paragraph* 6.)

LOANS STATEMENT.

Loans outstanding at the end of last financial year—Joint boards, burial boards, etc.

Name of joint board, burial board, etc.	Purpose of loans.	Total amount of loans outstanding.	Total amount in sinking funds.	Total amount remaining to be provided for.
		£	£	£

APPENDIX B.

(*See paragraph* 8 (*i*).)

RATES.

These particulars should be furnished on separate returns (*a*) for the existing borough, and (*b*) for each of the areas proposed to be added to the borough.

Purpose.	Rates for last five years.				
	Year.	Year.	Year.	Year.	Year.
	s. *d.*	*s.* *d.*	*s.* *d.*	*s.* *d.*	*s.* *d.*
* TRUE RATES.					
Education, elementary					
,, higher					
Public libraries					
Public health—					
Sewers and sewage disposal					
Collection and disposal of house and trade refuse					
Hospitals, sanatoria and dispensaries					
Maternity and child welfare					
Baths					
Parks					
Public conveniences					
Other health services					
Lunacy and mental deficiency					
Housing and town planning					
Allotments, small holdings, etc.					
Highways and bridges—					
Main roads					
Other roads					
Public lighting					
Fire brigade					
Police					
Total					
Contributions to meet deficiencies on trading services					
Total					
Deduct—					
(1) Trading profits applied to rates					
(2) Other income (not apportionable among services specified above)					
Total					
†Relief of the poor and other expenses of guardians					
All other expenses					
Grand total					
Actual rates levied to meet expenses of—					
T.C. or U.D.C.					
R.D.C.					
General					
Special					
Board of guardians					
County council					
Other local authorities					
Total					
Rates per head of population					

---

* That is, the amounts expended out of rates during the year, expressed in terms of a penny rate.

† If a borough or urban district is situate in more than one union, state rates for the parts in each union.

Appendix II.

BILLS IN PARLIAMENT.

BOROUGH FUNDS ACTS, 1872 AND 1903.

[*Ante*, pp. 2331, 2658.]

INSTRUCTIONS TO URBAN DISTRICT COUNCILS.

PROMOTION OF BILLS IN PARLIAMENT.

EVERY application under the Borough Funds Act, 1872, as amended by the Borough Funds Act, 1903, for the approval of the Ministry of Health to a resolution of an urban district council in favour of promoting a Bill in Parliament at the expense of any local rate should be accompanied by—

1. A copy of the Bill which is to be promoted.
2. A statement of the grounds of the promotion.
3. A statutory declaration by the chairman or clerk of the district council in the form set forth below, showing that the statutory requirements have been complied with, and having annexed to it the several documents therein referred to. The declaration must be stamped with a half-crown impressed stamp.

Form of Statutory Declaration.

Urban district of

In the matter of the Borough Funds Acts, 1872 and 1903, and the promotion by the district council of the Bill, 19 .

I [*Here state name of declarant and office held by him*] do solemnly and sincerely declare as follows :—

1. On the day of a notice was advertised in the (being a local newspaper published or circulating in the urban district of) of a meeting to be held of the district council of the said district and of the purpose of such meeting.

A copy of the newspaper containing an advertisement of the said notice is annexed hereto, marked A.

2. Such notice was in addition to the ordinary notice required for the summoning of a meeting of the district council.

3. In pursuance of such notice a meeting of the district council was held on the day of , and a resolution was passed by an absolute majority of the whole number of the council, of which resolution a copy is annexed hereto, marked B. The total number of members of the council is , of which number voted for the resolution, voted against the resolution ; were present at the meeting, but did not vote, and were absent from the meeting.

4. The said resolution was twice published in the , being a newspaper circulating in the urban district ; viz., the first time on the day of and the second time on the day of .

Copies of the newspapers containing the publication of such resolution are annexed thereto marked respectively C. and D.

5. Notice as to the Bill was given in accordance with the requirements of Rule (1) of the First Schedule to the Borough Funds Act, 1903, by placards and by advertisement in some local newspaper circulating in the urban district in two successive weeks. The first advertisement was made and the placards were posted within the time required by Rule (2) of the said schedule.

A copy of the placard and of each newspaper, viz., the [*Here insert name of newspaper*] dated the day of and the day of are hereto annexed, marked respectively E, F, and G.

6. In accordance with such notice a public meeting of electors was held on the day of [and was adjourned till the day of]. A copy of the resolution [or each of the resolutions] put to the meeting is hereto annexed, marked H [*or* H_1, H_2, H_3, &c.], and the resolution was [*or* resolutions were] passed by the meeting [*or* the resolutions marked were passed and the resolutions marked were rejected by the meeting].

7 (a). No requisition for a poll was delivered to the chairman of the urban distric council within the time limited by Rules (9) and (10) of the said schedule.

or 7 (b). A requisition by [electors] [the urban district council] for a poll was delivered to the chairman of the urban district council within the time limited by Rule [(9)] Rule [(10)] of the said schedule. A copy of the requisition is hereto annexed, marked J.

8 (a). A poll was rendered unnecessary by the withdrawal of the requisition or by a resolution of the council withdrawing the Bill or the part or parts or clause or clauses of the Bill to which the resolution with reference to which the poll was required related. [*Omit the words not applicable to the case.*]

or 8 (b). On such requisition a poll of the electors was taken by the chairman of the urban district council [*or* by who was appointed in pursuance of Rule (15) of the said schedule] in accordance with the regulations contained in the said schedule and the regulations of the Local Government Board prescribed under Rule (16) thereof.

A copy of the declaration of the result of the poll is hereto annexed marked K.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at in the county of this day of 19 .
Before me

Exhibits to be annexed to the Declaration.

A. Copy of the newspaper containing advertisement of notice of meeting of district council and of the purpose of such meeting.
B. Copy of resolution passed at meeting of council.
C. Copy of newspaper containing the first publication of resolution of council.
D. Copy of newspaper containing the second publication of resolution of council.
E. Copy of placard containing notice as to the Bill.
F. Copy of newspaper containing first advertisement of the notice as to the Bill.
G. Copy of newspaper containing second advertisement of the notice as to the Bill.
H. Copy of each resolution put to the public meeting of electors.
J. Copy of requisition for the poll (if any).
K. Copy of declaration of the result of the poll (if any).

OPPOSITION TO BILLS IN PARLIAMENT.

Every application under the Borough Funds Act, 1872, as amended by the Borough Funds Act, 1903, for the approval of the Ministry of Health to a resolution of an urban district council in favour of opposing a Bill in Parliament at the expense of any local rate should be accompanied by—

1. A copy of the Bill which is to be opposed.
2. A statement of the grounds of the opposition.
3. A statutory declaration by the chairman or clerk of the district council in the form set forth below, showing that the statutory requirements have been complied with, and having annexed to it the several documents therein referred to. The declaration must be stamped with a half-crown impressed stamp.

Form of Statutory Declaration.

Urban district of

In the matter of the Borough Funds Acts, 1872 and 1903, and the opposition by the urban district council to the Bill, 19 .

I [*Here insert name of declarant and office held by him*] do solemnly and sincerely declare as follows:—

1. On the day of a notice was advertised in the (being a local newspaper published or circulating in the urban district of) of a meeting to be held of the district council of the said district and of the purpose of such meeting.

A copy of the newspaper containing an advertisement of the said notice is annexed hereto, marked A.

2. Such notice was in addition to the ordinary notice required for the summoning of a meeting of the district council.

3. In pursuance of such notice a meeting of the district council was held on the day of , and a resolution was passed by an absolute majority of the whole number of the council, of which resolution a copy is annexed hereto, marked B. The total number of members of the council is , of which number voted for the resolution, voted against the resolution; were present at the meeting but did not vote, and were absent from the meeting.

4. The said resolution was twice published in the , being a newspaper circulating in the urban district; viz., the first time on the day of and the second time on the day of .

Copies of the newspapers containing the publication of such resolution are annexed hereto marked respectively C. and D.

I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Statutory Declarations Act, 1835.

Declared at in the county of this day of 19 .
Before me

Exhibits to be annexed to the Declaration.

A. Copy of newspaper containing advertisement of notice of meeting of district council and of the purpose of such meeting.
B. Copy of resolution passed at meeting of council.
C. Copy of newspaper containing the first publication of resolution of council.
D. Copy of newspaper containing the second publication of resolution of council.

BOROUGH FUNDS ACTS (POLLS) ORDER, 1903.

To the Councils of the several Metropolitan Boroughs; To the Councils of the several Municipal Boroughs and Urban Districts in England and Wales; And to all others whom it may concern.

Whereas [*sections* 1 *and* 9 *and Schedule* (16) *of the Act of* 1903 (*see* ante, *pp.* 2658, 2660, 2662) *are recited*].

Now therefore, we, the Local Government Board, in the exercise of our powers in that behalf, and subject to any departure to which we may hereafter assent and to any direction which we may hereafter give, do hereby prescribe, for use under the first schedule to the Act, the several forms which are set forth in the schedule to this Order and which form the subject-matter of provisions in the regulations contained in this Order and hereinafter referred to as "the regulations," and we do hereby order that the regulations shall apply to and be observed for the purposes of or in connection with every poll under the Act.

The Regulations.

Art. 1. In the regulations—

Definition.

The expression "returning officer" means, as the case may be, the mayor of the borough, or the chairman of the urban district council, or the person appointed by the council in accordance with the provisions of the paragraph numbered 15 in the first schedule to the Act.

Requisition for poll by electors.

Art. 2. Every requisition for a poll by electors shall be in the Form No. 1 in the first schedule to this Order.

Withdrawal of requisition for poll by electors.

Art. 3. A requisition for a poll by electors may be withdrawn by a notice delivered to the returning officer not later than the third day before the day fixed for the poll. The notice shall be in the Form No. 2 in the first schedule to this Order.

Withdrawal of requisition for a poll by the council.

ART. 4. A requisition for a poll by the council may be withdrawn by a resolution of the council, of which resolution a copy shall be delivered to the returning officer not later than the third day fixed for the poll.

Withdrawal of bill or part or parts or clause or clauses.

ART. 5. Where the council after a requisition for a poll resolve to withdraw the Bill or the part or parts or clause or clauses to which the resolution with reference to which the poll is required relates, a copy of the resolution of the council for such withdrawal shall be delivered to the returning officer not later than the third day before the day fixed for the poll.

Notice that no poll will be taken.

ART. 6. If by the withdrawal of the requisition for a poll or by the withdrawal of the Bill or the part or parts or clause or clauses to which the resolution with reference to which the poll is required relates, a poll is rendered unnecessary, the returning officer shall give public notice stating that no poll will be taken. The notice shall be in the Form No. 3 in the first schedule in this Order.

Appointment of office and provision of necessaries for purposes of the poll.

ART. 7.—(1) The returning officer shall appoint an office in the borough or urban district for the purposes of the poll.

(2) The returning officer shall provide such polling stations, boxes, voting papers, stamping instruments, copies of register of parochial electors, and other things, appoint and pay such officers, employ and pay such persons, and do such other acts and things as may be necessary for effectually conducting the poll and for carrying into effect the rules set forth in the second schedule to this Order.

Day and hours of poll.

ART. 8.—(1) Every poll shall be held on a day which shall be fixed by the returning officer, and shall be not earlier than the tenth day nor later than the fourteenth day after that on which, as the case may be, the requisition for the poll by electors or a copy of the resolution authorising the requisition for the poll by the council was delivered to the returning officer.

(2) The hours during which the poll shall be open shall be fixed by the returning officer, so, however, that the poll shall always be open between the hours of six and eight in the evening.

Polling districts.

ART. 9.—(1) (a) If the borough or urban district is divided into wards for the election of councillors, and a separate list or separate lists of electors will be available for each of those wards, each ward shall be a polling district for the poll.

(b) If the borough or urban district is not so divided, but is divided into polling districts for the election of councillors, and a separate list or separate lists of electors will be available for each of those districts, each district shall be a polling district for the poll.

(c) If neither paragraph (a) nor paragraph (b) of this regulation applies to the borough or urban district, the returning officer may, if he thinks fit, divide the borough or urban district into polling districts for the poll, but each district shall consist of an area for which a separate list or separate lists of electors will be available.

(2) If the borough or urban district is divided into polling districts for the poll, each elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in one only) of the polling districts in which it is situate.

Polling places and stations.

ART. 10. The returning officer shall determine the number and situation of the polling places and polling stations in a polling district.

Provided as follows:—

(a) No premises licensed for the sale of intoxicating liquor shall be used for a polling station;

(b) Where the number of electors in the borough or urban district, or (if the borough or urban district is divided into polling districts) in any polling district, is not more than five hundred, only one polling station shall, unless the council otherwise direct, be provided for the borough or urban district or polling district; and so on for each additional five hundred electors, or for any less number of electors over and above the last five hundred.

Notice of the poll.

ART. 11.—(1) The returning officer, seven clear days at least before the day fixed for a poll, shall give public notice thereof.

The notice shall specify—

(a) the resolution or resolutions as to which the poll is to be taken;

(b) the day and hours fixed for the poll;

(c) the situation and allotment of the polling place or polling places, and if there be more than one polling place or polling station, the description of the persons entitled to vote at each polling place and polling station.

(2) The notice shall be in the Form No. 4 in the first schedule to this Order.

Presiding officers.

ART. 12.—(1) The returning officer, or some person appointed by him for the purpose, shall preside at each polling station.

The person presiding at any polling station is hereinafter referred to as the presiding officer.

(2) If the returning officer presides at a polling station the regulations, including the rules set forth in the second schedule to this Order, so far as the regulations and rules relate to a presiding officer, shall, with the necessary modifications, apply to the returning officer in that capacity.

Compartments of polling stations. Voting papers.

ART. 13. The returning officer shall furnish every polling station with such number of compartments in which the voters can mark their votes screened from observation, and shall furnish each presiding officer with such number of voting papers as may be necessary for effectually taking the poll.

Questions to elector.

ART. 14.—(1) The presiding officer may, and, if required by any elector, shall put to any elector at the time of his applying for a voting paper, but not afterwards, the following questions, or one of them, and no other:—

(a) Are you the person entered in the parochial register for the parish of or for the ward in this borough or urban district as follows [*read the whole entry from the register*]?

(b) Have you already voted at the present poll?

(2) A person required to answer either of these questions shall not receive a voting paper or be permitted to vote until he has answered it.

Procedure at poll.

ART. 15.—(1) Each voting paper, which shall be in the Form No. 1 set forth in the third schedule to this Order, shall show every resolution upon which the poll is taken, and shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting the voting paper shall be marked on both sides with an official mark, either stamped or perforated, and shall be delivered to the voter within the polling station, and the number of the voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the presiding officer, after having shown to him the official mark at the back.

(2) If in the register of parochial electors for a parish, the same number is placed opposite to the name of more than one parochial elector, the returning officer shall put a distinguishing mark on each part of the register which contains numbers used in other parts of the register, and when the number of any voter on any part of the register is entered on the counterfoil of a voting paper, the mark on that part shall also be entered thereon.

(3) After the close of the poll the boxes shall be sealed up, so as to prevent the introduction of additional voting papers, and the returning officer shall take the boxes into his custody, and that officer shall open the boxes and ascertain the result of the poll by counting the votes given for and against each resolution upon which the poll is taken.

Declaration of result of poll.

ART. 16.—(1) The declaration of the result of the poll shall be in the Form No. 5 in the first schedule to this Order.

(2) The returning officer making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted.

(3) The returning officer shall cause public notice to be given of the result of the poll as declared, and shall announce the result to the council.

Conduct of poll.

ART. 17. The poll shall be conducted in accordance with the rules set forth in the second schedule to this Order.

Publication of notices.

ART. 18. Any public notice required by this Order shall be given by posting the same on or near the principal door of each church and chapel in the borough or urban district, and in some conspicuous place or places within the borough or urban district.

Misnomer. Inaccurate description.

ART. 19. No misnomer or inaccurate description of any person or place named in any notice under this Order shall hinder the full operation of that notice with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Title of order.

ART. 20. This Order may be cited as the "Borough Funds Acts (Polls) Order, 1903."

SCHEDULES.

FIRST SCHEDULE.

FORM No. 1.

Form of Requisition of Electors.

We, the undersigned electors of the [Borough] [Urban District] of hereby requre a Poll of the electors to be taken with reference to the [resolution] [resolutions] put to the public meeting held on the day of , 19 , in favour of the promotion of [part or parts or clause or clauses of] the Bill, intituled a Bill, , which has been deposited in Parliament by the council.

Signature of elector.	Address of elector.

Dated this day of , 19 .

FORM No. 2.

Notice of Withdrawal of Requisition for Poll by Electors.

WHEREAS by a requisition bearing date the day of , 19 , we, the undersigned electors of the [Borough] [Urban District] of required a Poll of the electors to be taken with reference to the [resolution] [resolutions] put to the public meeting held on the day of , 19 , in favour of the promotion of [part or parts or clause or clauses of] the Bill, intituled a Bill , which has been deposited in Parliament by the council.

Notice is hereby given that we, the electors aforesaid, do hereby withdraw the said requisition.

Signature of elector.	Address of elector.

Dated this day of , 19 .

FORM No. 3.

Notice that no Poll will be taken.

[BOROUGH] [URBAN DISTRICT] OF .
IN PARLIAMENT: SESSION .

(Title or Short Title of Bill.)

WHEREAS a requisition was made that a poll of the electors of the above-named [Borough] [Urban District] be taken with reference to the [resolution] [resolutions] put to the public meeting held on the day of , 19 , in favour of the promotion of [part or parts or clause or clauses of] the Bill, the title of which is set forth above.

[And whereas the requisition aforesaid has been withdrawn.]

[And whereas the council have withdrawn (part or parts or clause or clauses of) the Bill above referred to.]

I do hereby give notice that the poll for which the said requisition was made will not be taken.

Dated this day of ,19 .

Returning Officer.

FORM No. 4.

Notice of Poll.

[BOROUGH] [URBAN DISTRICT] OF .
IN PARLIAMENT: SESSION .

(*Title or Short Title of Bill.*)

WHEREAS a requisition has been made that a poll of the electors of the above-named [Borough] [Urban District] be taken with reference to the [resolution] [resolutions] put to the public meeting of electors held on the day of , 19 , in favour of the promotion of [part or parts or clause or clauses of] the Bill, the title of which is set forth above, and such [resolution] [resolutions] [was] [were] in the following terms:—

*

NOTICE IS HEREBY GIVEN—

1. That a poll of the electors with reference to the [resolution] [resolutions] above set forth will be taken on day the of , 19 , between the hours of and .

†2.—(1) That each elector must vote in the polling district in which the property in respect of which he votes is situate, and if it is situate in more than one polling district he may vote in any one (but in one only) of such polling districts.

(2) The polling districts are as follows:—

‡3. The situation and allotment of the polling places and stations and the description of the persons entitled to vote thereat are as follows:—

Dated this day of , 19 .

Returning Officer.

Office for purposes of Poll.

* Here insert the resolution or resolutions as to which the poll is to be taken.

† If the borough or district is not divided into polling districts for the purposes of the poll, paragraph 2 should be omitted.

‡ If only one polling place or station, adapt form accordingly.

FORM No. 5.

Declaration of Result of Poll.

[BOROUGH] [URBAN DISTRICT] OF .
IN PARLIAMENT: SESSION .

(*Title or Short Title of Bill.*)

WHEREAS a poll of the electors of the above-named [Borough] [Urban District] was taken on the day of , 19 , with reference to the following [resolution] [resolutions] put to the public meeting held on the day of , 19 , in favour of the promotion of [part or parts or clause or clauses of] the Bill, the title of which is set forth above.

Resolutions.

(1)
(2)

I, the undersigned, being the returning officer at the said poll, do hereby declare that the number of votes recorded thereat is as follows:—

In favour of the Resolution No. 1 . . . . votes.
Against the Resolution No. 1 . . . . . votes.
Majority in favour [*or* against *as the case may be*] . .
In favour of the Resolution No 2. . . . . votes.
Against the Resolution No. 2 . . . . . votes.
Majority in favour [*or* against *as the case may be*]

Dated this day of , 19 .

Returning Officer.

SECOND SCHEDULE.

RULES FOR POLLS.

1. The returning officer shall provide each polling station with materials for voters to mark the voting papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at that station. He shall keep the official mark secret.

2. The returning officer shall cause directions for the guidance of the voter to be printed in conspicuous characters, and placarded outside every polling station and in every compartment of every polling station. Such directions shall be in the Form No. 2 in the third schedule to the Borough Funds Acts (Polls) Order, 1903.

3. The presiding officer appointed to preside at each station shall keep order at his station, and, for that purpose, shall regulate the number of electors to be admitted at a time.

4. Every box for the reception of voting papers shall be so constructed that the voting papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll, shall show the box empty to such persons, if any, as may be present in the station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of voting papers, and keep it so locked and sealed.

5. Immediately before a voting paper is delivered to an elector, the number, name, and description of the elector as stated in the copy of the register of voters shall be called out, and a mark shall be placed in the said copy of the register against the number of the elector, to denote that he has received a voting paper, but without showing the particular voting paper which he has received.

6. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by the Borough Funds Acts (Polls) Order, 1903, or (if the Poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed, or of any voter who makes such a declaration as hereinafter mentioned that he is unable to read, shall cause the vote of the said voter to be marked on a voting paper in manner directed by the voter, and the voting paper to be placed in the box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked shall be entered on a list, hereinafter called "the list of votes marked by the presiding officer."

The said declaration, hereinafter referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the Form No. 3 in the third schedule to the Borough Funds Acts (Polls) Order, 1903, and no fee, stamp, or other payment shall be charged in respect of the declaration, and the said declaration shall be given to the presiding officer at the time of voting.

7. A voter who has inadvertently dealt with his voting paper in such manner that it cannot be conveniently used as a voting paper, may, on delivering to the presiding officer the voting paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another voting paper in the place of the voting paper so delivered up (hereinafter called "a spoilt paper"), and the spoilt voting paper shall be immediately cancelled.

8. The presiding officer of each station, as soon as practicable after the close of the poll, shall make up into separate packets sealed with his seal,—

(1) Each box in use at his station, unopened but with the key attached; and
(2) The unused and spoilt voting papers, placed together; and
(3) The marked copies of the register of voters, and the counterfoils of the voting papers; and
(4) The list of votes marked by the presiding officer, and a statement of the number of the voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read;

and shall deliver the said packets to the returning officer, by whom the votes are to be counted, unless the presiding officer is himself the returning officer.

The packets shall be accompanied by a statement made by the presiding officer, showing the number of voting papers entrusted to him, and accounting for them under the heads of voting papers in the box, unused and spoilt.

9. The returning officer, while counting and recording the number of voting papers and counting the votes, shall keep the voting papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of the papers.

10. The returning officer shall, so far as practicable, proceed continuously with counting

the votes, allowing only time for refreshment, and excluding, if and so far as he thinks it necessary, the hours between the close of the poll and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the voting papers and other documents relating to the poll under his own seal, and shall otherwise take proper precautions for the security of the said papers and documents.

THIRD SCHEDULE.

FORM No. 1.

Form of Voting Paper.

Form of Front of Voting Paper.

(*Title or Short Title of Bill.*)

POLL ON THE FOLLOWING RESOLUTIONS:—

Counterfoil No.	—	For.	Against.
	Are you for or against the resolution in favour of the promotion of— 1		
NOTE.—*The counterfoil is to have a number to correspond with that on the back of the voting paper.*	2		
	3		
	4		

Form of Back of Voting Paper.

No. .

[Borough] [Urban District] of . Poll with regard to resolutions as to the promotion of the Bill, , 19 .

Note.—The number on the voting paper is to correspond with that on the counterfoil.

Directions as to printing Voting Paper.

Nothing is to be printed on the voting paper except in accordance with the Borough Funds Acts (Polls) Order, 1903.

The space in the voting paper as to the resolution or resolutions must be filled up according to circumstances—for example:—

1. If a single resolution in favour of the Bill has been put to the meeting and a poll demanded on it, it will only be necessary to insert the words "The Bill," and no figures will be required; or
2. If separate resolutions have been put to the meeting, one in favour of the whole Bill (except, for example, *Part III.* and *Clauses 82* and *83*), another in favour of *Part III.* separately, and another in favour of *Clauses 82* and *83 separately*, and a poll has been demanded on all of them, it will be necessary to insert:—
   (1) The whole of the Bill (except *Part III.* and *Clauses 82* and *83*):
   (2) *Part III.* of the Bill (relating to);
   (3) *Clauses 82* and *83* of the Bill (relating to); or—
3. If resolutions have been put to the meeting as in the last example, and the first resolution in favour of the whole Bill (except *Part III.* and *Clauses 82* and *83*) has been carried and no poll has been demanded upon it, while a poll has been demanded on the second and third resolutions, the later resolutions only would be inserted, *e.g.*—
   (1) *Part III.* of the Bill (relating to);
   (2) *Clauses 82* and *83* of the Bill (relating to); and so on.

FORM No. 2.

Form of Directions for the Guidance of the Voter in voting.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross thus X in the column of the voting paper headed "For," or in that headed "Against," according as he wishes to vote in favour of or against the resolution opposite to which he places the cross.

The voter may vote in the manner above described on each resolution referred to in the voting paper, where more than one resolution is there mentioned.

When the voter has voted, he must fold up the voting paper so as to show the official mark on the back, and, leaving the compartment, will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the box provided for its reception, and forthwith quit the polling station.

If the voter inadvertently spoils a voting paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

FORM No. 3.

Form of Declaration of inability to read.

I, *A. B.*, of , being numbered on the register of parochial electors for the Parish of , do hereby declare that I am unable to read.

A. B., his mark.

day of , 19 .

I, the undersigned, being the Presiding Officer for the polling station for the [Borough] [Urban District] of do hereby certify that the above declaration, having been first read to the above-named *A. B.*, was signed by him in my presence with his mark.

Signed, *C. D.*,
Presiding Officer for polling station for the [Borough] [Urban District] of .

day of , 19 .

Given under the Seal of Office of the Local Government Board, this Thirty-first day of October, in the year One thousand nine hundred and three.

(L.S.) WALTER H. LONG, *President.*

S. B. PROVIS, *Secretary.*

BYELAWS.

PRINTING OF BYELAWS.

MEMORANDUM OF MINISTER OF HEALTH ISSUED IN JUNE, 1927.

1. *Economy.*

The Minister is often consulted by local authorities as to economy in printing new series of byelaws. The surest way is to make as few byelaws as possible, *i.e.* only those which are required by statute (very few indeed) or are otherwise essential—*e.g.* bringing building byelaws up to date so as to give the greatest possible encouragement to building and development and therefore to the country's trade.

This memorandum has been drawn up to answer the questions most commonly put in correspondence. The clerks of local authorities who need much printing will find what is said familiar, but others should find it helpful, if the inquiries received in the Ministry are typical of the information needed.

2. *Local or central printing.*

At the suggestion of several local authorities, inquiries have been made as to putting them in touch with the contractors who print the model byelaws for His Majesty's Stationery Office. It has also been strongly pressed upon the Minister that stocks of byelaws should be set up in stereotype, so that local authorities could insert merely such alterations as were required and have the local byelaws printed from stereotyped plates. This second suggestion has been found to be technically impracticable, for reasons too long to be stated here. The former suggestion is also found not to be advantageous to local authorities: the contracts for governmental printing cover large blocks of miscellaneous work and the contractors could not set up series of byelaws altered to meet the wishes of local authorities at prices at all comparable with those which the Government pays for the model byelaws (obviously the type of the model byelaws could not be used).

Some London firms doing local government work specialise in printing byelaws, but most printed copies received in the Ministry are found to have been printed locally: serious delays and omissions in printing some recent series were explained by the local authorities concerned as having been caused by their employing the same firm, who had been printing successive series of byelaws with one setting of the type.

3. *Tenders.*

Whether printing locally or not local authorities should (unless they have standing contracts which will have been based on competition) secure competitive tenders. Often they will be able to check these by comparing the prices recently charged to other local authorities for similar work.

On inquiring recently about the surprising time taken by several local authorities in sending byelaws for confirmation, the Minister was informed that they had had a number of copies of the byelaws typewritten, to be sent to different printers for tendering. This is here mentioned as showing how needless cost for copying and needless delay may be incurred. It would have been quicker and much cheaper to make copies—so far as needed—on the model forms with manuscript alterations.

But the printing of a long series of byelaws is a big enough " job " that in most towns the local printers would be glad to call at the local authority's office and inspect it; the making of extra copies would then be unnecessary except for sending to outside firms.

4. *Deferring printing.*

Local authorities sometimes defer the printing required by statute until they have several series which can be printed and bound together. There may thus be some slight saving of first cost, but the practice is undesirable. Section 185 of the Public Health Act, 1875, gives every ratepayer a statutory right to a copy of any particular byelaws without charge. Printing should therefore be done as soon as possible. Several local authorities have informed the Minister that their printers had not enough type to set up all the byelaws at once; a further reason to have them printed and confirmed as quickly as they are ready, and not all together. Six, eight, or more months have been known to elapse. This is plainly against the spirit of the Act.

5. *Binding.*

Moreover, it is often extravagant to bind byelaws on different subjects together, so that a person who demands a free copy of a series containing two or three clauses only cannot have it without taking also the other series bound with it—which may run to many pages.

The cover often states the price at which copies are sold. It is right that persons not entitled to free copies should pay a reasonable sum, but care should be taken that ratepayers (who often do not know of their rights) are not charged in error. " Free to ratepayers "—or similar words—should therefore be printed or stamped below the price.

6. *Size and type.*

Local authorities nearly always use an octavo page with long primer or small pica type: a preference, no doubt, dictated by experience. Among the octavo sizes " crown " is rather small, and " royal " (which is now the standard size for Parliamentary publications and is used for the octavo model byelaws) is rather large for general use. " Demy octavo " is the most usual, but the instructions to the printer for the page and for the type should depend upon careful comparison of the cost and upon practical convenience in everyday use. This last will nearly always rule out anything bigger than " royal octavo ": thus the " foolscap folio " size is the best for drafts (it is used for printing the model series in draft) but is inconvenient to carry and handle, and so is unsuitable for final copies.

For the collections of confirmed byelaws held for reference in the Ministry, it is not vital in what size or form the byelaws are sent, although " demy octavo," being the standard size adopted by most local authorities, facilitates uniform binding and shelving—these have practical importance when thousands of series of byelaws have to be stored and handled.

Not only should byelaws be kept as few as possible (as stated in paragraph 1 of this memorandum) but, in those which are thought necessary, needless details should be eliminated (all the model series are revised at short intervals, and constant care is given to shortening them).

7. *Diagrams, tables, notes, and headings.*

Diagrams are costly and seldom essential in byelaws; "table matter" (*i.e.* four or more columns divided by vertical rulings), and "tabular matter" (*i.e.* three columns so divided) may cost 100 per cent. and 50 per cent. respectively more than plain matter; side notes add from 1*s.* to 2*s.* to the cost of a page, according to its size. These should be avoided, and the byelaws should be printed as straightforward "bookwork." If division beyond that made by statutory sub-headings is needed, it can best be done by roman or clarendon cross-headings.

(If any cross-headings beyond those in the model byelaws are inserted, or if marginal notes are used, the following note must be printed on the first page, in connection with the word BYELAWS in the heading: "The sub-headings and/or marginal notes do not form part of the byelaws").

It will be understood that this memorandum deals with tabular matter, etc., solely in relation to printing. There are other objections to tabular printing, and there are advantages and disadvantages in side notes, etc., which are not relevant here.

8. *Copies for sealing.*

The Minister's seal and certificate of confirmation under section 184 of the Public Health Act, 1875, may lawfully be affixed to byelaws in any form (printed or manuscript or typewritten), but as the byelaws must be printed to comply with section 185 of the Act of 1875 it is obviously simplest to let him have a print to confirm. Local authorities therefore almost always supply for formal confirmation the final proof, *i.e.* a print of the series exactly as it will ultimately appear except that their seal appears in original, properly witnessed, and that a blank space is left where the Minister's seal and certificate of confirmation will be placed. A blank page at the end of the series, or (better) a final page on which a few lines of print appear, is a convenient place on which to impress the Council's seal, leaving space (which should be ample) for the Minister's seal and certificate. Byelaws can be sealed, and certified as confirmed, in duplicate or triplicate if this is definitely asked for; some local authorities always ask for it as a safeguard against loss, although section 186 of the Public Health Act, 1875, or section 24 of the Municipal Corporations Act, 1882, makes it commonly unnecessary. A few local authorities have the confirmation copy or copies printed on vellum or parchment or some superior paper. This costs more and is not necessary.

Unless there is some special reason for asking the Minister to confirm a copy containing manuscript alterations, much the safest course is to let him have the final revised print as stated above. Apart from any other reason, he cannot confirm a series containing manuscript alterations unless these are all initialed by the person or persons who attest the local authority's seal—a troublesome and untidy process.

9. *Number of copies printed.*

Sections 185 and 186 of the Act of 1875, and practical experience of local needs, supply the only safe guidance. Obviously the printing of unnecessary copies is to be avoided, but the resetting (in order to renew depleted stocks) of type which has been broken up is much more costly than running off extra copies at first. Section 185 requires that stocks of byelaws in force MUST NEVER be allowed to be exhausted.

Ministry of Health,
June, 1927.

Appendix II.

CANAL BOATS.

REGISTRATION, ETC., OF CANAL BOATS—GENERAL ORDER OF 20TH MARCH, 1878 (AS AMENDED BY ONE OF 9TH JUNE, 1925).

TO THE SEVERAL REGISTRATION AUTHORITIES under the Canal Boats Act, 1877; And to all others whom it may concern.

WHEREAS by section 2 and section 9 of the Canal Boats Act, 1877 [*the sections* (ante, *pp.* 2396, 2398) *are recited*].

Now therefore, we, the Local Government Board, in pursuance of the powers given by the statutes in that behalf, hereby order that on the thirtieth day of June, one thousand eight hundred and seventy-eight, the following regulations shall come into force, and shall thenceforth continue in force until revoked or varied :—

I.—FOR THE REGISTRATION OF CANAL BOATS UNDER THE CANAL BOATS ACT, 1877, INCLUDING CERTIFICATES OF REGISTRATION, AND THE FEES IN CONNECTION WITH SUCH REGISTRATION.

Application for registration.

1. Every owner of a canal boat who may desire to register the boat as a dwelling shall apply to a registration authority (*a*) having a district abutting on the canal on which the boat is accustomed or intended to ply.

The owner in making such application shall inform the registration authority of a time and place at which the boat may be examined with a view to registration; and shall also furnish such other information as the registration authority may require in relation thereto.

Appointment of, and examination and report by officer of registration authority.

2. Every registration authority shall, from time to time, appoint or employ a fit and proper person to examine and report upon the several canal boats the owners whereof may, in pursuance of the regulation in that behalf, have made application to the authority for registration, and may pay him a reasonable remuneration for such examination and report.

Every person so appointed or employed shall ascertain and duly record with respect to the boat and the cabin or cabins thereof the several particulars requisite to enable him to furnish the information to be set forth in a report which shall be in the Form A. in the schedule to these regulations, and shall be submitted to the registration authority at their next ordinary meeting, or at a special meeting to be called for that purpose.

Registration of boat.

3. The following conditions shall be complied with before a canal boat is registered; that is to say—

(*a*) The boat shall contain a cabin or cabins, clean, in good repair, and so constructed as to be capable of being maintained at all times weatherproof, dry, and clean.

(*b*) The interior of any after cabin intended to be used as a dwelling shall contain not less than 180 cubic feet of free air space, and the interior of any fore cabin, if intended to be so used, shall contain not less than 80 cubic feet of free air space.

(*c*) Every cabin, if intended to be used as a dwelling, shall be provided with sufficient means for the removal of foul, and the admission of fresh air exclusive of the door or doors and of any opening therein.

(*d*) Every cabin, if intended to be used as a dwelling, shall be so constructed or fitted as to provide adequate and convenient sleeping accommodation for the persons allowed by these regulations to dwell in the boat.

(*e*) If the boat be a " narrow " boat, every cabin intended to be used as a dwelling shall be so constructed or fitted that there shall be no locker or cupboard obstructing the free passage from the door to the bulk-head, and no shut-up cupboard above the cross-bed on more than one side of the cabin.

(*f*) One cabin at the least in the boat shall be furnished with a suitable stove and chimney in a safe and convenient situation, and in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

(*a*) See 40 & 41 Vict. c. 60, s. 7, *ante*, p. 2398.

(*g*) The boat shall be properly furnished or fitted with lockers, cupboards and shelves of suitable construction and adequate capacity, and in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

(*h*) The boat, if intended to be ordinarily used for the conveyance of any foul or offensive cargo, shall contain, between the space to be occupied by such cargo and the interior of any cabin intended to be used as a dwelling, two bulkheads of substantial construction, which shall be separated by a space not less in any part than four inches, and open throughout to the external air, and furnished with a pump for the removal of any liquid from such space, and the one next adjoining the space to be occupied by the cargo shall be water-tight.

(*i*) The boat shall be furnished with a suitable cask or other appropriate vessel or receptacle of sufficient capacity for the storage of not less than three gallons of water for drinking.

In every case where the conditions hereinbefore prescribed have been complied with, the registration authority shall cause the boat to be registered, in the book in the Form B. in the schedule to these regulations, as a dwelling for the number of persons allowed by the said regulations to dwell therein.

Notice of change of master.

4 (*a*). ["The owner of a canal boat shall maintain it in the condition required for the purpose of registration under this regulation, and if such owner be convicted of default in so doing the Court of Summary Jurisdiction may (in lieu of or in addition to imposing a penalty) order the suspension or cancellation of the registration"] (*b*).

Certificate of registration.

5. Each of the two certificates of registration which, in pursuance of the provisions of section 3 of the Canal Boats Act, 1877, the registration authority upon registration of a canal boat under that Act, shall give to the owner of the boat, shall, in addition to such other particulars as may seem fit to the authority, contain the several particulars set forth in the Form C. in the schedule to these regulations.

Fees in connection with registration.

6. Every owner of a canal boat applying for registration shall, before the delivery of the certificates, pay to the registration authority the sum of five shillings, as a fee in connection with the registration of the boat (*c*).

II.—FOR THE LETTERING, MARKING, AND NUMBERING OF REGISTERED BOATS (*d*).

7. Every owner of a canal boat registered as a dwelling shall forthwith, upon the receipt of the certificates of registration from the registration authority, cause such boat to be lettered, marked, and numbered in accordance with the following rules; that is to say,—

(a) The word "registered," the name of the place to which the boat has been registered as belonging, the registered number of the boat, and such distinctive mark or marks as may be required by the registration authority, and may be specified in the certificates of registration, shall be painted white on a black ground in a conspicuous position on the outside of one of the cabins of the boat.

(b) The name of the place to which the boat has been registered as belonging, and the registered number of the boat, shall be painted in Roman capital letters and figures, not less than two inches in height.

III.—FOR FIXING THE NUMBER, AGE, AND SEX OF THE PERSONS WHO MAY BE ALLOWED TO DWELL IN A CANAL BOAT, HAVING REGARD TO THE CUBIC SPACE, VENTILATION, PROVISION FOR THE SEPARATION OF THE SEXES, GENERAL HEALTHINESS, AND CONVENIENCE OF ACCOMMODATION OF THE BOAT.

8. For the purpose of fixing the number, age, and sexes of the persons who may be allowed to dwell in a canal boat, which conforms to the conditions of registration provided by these regulations, and which shall, in pursuance of the statutory provision in that behalf, have been registered as a dwelling, the following rules shall apply:—

(*a*) Repealed by Amending Regulations of 9th June, 1925.

(*b*) Additional paragraph added by Amending Regulations, dated 9th June, 1925, issued by the Minister of Health (S. R. & O., 1925, No. 843).

(*c*) As to the application of this fee, see 40 & 41 Vict. c. 60, s. 11, *ante*, p. 2399.

(*d*) See 40 & 41 Vict. c. 60, s. 3, *ante*, p. 2396; and 47 & 48 Vict. c. 75, s. 7, *ante*, p. 2486.

(a) Subject to the conditions hereinafter prescribed with respect to the separation of the sexes, the number of persons who may be allowed to dwell in the boat shall be such that in the cabin or cabins of the boat there shall be not less than 60 cubic feet of free air space for each person above the age of 12 years, and not less than 40 cubic feet of free air space for each child under the age of 12 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, the free air space for each child under the age of 12 years shall be deemed sufficient if it is not less than 30 cubic feet.

Provided also, that in the case of a boat registered as a "fly" boat, and worked by shifts, by four persons above the age of 12 years, there shall be not less than 180 cubic feet of free air space in any cabin occupied as a sleeping place by any two of such persons at one and the same time.

(b) A cabin occupied as a sleeping place by a husband and wife shall not at any time while in such occupation be occupied as a sleeping place by any other person of the female sex above the age of 12 years, or by any other person of the male sex above the age of 14 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, a cabin occupied as a sleeping place by husband and wife may be occupied by one other person of the male sex above the age of 14 years, subject to the following conditions:—

(i) That the cabin be not occupied as a sleeping place by any other person than those above mentioned;

(ii) That the part of the cabin which may be used as a sleeping place by the husband and wife shall, at all times while in actual use, be effectually separated from the part used as a sleeping place by the other occupant of the cabin, by means of a sliding or otherwise moveable screen or partition of wood or other solid material, so constructed or placed as to provide for efficient ventilation.

(c) A cabin occupied as a sleeping place by a person of the male sex above the age of 14 years shall not, at any time, be occupied as a sleeping place by a person of the female sex above the age of 12 years, unless she be the wife of the male occupant, or of one of the male occupants in any case within the proviso to Rule b.

IV.—FOR PROMOTING CLEANLINESS IN AND PROVIDING FOR THE HABITABLE CONDITION OF CANAL BOATS.

Renewal of paint.

9. The owner of a canal boat which may have been registered as a dwelling shall, once at least in every three years, cause the paint on every surface in the interior of every cabin which may be used as a dwelling to be thoroughly renewed.

Removal of bilge water.

10. The master of a canal boat which may have been registered as a dwelling shall cause all bilge water to be removed therefrom by pumping as often as may be necessary to prevent any collection of such water beneath the floor of any cabin which may be used as a dwelling, and, in any case, not less frequently than once in every twenty-four hours.

Cabins to be kept cleanly and habitable.

11. The master of a canal boat which may have been registered as a dwelling shall cause every cabin which may be used as a dwelling to be kept at all times in a cleanly and habitable condition.

V.—FOR PREVENTING THE SPREAD OF INFECTIOUS DISEASE BY CANAL BOATS (*a*).

Notification of infectious disease.

12. In every case where a person on a canal boat is seriously ill or is evidently suffering from an infectious disease, the master of the boat, if, at the time, the boat is proceeding on a journey, shall, as soon as may be practicable, give information thereof to the sanitary authority within whose district is situate the canal or the part of the canal along which the boat may at the time be passing, and, on the arrival of the boat at its port or place of destination, to the sanitary authority within whose district such port or place is situate, and also to the owner of the boat.

(*a*) See 40 & 41 Vict. c. 60, s. 4, *ante*, p. 2397.

If at the time the boat be at its port or place of destination, the master shall forthwith inform the sanitary authority within whose district such port or place is situate, and also the owner of the boat, that a person on board the boat is seriously ill or is evidently suffering from an infectious disease.

The owner of the boat shall forthwith, upon the receipt from the master of information to the effect that a person on board the boat is or has been suffering from an infectious disease, give notice to that effect to the sanitary authority having jurisdiction in the place to which the boat may have been registered or belonging.

Certificate of cleansing and disinfection.

13. In every case where, in the exercise of the power conferred by section 4 of the Canal Boats Act, 1877 (*a*), a sanitary authority may have detained a canal boat for the cleansing and disinfection thereof, the authority, before allowing the boat to proceed on its journey, shall obtain from their medical officer of health, or from some other legally qualified practitioner, a certificate to the effect that the boat has been duly cleansed and disinfected, and shall cause such certificate to be delivered to the master of the boat. The sanitary authority may pay a reasonable remuneration for any such certificate.

VI.—INTERPRETATION OF TERMS.

14. In these regulations, unless the context otherwise requires, words have the same meaning as in the Canal Boats Act, 1877 (*b*).

The expression "wide boat" means a boat not less than seven feet six inches beam:

The expression "narrow boat" means a boat of less than seven feet six inches beam.

SCHEDULE.

FORM A.

EXAMINING OFFICER'S REPORT ON CANAL BOATS.

1. Time and place of examination of Canal Boat .
2. Name, or, if there be no name, the number of the Canal Boat examined .
3. Christian name, surname, and address of owner (1) :
4. Christian name and surname of master .
5. Route along which the boat is accustomed or intended to ply .
6. Nature of the traffic in which the boat is accustomed or intended to be employed .
7. Mode of propulsion;
    and whether a "wide" or "narrow" boat;
    and whether to be used as a "fly" boat worked by shifts.
8. Number of cabins in the boat .
9. Dimensions and cubical capacity of the cabin or cabins:—
    Rule of measurement and of deduction adopted:—(2) ft. in.

		ft. in.
After cabin .	Height	
	Length	
	Width	
	Gross cubical capacity .	
	Net cubical capacity or free air space .	
Fore cabin .	Height	
	Length	
	Width	
	Gross cubical capacity .	
	Net cubical capacity or free air space .	

(*a*) *Ante*, p. 2397.
(*b*) See 40 & 41 Vict. c. 60, s. 14, *ante*, p. 2399.

Appendix II.

10. Description of the construction, furniture, and fittings of the boat, and the several cabins thereof, as regards the following details, viz.—
    - (a) Whether each cabin is clean, in good repair, weatherproof, and capable of being kept dry and clean.
    - (b) What means are provided in each cabin for the removal of foul, and the admission of fresh air, exclusive of the door or doors and of any opening therein.
    - (c) What provision is made in respect of lockers, cupboards, and shelves in the boat.
    - (d) What provision is made for sleeping accommodation in each cabin.
    - (e) If the boat be a "narrow" boat; whether every cabin intended to be used as a dwelling is so constructed or fitted that there shall be no locker or cupboard obstructing the free passage from the door to the bulkhead, and no shut-up cupboard above the cross-bed on more than one side of the cabin.
    - (f) Whether each or either cabin contains a stove and chimney of suitable construction and situation.
    - (g) If the boat be intended to be used for the conveyance of any foul or offensive cargo; whether there are between the space to be occupied by such cargo, and the interior of each cabin intended to be used as a dwelling, two bulkheads of substantial construction, of which that one next adjoining the space to be occupied by the cargo shall be watertight, and which shall be separated by a space not less in any part than four inches, and open throughout to the external air, and furnished with a pump for the removal of any liquid from such space.
    - (h) Whether the boat is furnished with a suitable cask or other appropriate vessel or receptacle of sufficient capacity for the storage of not less than three gallons of water for drinking.

General Observations as to the Fitness of the Boat for Registration as a Dwelling.

Dated this day of 18 .

———, *Examining Officer.*

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(1) If the boat is owned by a partnership firm, or by a company or association, corporate or unincorporate, state the name of the firm, company, or association, and their principal office or place of business.

(2) Here state which of the following rules has been adopted in determining the internal dimensions and cubical capacity of the cabin or cabins; distinguishing, in each case, where necessary, the rate of deduction.

RULE A. (for "wide" boats).

Measure :—

The height from the floor to the roof in the middle of the cabin.

The length from the bulkhead to the door of the opposite cupboard.

The width across the cabin at the bulkhead.

The product of the height, length, and width thus measured will represent, for the purpose of this Rule, both the gross and the net cubical capacity of free air space.

RULE B. (for "narrow" boats).

Measure :—

The height from the floor to the roof in the middle of the cabin.

The length from the bulkhead to the end of the cabin at the side of the doorway.

The greatest width from side to side of the boat at the bulkhead.

The product of the height, length, and greatest width thus measured will represent the gross cubical capacity of the cabin.

To obtain the net cubical capacity or free air space of the cabin, deduction from the gross cubical capacity should be made in accordance with the following directions :—

1 If the cabin have only the following shut-up cupboards or lockers, viz. : a table

cupboard, a side bed-locker or cupboard, a cross bed-locker or lockers, and a cupboard above the cross-bed,—

(a) If the height of the cabin be not less than five feet, deduct $\frac{1}{5}$th.
(b) If the height of the cabin be less than five feet, deduct . $\frac{1}{4}$th.

2. If the cabin have only the following shut-up cupboards or lockers, viz.: a table cupboard, a cross bed-locker or lockers, and a cupboard above the cross-bed,—

(a) If the height of the cabin be not less than five feet, deduct $\frac{1}{6}$th.
(b) If the height of the cabin be less than five feet, deduct . $\frac{1}{8}$th.

3. If the cabin have only the following shut-up cupboards or lockers, viz.: a table board and a cupboard, above the cross-bed,—

(a) If the height of the cabin be not less than five feet, deduct $\frac{1}{10}$th.
(b) If the height of the cabin be less than five feet, deduct . $\frac{1}{12}$th.

FORM B.

REGISTER OF CANAL BOATS.

———, *Registration Authority.*

1. Registration number of the boat .
2. Name of the boat, or, if there be no name, the number .
3. Christian name, surname, and address of owner (1) .
4. Christian name and surname of master .
5. Route along which the boat is accustomed or intended to ply .
6. Nature of the traffic in which the boat is accustomed or intended to be employed .
7. Mode of propulsion;
   and whether a "wide" or "narrow" boat;
   and whether to be used as a "fly" boat worked by shifts.
8. Number of cabins in the boat .
9. Dimensions and cubical capacity of the cabin or cabins:—

Rule of measurement and of deduction adopted (2):—

		ft. in.
After cabin .	Height	
	Length	
	Width . . .	
	Gross cubical capacity	
	Net cubical capacity or free air space . .	
Fore cabin .	Height	
	Length	
	Width	
	Gross cubical capacity .	
	Net cubical capacity or free air space .	

10. Date of application for registration .
11. Date of examination by Officer of Authority .
12. Date of registration .
13. Place to which the boat is registered as belonging, for the purposes of the Elementary Education Acts.

(*This must be some place which is either a School District or is part of a School District, and is situate wholly or partly within the jurisdiction of the Registration Authority: See* 40 *&* 41 *Vict. c.* 60, *s.* 7.)

14. Maximum number of persons for which the boat is registered, subject to the conditions prescribed with regard to the separation of the sexes.

[*Note.—In the case of a boat built after the* 30*th of June,* 1878, *three children under the age of* 12 *years may be reckoned, as regards the minimum of free air space, as equivalent to two persons above the age of* 12 *years. In the case of a boat built prior to the* 30*th of June,* 1878, *two children under the age of* 12 *years may be reckoned as equivalent to one person above the age of* 12 *years: See Art.* 8*a. of the Order.*]

As a "fly" boat worked by shifts. persons.
Otherwise than as a "fly" boat—
In after cabin persons.
In fore cabin persons.

15. Observations.
16. Initials of Clerk or Chairman of Sanitary Authority acting as the Registration Authority .

Appendix II.

(1) If the boat is owned by a partnership firm, or by a company or association, corporate or unincorporate, state the name of the firm, company or association, and their principal office or place of business.

(2) Here state whether Rule A. or Rule B. [see note to the Form A. of examining Officer's Report] has been adopted in the measurement of the cabin or cabins; distinguishing in each case, where necessary, the rate of deduction.

FORM C.

CERTIFICATE OF REGISTRATION OF A CANAL BOAT UNDER THE CANAL BOATS ACT, 1877

————, *Registration Authority.*

Registration Number of Boat .

Whereas application has been made to us, the (*a*) acting as the Registration Authority under the Canal Boats Act, 1897, to register as a dwelling a canal boat, of which (*b*) , of is the owner, and which is accustomed or intended to ply [as a fly boat worked by shifts (*c*)] on the canal whereon the said district abuts;

And whereas we have ascertained that the said boat conforms to the conditions of registration provided by the Regulations of the Local Government Board for the number of persons allowed by the said regulations to dwell therein:

Now we, the said (*a*) , acting as the Registration Authority, do hereby certify as follows; that is to say,—

1. That the boat named (*d*) , whereof (*b*) , of , is the owner, has been duly registered as a dwelling;

2. That the place to which the said boat has been registered as belonging, for the purposes of the Elementary Education Acts is ;

3. That the number with which, in pursuance of the statutory provision in that behalf, the said boat is required to be numbered is ;

4. That the distinctive mark or marks with which we require the said boat to be marked is or are ;

5. That in accordance with the provisions contained in the subjoined Article of an Order of the Local Government Board, dated the twentieth day of March, one thousand eight hundred and seventy-eight, the maximum number of persons for which the said boat is registered as a dwelling is as follows:—

As a fly boat worked by shifts .	persons.
Otherwise than as a fly boat—	
In after cabin . . .	persons.
In fore cabin . . .	persons.

The Article above referred to is as follows:—

For the purpose of fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, which conforms to the conditions of registration provided by these regulations, and which shall, in pursuance of the statutory provision in that behalf, have been registered as a dwelling, the following rules shall apply:—

(a) Subject to the conditions hereinafter prescribed with respect to the separation of the sexes, the number of persons who may be allowed to dwell in the boat shall be such that in the cabin or cabins of the boat there shall be not less than 60 cubic feet of free air space for each person above the age of 12 years, and not less than 40 cubic feet of free air space for each child under the age of 12 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, the free air space for each child under the age of 12 years shall be deemed sufficient if it is not less than 30 cubic feet.

Provided also, that in the case of a boat registered as a "fly" boat, and worked by shifts, by four persons above the age of 12 years, there shall be not less than 180 cubic feet of free air space in any cabin occupied as a sleeping place by any two of such persons at one and the same time.

(*a*) Here insert the description of the sanitary authority and the name of their district.

(*b*) If the boat is owned by a partnership firm, or by a company, or association, corporate or unincorporate, state the name of the firm, company, or association, and their principal office or place of business.

(*c*) If it is not a fly boat, strike out these words.

(*d*) Or "numbered," if the boat be not named.

(b) A cabin occupied as a sleeping place by a husband and wife shall not, at any time while in such occupation, be occupied as a sleeping place by any other person of the female sex above the age of 12 years, or by any other person of the male sex above the age of 14 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, a cabin occupied as a sleeping place by a husband and wife may be occupied by one other person of the male sex above the age of 14 years, subject to the following conditions:—

(i) That the cabin be not occupied as a sleeping place by any other person than those above mentioned:

(ii) That the part of the cabin which may be used as a sleeping place by the husband and wife shall, at all times while in actual use, be effectually separated from the part used as a sleeping place by the other occupant of the cabin by means of a sliding or otherwise moveable screen or partition of wood or other solid material, so constructed or placed as to provide for efficient ventilation.

(c) A cabin occupied as a sleeping place by a person of the male sex above the age of 14 years shall not, at any time, be occupied as a sleeping place by a person of the female sex above the age of 12 years, unless she be the wife of the male occupant, or of one of the male occupants in any case within the proviso to Rule (b).

Given at (*a*) under the common seal of the acting as the Registration Authority, this day of , in the year one thousand eight hundred and .

————, *Clerk to the* .

Given under the Seal of Office of the Local Government Board this twentieth day of March, in the year one thousand eight hundred and seventy-eight.

(L.S.) G. SCLATER-BOOTH, *President.*

CANAL BOATS ACTS.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
December 20th, 1920.

SIR,—I am directed by the Minister of Health to draw attention to section 3 of the Canal Boats Act, 1884, which provides that every Sanitary Authority within whose district any canal or part of a canal is situate, shall make an annual report to the Ministry as to the execution of the Canal Boats Acts, 1877 and 1884, and of the Regulations made thereunder, and as to the steps taken by such Authority during the year to give effect to the provisions of the said Acts and Regulations.

This section also prescribes 21 days after the 31st day of December in each year as the period within which such annual report shall be made; and the Ministry trust that they may be furnished within that period with the report of the Authority with respect to any canal within their jurisdiction.

It appears to the Ministry to be desirable that the report should include information, *inter alia*, as to

(1) The arrangements made for the inspection of boats and the name, address, and remuneration of the inspector:

(2) The number of inspections of canal boats made in 1920, and the condition of the boats and their occupants as regards the matters dealt with in the Acts and Regulations:

(3) Any infringement of the Acts and Regulations with respect to (a) Registration; (b) Notification of change of Master; (c) Certificates; (d) Marking; (e) Overcrowding; (f) Separation of the Sexes; (g) Cleanliness; (h) Ventilation; (i) Painting; (j) Provision of Water Cask; (k) Removal of Bilge Water; (l) Notification of Infectious Disease; (m) Admittance of Inspector;

(4) Legal proceedings taken in respect of any such infringements, and penalties inflicted:

(5) Any other steps taken to secure compliance with the Acts and Regulations as regards such infringements;

(6) Cases of infectious disease dealt with and measures of isolation adopted:

(7) Detention of boats for cleansing and disinfection:

and, in the case of registration authorities,

(*a*) Or where the authority have no common seal, substitute "under the hand of three members of the ."

Appendix II.

(8) The total number of boats on the register, showing:—

- (a) Number of boats believed to be in use or available, the number propelled by motor being separately stated.
- (b) Number of boats that cannot be traced.

(9) The number (a) of motor-propelled boats, and (b) of other boats registered in 1920, distinguishing the cases in which fresh registration has been rendered necessary by structural alterations in boats previously registered.

S. R. & O., 1923, No. 451.

THE CANAL BOATS ORDER, 1922, DATED JULY 10TH, 1922, MADE BY THE MINISTER OF HEALTH UNDER SECTION 10 OF THE CANAL BOATS ACT, 1884.

* * * * * *

1.—(1) Subject as hereinafter provided the Canal Boats Act, 1877, and the Canal Boats Act, 1884, shall apply to every vessel which would be within the definition of canal boat contained in section 14 of the first-mentioned Act if such vessel were not registered under the Merchant Shipping Acts, 1894 to 1921, although such vessel may be so registered.

(2) Nothing in this Order shall apply to:—

- (a) any sea-going ship, or
- (b) any sailing barge of the class generally known as "Thames Sailing Barge," whether registered in the Port of London or elsewhere.

CANAL BOATS ORDER, 1922.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
May 1*st*, 1923.

SIR,—The attention of the Minister of Health has been drawn to the fact that many boats of the class to which the Canal Boats Acts were intended to apply are now being registered as ships under the Merchant Shipping Acts, and so avoid compliance with the Canal Boats Acts.

The practice of thus registering canal boats under the Merchant Shipping Acts has become much more general since the passing of the Merchant Shipping Act, 1921. It was not, however, unknown before that date; and the framers of the Canal Boats Act, 1884, foresaw that it might become common, and made provision for meeting it in section 10 of that Act. The section in question provides, in effect, that if the Minister of Health considers that the Canal Boats Acts ought to apply to any vessel or class of vessels which would be within the statutory definition of "canal boat" if not registered as "ships," he may declare that the Canal Boats Acts shall apply to such vessel or class of vessels although so registered.

It appears to the Minister to be undesirable that boats which are in all essentials canal boats should escape supervision under the Canal Boats Acts by the mere process of registration as "ships," and he has accordingly made under section 10 of the Act of 1884 an Order of which two copies are enclosed.

The Order is not intended to apply the Canal Boats Acts to any class of vessels which as a class were not previously within their scope. It will, however, have the effect of bringing or keeping within the scope of those Acts all boats which do not differ in essential characteristics from the ordinary inland trading canal boat, and which have in the past, or may in the future, become registered as ships under the Merchant Shipping Acts. The Order will thus remove the anomaly of existing conditions—embarrassing to inspectors and boat owners alike—under which of two identical boats engaged in the same trade one may be subject to the Canal Boats Acts and the other free from all supervision under those Acts. At the same time, it will not, of course, in any way prevent an owner from registering his boat as a "ship" and so reaping any benefit under the Merchant Shipping Acts which this registration may confer.

CHILDREN.

See LOCAL GOVERNMENT, *post*, p. 3537.

CHOLERA, YELLOW FEVER, AND PLAGUE.

REGULATIONS AS TO CHOLERA, YELLOW FEVER, AND PLAGUE.

(SHIPS ARRIVING FROM FOREIGN PORTS.)

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
9th September, 1907.

SIR,—I am directed by the Local Government Board to state that they have had under consideration questions arising out of the International Sanitary Convention of Paris, 1903, to which this country is a party, and that they have deemed it desirable to rescind the existing regulations as to cholera, yellow fever, and plague prescribed by their Orders of the 9th November, 1896, and the 24th December, 1902, and to issue further regulations on this subject. The regulations are made in pursuance of section 130 of the Public Health Act, 1875, as amended and extended by the Public Health (London) Act, 1891, the Public Health Act, 1896, and the Public Health Act, 1904, with a view to the treatment of persons affected with cholera, yellow fever, or plague, and for preventing the spread of the disease both on land and water. Two copies of the new Order are enclosed.

The regulations have been so framed as to apply to every port sanitary authority (other than the Bristol, Gloucester, Harwich, Ipswich, Liverpool, and Manchester Port Sanitary Authorities), as well as to every council of a municipal borough or other urban district and to every rural district council, whose borough or district includes or abuts on any part of a Customs port, which part is not within the jurisdiction of a port sanitary authority; and in the Order and in this circular the expression "the sanitary authority" includes each of the port sanitary authorities (other than those excepted) and each of the councils above referred to.

The majority of the provisions contained in the regulations hitherto in force are reproduced in the new regulations, and it does not appear necessary to set them out in detail in the present circular. But it is desirable to give the following explanation of the general effect of the additions and alterations which, as indicated above, have been introduced chiefly for the purpose of securing the observance of principles embodied in the Paris Convention of 1903.

As the sanitary authority are aware the main principles on which the regulations in this matter have proceeded are that a report with regard to infected vessels arriving from foreign ports should be made by the officers of Customs to the sanitary authority of the place of arrival; that infected vessels should be temporarily detained pending visitation by the medical officer of health of the place; and that, after visitation by the medical officer of health of such vessels, or of any other vessels to which suspicion of infection attaches, the measures indicated by the regulations should be taken. Such measures have included, according to circumstances, the further detention of the vessel, the removal of persons suffering or suspected to be suffering from plague, cholera, or yellow fever, the adoption of steps to free the vessel from causes of infection, and such other action as is expedient for the purpose of tracing the further movements of persons allowed to leave the vessel.

Some modifications of the regulations have now been made in regard to most of the matters above mentioned.

In relation to vessels arriving from foreign ports a new classification is adopted. The term "infected ship" is limited to a ship on which there is actually on board at the time of arrival a case of cholera, yellow fever, or plague, or on which there has been a case of cholera or plague within seven days before arrival or a case of yellow fever within eighteen days before arrival. At the same time the term "suspected ship" is used as applying to a ship on which there has been a case of cholera or plague more than seven days before the arrival of the ship or a case of yellow fever more than eighteen days before arrival, whether the case has occurred in the port of departure or in another port in the course of the voyage, or at any time during the voyage, and on which no fresh case of cholera or plague has occurred within the seven days or of yellow fever within the eighteen days.

Visitations by officers of Customs and detention of ships.

The action of officers of Customs under Article 2, *et seq.*, of the Order is in the first instance to extend both to infected and suspected ships. The question which the officer of Customs is to address to the master or surgeon of the ship and which has to be answered in the form set forth in Article 2, is designed to bring out the actual facts as to the occurrence of cases or suspected cases of cholera, yellow fever, or plague upon the ship. The officer of Customs is to give notice of the cause of the temporary detention of any ship to the sanitary authority. It will be observed that under Article 2 (2) of the new regulations a ship may be detained if the officer of Customs, although not satisfied that a ship is "infected" or "suspected," has reason to suppose that the ship has come from, or has during the voyage called at, a port infected with cholera, yellow fever, or plague.

In this connection the Board would point out that, in order to secure efficiency in applying the last-mentioned provision and to avoid unnecessary interference with shipping, it is important that the medical officer of health of the sanitary authority should keep himself informed as to the ports that may be infected and should advise (*a*) the local officers of Customs as to the ports from which it is anticipated that ships liable to detention by those officers under Article 2 (2) might come, or at which they might have called.

Detention in ships of persons aboard.

If a ship is certified to be "infected," the regulation in Article 15 (except as regards any person certified to be suffering from cholera, yellow fever, or plague, or from any illness which may prove to be cholera, yellow fever, or plague) prohibits the landing of any person who is on board, unless he satisfies the medical officer of health as to his name, intended place of destination, and intended address at such place. It will be observed that under this Article the regulation comes into force automatically in the case of an "infected" ship. As regards, however, a "suspected" ship and certain other ships, a similar provision under Articles 20 and 21 does not come into operation unless the medical officer of health gives a certificate declaring it desirable that the provision should take effect, with a view to checking the introduction or spread of cholera, or yellow fever, or plague.

In either case, when the provision is in force, the permission to land can only be given after the medical officer of health has been satisfied as to the person's name, intended place of destination, and intended address at that place; and even then the permission is coupled with an obligation that if any person who has stated his intended destination and intended address arrives at a different destination or address within five days after landing, he is forthwith to notify his destination and address to the medical officer of health or the local authority of the district in which the place of actual destination or address is situate. A person who fails to comply with this obligation will be liable to a penalty for infringement of the regulations.

The attainment of the effective safeguarding of the public health, aimed at by these provisions, will, as it seems to the Board, be materially furthered if any person permitted to land be made fully acquainted with the conditions under which the permission is granted; and accordingly it is suggested that the sanitary authority should furnish every such person with a short printed statement of the obligation imposed on him under Article 15 or Article 21 as the case may be, and of the penalty to which he becomes liable in the event of his failure to comply with the obligation.

Disinfection of ships.

It will be observed that under Article 19 of the new regulations the measures of disinfection that may be applied to an "infected" or a "suspected" ship, as apart from articles in it, are restricted to instances in which the infection is due to cholera or plague, and that they are to be confined to those parts of the ship which have been used as quarters by a person suffering from cholera or plague, or which, in the opinion of the medical officer of health, are infected with either of these diseases.

The disinfection or destruction of articles on board the ship, under Articles 18 and 19, is also restricted to those which may be infected with cholera or plague.

(*a*) As to this see now circular of October 17th, 1908, *post*, p. 3107.

Precautions for the prevention of the spread of cholera.

Certain proceedings for dealing with bilge water and water ballast, and also for substituting for any existing supply of water a proper supply of water for drinking and cooking purposes, were under the former regulations to be taken when requisite in the case of yellow fever and plague as well as in the case of cholera; under Article 22 these proceedings are now made available only in those instances where cholera is in question.

Precautions for the prevention of the spread of plague.

New provisions have been made in Articles 23 and 24 prescribing the procedure to be followed with a view to prevent the transmission of plague by rats on board ship, and the escape from the ship to shore of rats that may be infected with plague. With a view to obviating the first of these dangers, rats are in all cases to be destroyed when the ship is infected with plague, or when rats in the ship are infected with that disease. In the case of a ship which is not infected but is a suspected ship by reason of plague this procedure is not obligatory, except where the medical officer of health requires it to be followed.

Where a ship is neither infected nor suspected by reason of plague, but has come from, or has during the voyage called at, a port infected with plague, the danger from rats is comparatively small. Nevertheless, in the case of such a ship where the medical officer of health is satisfied that measures for the destruction of rats in the ship are necessary and certifies accordingly, these measures are to be applied, and the cost will be borne, not by the master of the ship, but by the sanitary authority.

With a view to averting danger that might ensue from the escape to shore of rats on board a ship which is infected or suspected by reason of plague, or which has come from or called at a port infected with plague or in which there are rats either infected with plague or affected by an unusual mortality, such precautions are to be taken for effectually stopping the access of rats from the ship to the shore as the medical officer of health may deem reasonably necessary.

Precautions for the prevention of the spread of yellow fever.

In view of the part now known to be taken by a certain species of mosquito in the transmission of yellow fever to man, a new provision is made in Article 25 enabling the medical officer of health to give a certificate requiring the taking of measures intended to secure the destruction of mosquitoes and their larvæ on board ship subject to the conditions set out in that article.

Execution of work by sanitary authority and recovery of the cost.

By the provisions of Article 28 the sanitary authority are placed under the obligation to do any such work as is therein specified, at the request of and in substitution for the master of a ship. They may, if they think fit, recover from the master of the ship the cost of the work so done; but they may not derive any profit by reason of the sum charged, and the amount recoverable may not in relation to any piece of work exceed £20.

Purchase of copies of Order and circular.

The Order and this circular will be placed on sale, so that copies may shortly be obtained either directly or through any bookseller from Messrs. Wyman and Sons, Limited, Fetter Lane, E.C.

I am, &c

CHOLERA, YELLOW FEVER, AND PLAGUE REGULATIONS.

(SHIPS ARRIVING FROM FOREIGN PORTS.)

TO PORT SANITARY AUTHORITIES, &C.

WHEREAS [*here are recited s.* 130 *of the P. H. A.*, 1875 (ante, *p.* 250), *as amended by the P. H. A.*, 1896 (ante, *p.* 1054), *s.* 1 *of the latter Act, and s.* 1 (1) *of the P. H. A.*, 1904 (ante, *p.* 1091).

And whereas by an Order dated the 9th day of November, 1896, we made regulations with a view to the treatment of persons affected with cholera, yellow fever, or plague, and for preventing the spread of any of those diseases, and by an Order dated the 24th day of December, 1902, we made regulations with respect to the signals to be hoisted by ships infected with cholera, yellow fever, or plague, and it is expedient that the said Orders should be revoked, and that regulations should be made as hereinafter mentioned;

And whereas the Commissioners of His Majesty's Customs and the Board of Trade have respectively signified their consent to the said Regulations so far as they respectively apply to the officers of Customs and to signals, and the said Regulations, so far as they apply to any matter in respect of which we are empowered by the Public Health Act, 1904, to make regulations, have been made after consultation with the Board of Trade:

Now therefore, we, the Local Government Board, do hereby revoke the aforesaid Orders, except in so far as they may apply to any proceedings now pending, and we do, by this our Order, and in the exercise of the powers conferred on us by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, and the Public Health Act, 1904, and every other power enabling us in that behalf, make the following regulations, and declare that the said regulations shall apply and have effect throughout England and Wales, except as regards the port sanitary districts of Bristol and Gloucester, Harwich and Ipswich, and Liverpool and Manchester, and shall be enforced and executed by the authorities and officers hereinafter mentioned:—

PART I.

ART. 1. In this Order—

The expression "ship" includes a vessel or boat;

The expression "foreign port" means a port or place situate elsewhere than in the United Kingdom, the Channel Islands, and the Isle of Man;

The expression "officer of Customs" includes any person acting under the authority of the Commissioners of His Majesty's Customs;

The expression "master," used in relation to a ship, includes the officer, pilot, or other person for the time being in charge or command of the ship;

The expression "sanitary authority" means every port sanitary authority, and every council of a municipal borough or other urban district, and every rural district council whose borough or district includes or abuts on any part of a Customs port, which part is not within the jurisdiction of a port sanitary authority;

The expression "local authority" means a council of a municipal borough or other urban district or a rural district council, and in the administrative County of London a council of a metropolitan borough, or the common council of the City of London;

The expression "medical officer of health" includes any duly qualified medical practitioner appointed or employed by a sanitary authority to act in the execution of this Order;

The expression "infected ship" means a ship which at the time of its arrival from a foreign port has on board a case of cholera, yellow fever, or plague, or which has had on board a case of cholera or plague within a period of seven days, or of yellow fever within a period of eighteen days, prior to that time;

The expression "suspected ship" means a ship which has had on board during the voyage, or during the stay of the ship in the port of departure or in a port in the course of the voyage a case of cholera, yellow fever, or plague, but which has not had on board a fresh case of cholera or plague within a period of seven days, or of yellow fever within a period of eighteen days, prior to the time of its arrival from a foreign port.

PART II.

ART. 2. (a)—(1) The officer of Customs who visits a ship on its arrival from a foreign port shall ascertain, so far as possible, whether the ship is an infected ship or a suspected ship, or whether the ship has come from, or has during the voyage called at, a port infected with cholera, yellow fever, or plague, and with that object, shall require the master of the ship or the surgeon, if the ship carries a surgeon, to state whether there is or has been on board during the voyage any case or suspected case

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(a) As to this article, see Circular of October 17th, 1908, *post*, p. 3107.

Appendix II.

of cholera, yellow fever, or plague, or of any other fever or sickness, and if he have any reason to suppose that the ship is an infected ship or a suspected ship or has come from or has, during the voyage, called at any port infected with cholera, yellow ever, or plague, the officer of Customs shall require the master or the surgeon, as the case may be, to give (in writing under his hand and in the form hereunto appended or in the form to the like effect) a true answer to the following question :—

Question.—Has any case or suspected case of
cholera,
yellow fever, or
plague
occurred in the ship , of which you are , during the voyage from , or during the stay of the ship in that port or in any other port in the course of the voyage ?

Answer.— cases or suspected cases of occurred on board the during the voyage from [*or* during the stay of the ship in the port of] ;

or

No case or suspected case of cholera, yellow fever, or plague occurred on board the during the voyage from , or during the stay of the ship in that port or in any other port in the course of the voyage.

Signed
Master [*or* Surgeon] of the .

(2) The officer of Customs who visits a ship on its arrival from a foreign port shall if he find, or have reason to suppose, that the ship is an infected ship or a suspected ship, and may, if he find or have reason to suppose that the ship has come from, or has, during the voyage, called at a port infected with cholera, yellow fever, or plague, detain the ship, and order the master forthwith to moor or anchor it in such position as the officer of Customs directs ; and thereupon the master shall forthwith moor or anchor the ship accordingly.

ART. 3. No person (other than an officer of Customs or a person acting in the execution of this Order) shall leave a ship while it is detained by the officer of Customs in pursuance of subdivision (2) of Article 2.

ART. 4. The officer of Customs who detains a ship in pursuance of subdivision (2) of Article 2 shall forthwith give notice thereof, and of the cause of detention, to the sanitary authority of the place where the ship is lying.

ART. 5. The detention of a ship by the officer of Customs in pursuance of subdivision (2) of Article 2 shall cease as soon as the ship has been duly examined by the medical officer of health ; or, if the ship, upon examination by the medical officer of health, be found to be an infected ship or a suspected ship, as soon as it has been moored or anchored in pursuance of Article 10 :

Provided that, if the examination be not commenced within twelve hours after the ship has been moored or anchored in pursuance of subdivision (2) of Article 2, the ship shall, on the expiration of the said twelve hours, be released from detention.

PART III.

ART. 6. Every port sanitary authority and every other sanitary authority within whose district persons are likely to be landed from any ship coming from a foreign port shall, with the approval of the chief officer of Customs of the port, fix some place where the ship may be moored or anchored for the purpose of Article 10, and shall make provision for the reception of patients removed under Articles 13 and 14, as persons certified by the medical officer of health to be suffering from cholera, yellow fever, or plague, or certified by the medical officer of health to be suffering from an illness which, in his opinion, may prove to be cholera, yellow fever, or plague. The place to be fixed as aforesaid, where a ship may be moored or anchored for the purpose of Article 10, shall be some place within the jurisdiction or district of the sanitary authority, unless we otherwise consent ; in which case the place so fixed shall, for the purposes of this Order, be deemed to be within that jurisdiction or district.

Provided that, in the case of a dockyard port for which a king's harbour master has been appointed, the place where a ship shall be moored or anchored for the purpose of Article 10 shall from time to time be fixed by the port sanitary authority with the approval of the King's harbour master, instead of with that of the chief officer of Customs of the port.

Provided also, that where, in pursuance of the above-cited Order of the ninth day of November, one thousand eight hundred and ninety-six, or of any Order by the said Order revoked, or of any consent given by us in pursuance of any of the said Orders, places have been fixed for the mooring or anchoring of ships for the purposes of the regulations by this Order revoked, such places shall be deemed to have been so fixed in pursuance of and for the purposes of this Order.

ART. 7. The sanitary authority, on notice of the detention of the ship being given to them by an officer of Customs, under Article 4, shall forthwith cause the ship to be visited and examined by their medical officer of health for the purpose of ascertaining whether the ship is an infected ship or a suspected ship.

ART. 8. The medical officer of health, if he have reason to suppose that a ship coming or being within the jurisdiction or district of the sanitary authority, whether the ship has or has not been visited and examined by the officer of Customs, is an infected ship or a suspected ship, shall, or, if he have reason to suppose that the ship has come from, or has, during the voyage, called at a port infected with cholera, yellow fever, or plague, may, visit and examine the ship for the purpose of ascertaining whether it is an infected ship or a suspected ship; and may make the like visit and examination in the case of a ship coming or being within the jurisdiction of the sanitary authority which has come from, or has, during the voyage, called at a port infected with cholera, yellow fever, or plague. The master of any such ship shall permit the ship to be so visited and examined.

The master of any such ship shall also, on being required so to do by the medical officer of health, cause the ship to be brought to, and, if necessary, moored or anchored in some convenient place while it is visited and examined; but due regard shall be had to the safety of the ship and to the convenience of navigation.

ART. 9. If the medical officer of health on making an examination of a ship under Article 7 or under Article 8 be of opinion that the ship is an infected ship or a suspected ship, he shall forthwith give a certificate in duplicate in the following form, or to the like effect, and shall deliver one copy to the master, and retain the other copy or transmit it to the sanitary authority. He shall also give to us information as to the arrival of the ship, and such other particulars as we may require (*a*)

Certificate.

day of , 19 .

DISTRICT [*or* TOWN] COUNCIL,
or
PORT SANITARY AUTHORITY.

I hereby certify that I have examined the ship of , now lying in the Port of [*or detained at*], and that I find that the said ship is an infected ship *or* a suspected ship by reason of cholera, *or* yellow fever, *or* plague.

Medical Officer of Health [*or* Medical
Practitioner appointed or employed
by the Sanitary Authority].

NOTE.—The expression "infected ship" means a ship which at the time of its arrival from a foreign port has on board a case of cholera, yellow fever, or plague, or which has had on board a case of cholera or plague within a period of seven days, or of yellow fever, within a period of eighteen days, prior to that time. The expression "suspected ship" means a ship which has had on board during the voyage or during the stay of the ship in the port of departure or in a port in the course of the voyage a case of cholera, yellow fever, or plague, but which has not had on board a fresh case of cholera or plague within a period of seven days or of yellow fever within a period of eighteen days prior to the time of its arrival from a foreign port.

(*a*) A form for giving such information and particulars has been prepared by the Board (Circular of May 1st, 1908).

ART. 10. The master of any ship so certified to be an infected ship or a suspected ship shall as soon as possible moor or anchor the ship at the place fixed for that purpose under Article 6, and the ship shall remain there until the requirements of this Order have been duly fulfilled.

ART. 11. No person (other than an officer of Customs or a person acting in the execution of this Order) shall leave a ship moored or anchored in pursuance of Article 10 until the examination hereinafter mentioned has been made.

ART. 12. The medical officer of health shall, as soon as possible after a ship moored or anchored in pursuance of Article 10 has been certified to be an infected ship or a suspected ship, examine every person on board the ship, and in the case of any person suffering from cholera, yellow fever, or plague, or from any illness which, in the opinion of the medical officer of health, may prove to be cholera, yellow fever, or plague, shall certify accordingly.

ART. 13. Every person certified by the medical officer of health to be suffering from cholera, yellow fever, or plague shall be removed, if his condition admit of removal, to some hospital or other suitable place appointed for that purpose by the sanitary authority; and a person so removed shall not leave the hospital or place until the medical officer of health has certified that the person is free from the said disease.

If a person so certified to be suffering from cholera, yellow fever, or plague cannot be removed, the ship shall remain subject, for the purposes of this Order, to the control of the medical officer of health; and the person shall not be removed from or leave the ship, except with the consent in writing of the medical officer of health.

ART. 14. A person certified by the medical officer of health to be suffering from any illness which, in the opinion of that officer, may prove to be cholera, yellow fever, or plague may either be detained on board the ship for a period not exceeding two days, or may be taken to some hospital or other suitable place appointed for that purpose by the sanitary authority, and detained there, for a like period, in order that it may be ascertained whether the illness is or is not cholera, yellow fever, or plague.

If any such person, while so detained, be certified by the medical officer of health to be suffering from cholera, yellow fever, or plague the provisions of Article 13 shall apply.

ART. 15. A person who is on board a ship certified to be an infected ship, and who has not been certified as required by Article 12, shall not be permitted to land unless he satisfy the medical officer of health as to his name, intended place of destination, and intended address at the said place of destination.

The name, intended place of destination, and address shall forthwith be given by the medical officer of health to the clerk to the sanitary authority, and the said clerk shall thereupon transmit the particulars to the local authority of the district in which the intended place of destination is situate.

Every such person who, within five days after landing, arrives at any place of destination or address other than such place or address as aforesaid, shall forthwith upon his arrival notify in writing his place of destination and address to the medical officer of health of the sanitary authority, or to the local authority, of the district in which the place of actual destination or address is situate.

ART. 16. The medical officer of health shall, in the case of every ship certified to be an infected ship or a suspected ship, give such directions, and take such steps as may appear to him to be necessary, for preventing the spread of infection, and the master of the ship shall forthwith carry into execution all such directions as are so given to him.

ART. 17. In the event of death from cholera, yellow fever, or plague taking place on board a ship detained under Article 10, the master shall, as directed by the sanitary authority or the medical officer of health, either cause the dead body to be taken out to sea, and committed to the deep, properly loaded to prevent its rising, or shall deliver the dead body into the charge of the sanitary authority, who shall thereupon cause it to be otherwise lawfully and properly disposed of.

ART. 18. The master shall cause any clothing or bedding or any other article of personal use which is likely to retain infection, and which has been used by any person who has suffered from cholera or plague on board a ship detained under Article 10, or who, having left the ship, has suffered from cholera or plague during the stay of the ship in any port, to be disinfected or destroyed; and if the master has neglected to do so before the ship arrives in port, he shall forthwith, upon the direction of the sanitary authority or the medical officer of health, cause the aforesaid clothing, bedding, or other article to be disinfected or destroyed, as the case requires.

ART. 19. The master shall cause those parts of a ship detained under Article 10 which have been used as quarters by a person suffering from cholera or plague, or which, in the opinion of the medical officer of health, are infected with cholera or plague to be disinfected.

The master shall also cause every article on board which is not included among those mentioned in Article 18, and which, in the opinion of the medical officer of health, may be infected with cholera or plague to be disinfected or destroyed, according to the directions of the medical officer of health.

ART. 20. Where a ship is not certified to be an infected ship, but is certified to be a suspected ship, or where a ship has on board any person who is certified by the medical officer of health to be suffering from an illness which, in the opinion of that officer, may prove to be cholera, yellow fever, or plague, or where a ship has come from or has, during the voyage, called at a port infected with cholera, yellow fever, or plague, or where a ship is one which has passengers on board who are in a filthy or otherwise unwholesome condition, or where a ship is one in which there are rats infected with plague, or in which there is or has been during the voyage an unusual mortality among rats, the medical officer of health may, if in his opinion it is desirable with a view to checking the introduction or spread of cholera, yellow fever, or plague, give a certificate in duplicate in the following form, or to the like effect, and shall deliver one to the master, and retain the other or transmit it to the sanitary authority.

Certificate.

day of 19 .

DISTRICT [*or* TOWN] COUNCIL,
or
PORT SANITARY AUTHORITY.

I hereby certify that I have examined the ship from , now in the Port of , and that the ship is a suspected ship by reason of cholera *or* yellow fever *or* plague, *or* the ship has on board a person or persons suffering from illness, which, in my opinion, may prove to be cholera, *or* yellow fever, *or* plague, *or* the ship has come from or has, during the voyage, called at a port infected with cholera, *or* yellow fever, *or* plague, *or* the ship has passengers on board in a filthy or otherwise unwholesome condition, *or* the ship is one in which there are rats infected with plague, *or* the ship is one in which there is or has been during the voyage an unusual mortality among rats.

* And that, in my opinion, it is desirable with a view to checking the introduction or spread of cholera, *or* yellow fever, *or* plague, that the persons on board the ship should not be allowed to land unless they satisfy me as to their names, places of destination, and addresses at those places.

Medical Officer of Health [*or* Medical
Practitioner appointed or employed
by the Sanitary Authority].

NOTE.—The expression "suspected ship" means a ship which has had on board during the voyage or during the stay of the ship in the port of departure or in a port in the course of the voyage a case of cholera, yellow fever, or plague, but which has not had on board a fresh case of cholera or plague, within a period of seven days, or of yellow fever, within a period of eighteen days, prior to the time of its arrival from a foreign port. Where, in the opinion of the medical officer of health, it is necessary or desirable to render Article XXI. applicable, the passage marked with an asterisk should always form part of the certificate.

ART. 21. When a certificate has been given, in pursuance of Article 20, a person on board the ship shall not leave or be allowed to leave the ship unless he satisfy the medical officer of health as to his name, intended place of destination, and intended address at that place.

The name, intended place of destination, and address shall forthwith be given by the medical officer of health to the clerk to the sanitary authority, and the said clerk shall thereupon transmit the particulars to the local authority of the district in which the intended place of destination is situate.

Every such person who, within five days after landing, arrives at any place of destination or address other than such place or address as aforesaid shall forthwith, upon his arrival, notify in writing his place of destination and address to the medical officer of health of the sanitary authority or to the local authority of the district in which the place of actual destination or address is situate.

ART. 22. Where a ship coming or being within the jurisdiction of the sanitary authority has been certified by the medical officer of health to be an infected ship or a suspected ship by reason of cholera, or where the medical officer of health has ascertained that a ship has come from or has, during the voyage, called at a port infected with cholera, he may direct all bilge water and water ballast to be pumped out in some suitable place before the ship enters any dock or basin :

Provided that, in every case where there is reasonable cause to apprehend that the ship may be endangered by the removal of the water ballast, the medical officer of health may cause any tank or other receptacle containing the water ballast to be sealed, and thenceforward, so long as the ship remains within the jurisdiction of the sanitary authority, no person shall without the permission of the medical officer of health break or remove the seal, or discharge or remove from the tank or receptacle any part of the water ballast.

On the sanitary authority providing a proper supply of water for drinking and cooking purposes for persons on board any such ship, the medical officer of health may direct all casks or tanks on board the ship containing water for the use of those persons to be emptied and cleansed, and the master shall cause the said direction to be carried into effect.

ART. 23.—(1) The master of a ship certified to be an infected ship by reason of plague shall, under the direction and to the satisfaction of the medical officer of health, and at and within such time as the medical officer of health by a requisition in writing addressed to the master prescribes, employ suitable means for the effectual destruction of the rats in the ship.

(2) The master of a ship certified to be a suspected ship by reason of plague shall, if the medical officer of health make a requisition to that effect, employ, by and under the direction and to the satisfaction of the medical officer of health, and at and within such time as the medical officer of health by his requisition prescribes, suitable means for the effectual destruction of the rats in the ship

(3) Where the medical officer of health is satisfied and certifies in writing that compliance with the requirements of this subdivision is necessary as a precaution against the introduction or spread of plague, the master of a ship which, though not certified to be an infected ship or a suspected ship by reason of plague, has come from or has, during the voyage, called at a port infected with plague, shall, at and within such time as the medical officer of health by his certificate prescribes, and under the direction and to the satisfaction of the medical officer of health, employ suitable means for the effectual destruction of the rats in the ship.

The sanitary authority shall repay all expenses which the medical officer of health may certify in writing to have been reasonably incurred by the master for the purpose of compliance with the requirements of this subdivision.

(4) Every requisition or certificate of the medical officer of health for the purposes of this article shall be in duplicate, and one copy shall be delivered by the medical officer of health to the master and the other copy shall be retained by the medical officer of health, or shall be transmitted by him to the sanitary authority.

ART. 24.—(1) Where the medical officer of health certifies in writing that a rat in a ship is infected with plague, the master of the ship shall, at and within such time as the medical officer of health by his certificate prescribes, and under the direction and to the satisfaction of the medical officer of health, employ suitable means for the effectual destruction of the rats in the ship.

(2) The master of a ship which, by reason of plague, is an infected ship, or a suspected ship, or which has come from or has, during the voyage, called at a port infected with plague, or in which there are rats infected with plague, or in which there is or has been during the voyage an unusual mortality among rats shall, under the direction and to the satisfaction of the medical officer of health, take all such precautions or employ all such means for effectually stopping the access of rats from the ship to the shore, as in the opinion of the medical officer of health are measures reasonably necessary for the prevention of danger arising to public health from the ship.

(3) Every certificate of the medical officer of health for the purposes of this article shall be in duplicate, and one copy shall be delivered by the medical officer of health to the master and the other copy shall be retained by the medical officer of health, or shall be transmitted by him to the sanitary authority.

ART. 25.—(1) Where the medical officer of health certifies in writing that compliance with the requirements of this subdivision is necessary as a precaution against the introduction or spread of yellow fever, the master of a ship which has been certified to be an infected ship or a suspected ship by reason of yellow fever, or which has come from or has, during the voyage, called at a port infected with yellow fever, shall, under the direction and to the satisfaction of the medical officer of health, employ suitable means for the effectual destruction of the mosquitoes and of the larvæ of mosquitoes in the ship.

The sanitary authority shall repay all expenses which the medical officer of health may certify in writing to have been reasonably incurred by the master of a ship, which has not been certified to be an infected ship or a suspected ship by reason of yellow fever, for the purpose of compliance with the requirements of this sub-division.

(2) Every certificate of the medical officer of health for the purpose of this article shall be in duplicate, and one copy shall be delivered by the medical officer of health to the master, and the other copy shall be retained by the medical officer of health, or shall be transmitted by him to the sanitary authority.

ART. 26. The master of a ship, or any other person, shall answer truly all such questions put to him by and give all such information to any officer of Customs or medical officer of health as are necessary for any purpose of this Order; and a person who is required in pursuance of this Order to give to the medical officer of health or to notify to any local authority the name and intended place of destination and address of the said person shall not knowingly give or notify a false or fictitious name, place of destination or address, and shall not refuse or neglect to give or notify as aforesaid the true name, intended place of destination and address of the said person.

ART. 27.—(1) The sanitary authority may appoint one or more legally qualified medical practitioners to act in the execution of this Order, either in place of or as an assistant or assistants to the medical officer of health, and may pay the said practitioner or practitioners reasonable remuneration for his or their services.

(2) The sanitary authority, if we so require, shall appoint a legally qualified medical practitioner to act in the execution of this Order in the place of the medical officer of health.

The sanitary authority shall pay the medical practitioner appointed in pursuance of this subdivision such remuneration for his services as we direct.

ART. 28.—(1) Where the master of a ship is required by or in pursuance of this Order to cause any clothing, bedding, or other article to be disinfected or destroyed, to cause any parts of the ship to be disinfected, to cause any casks or tanks containing water to be emptied and cleansed, or to employ suitable means for the effectual destruction of rats, or mosquitoes, or the larvæ of mosquitoes, the sanitary authority shall at the request of, in substitution for, and, if they think fit, at the cost of the master, cause anything to be done in compliance with any such requirement as aforesaid.

In that case the sanitary authority shall, on the completion of the work, and the payment to the sanitary authority of the authorised charge, furnish the master, if he so desire, with a certificate under the seal of the sanitary authority to the effect that there has been compliance with any such requirement as aforesaid so far as regards the particular matter mentioned in the certificate.

Thenceforth, for the purposes of this Order, and so far as regards the particular matter aforesaid, the master shall be deemed to have complied with every requirement of or in pursuance of the Order.

For the purposes of this subdivision of the expression "the authorised charge" means, in relation to any work undertaken by the sanitary authority, such reasonable sum as, to the exclusion of any charge or claim in respect of profit, represents the actual or estimated cost of the work to the sanitary authority, and as does not in any case exceed the sum of twenty pounds, but the sanitary authority may, if they think fit, require the authorised charge or a part of the authorised charge to be paid to or deposited with them before any such work as aforesaid is begun.

(2) Every charge authorised by subdivision (1) of this Article shall be recoverable by the sanitary authority as expenses or demands within the meaning of section 251 or of section 261 of the Public Health Act, 1875, and those sections and any enactments referred to in or applied by those sections shall apply and have effect for the recovery of the said expenses as if the said sections and enactments were herein re-enacted and in terms made applicable to the case.

PART IV.

ART. 29.—The master of an infected ship or of a suspected ship shall, when the ship is within three miles of the coast of any part of England and Wales, or is within the limits of a port, cause to be hoisted—

(i.) At the masthead or where it can be best seen, during the whole of the time between sunrise and sunset, a day signal, consisting of a large flag of yellow and black borne quarterly; or

(ii.) At the peak or other conspicuous place where it can be best seen, and at a height of not less than twenty feet above the hull of the ship, during the whole of the time between sunset and sunrise, a night signal, consisting of three lights, which shall be arranged, at a distance of not less than six feet apart, in the form of an equilateral triangle, and of which the light at the apex of the triangle shall be white, and the other lights at the ends of the base of the triangle shall be red in colour.

No person (other than an officer of Customs or a person acting in the execution of this Order) shall leave any such ship until after such visit of the officer of Customs as is mentioned in Article 2, or until after the visit of the medical officer of health in pursuance of Article 8.

PART V.

ART. 30.—Nothing in this Order shall render liable to detention, disinfection or destruction any article forming part of any mail (other than a parcel mail) conveyed under the authority of the Postmaster-General, or of the postal administration of any Foreign Government, or shall prejudicially affect the delivery in due course of any such mail (other than a parcel mail) to the Post Office in accordance with the provisions of the Post Office Acts.

* * * * * *

Notice. [Quotation of s. 1 (3) of the P. H. A. 1896, etc.].

CIRCULAR AS TO THE FOREGOING REGULATIONS.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
October 17*th*, 1908.

SIR,—I am directed by the Local Government Board to advert to Article II. (2) of their General Order of the 9th September, 1907, relating to cholera, yellow fever and plague on ships arriving from foreign ports, under which a ship may be detained by the officer of Customs for examination by the medical officer of health of the sanitary authority, if the officer of Customs, although he does not find or has no reason to suppose that the ship is "infected" or "suspected" within the meaning of the Order, finds or has reason to suppose that the ship has come from, or has during the voyage called at, a port infected with any of the diseases referred to.

The Board stated in the Circular Letter which accompanied the Order that "it is important that the medical officer of health . . . should advise the local officers of Customs as to the ports from which it is anticipated that ships liable to detention by those officers under Article II. (2) might come, or at which they might have called." The Board have been in communication with the Commissioners of Customs with reference to the matter, and they find that it is necessary for the exercise of the power of detention conferred by the article that the medical officer of health should inform the local Customs officer of the date on which any particular port is believed to be infected, so that the ships coming from, or which have called at, that port on or after that date should be detained for examination by the medical officer of health.

The Board think that the information might be given in the following form :—

CHOLERA, YELLOW FEVER OR PLAGUE.

I have reason to believe that the port of is infected with cholera (*or* yellow fever *or* plague *as the case may be*), and I am desirous that until further notice from me in writing, any ship leaving that port on or after the day of 190(8), whether coming from such port, or having called there during the voyage, may, on arrival at , be detained by an officer of Customs for examination by the medical officer of health.

Signed
Medical Officer of Health.

Dated .

To the Officer of Customs.

I am accordingly to request that the sanitary authority will direct their medical officer of health to adopt this procedure. He will of course take care to inform the customs officer in writing when he considers that the port referred to in the notice may cease to be regarded as infected, and consequently the need for detention of ships coming therefrom no longer exists. A copy of this circular is enclosed for the information of the medical officer of health.

I am, etc.

CHOLERA AND PLAGUE REGULATIONS: OUTWARD BOUND SHIPS.

(September 9th, 1907.)

* * * * * *

PART I.

Definitions.

ART. 1. Unless the context otherwise requires, the following expressions shall throughout the regulations have the meanings hereinafter respectively assigned to those expressions ; namely—

The expression "cholera-affected area" or "plague-affected area" means an area which is within the United Kingdom, and which, for the time being, is affected with cholera or plague, as the case may be ;

The expression "medical officer of health" includes any duly qualified medical practitioner appointed or employed to act in the execution of the regulations ;

The expression "ship" includes a boat and any other description of vessel used in navigation ;

The expression "master" used in relation to a ship includes any officer or person for the time being in charge or command of the ship ;

The expression "outward bound ship" means a ship employed, or in course of preparation for employment, in trading or going beyond the United Kingdom, the Channel Islands, and the Isle of Man ;

The expression "outward voyage" used in relation to an outward bound ship means a voyage extending to any place beyond the United Kingdom, the Channel Islands, and the Isle of Man ; and

The expressions "infected" and "infection" mean respectively infected with cholera or plague, and infection from cholera or plague.

ART. 2. Unless the context otherwise requires, the following expressions shall, in Part II. of the regulations, have the meanings hereinafter respectively assigned to those expressions; namely—

The expression "local authority" means every port sanitary authority and every town council, every other urban district council, and every rural district council whose borough or district includes or abuts on any part of a Customs port, which part is not within the jurisdiction of a port sanitary authority; and

The expression "the district" means the district of a local authority.

ART. 3. Unless the context otherwise requires, the following expressions shall, in Parts III. and IV. of the regulations, have the meanings hereinafter respectively assigned to those expressions; namely—

The expression "local authority" means the common council of the city of London, the council of each metropolitan borough, the council of each municipal borough or other urban district, the council of each rural district and each port sanitary authority;

The expression "the district" means the district of a local authority;

The expression "specified article" means—

- (i.) In relation to a cholera-affected area or a plague-affected area—
  - (a) Body linen or clothing which has been in use, or
  - (b) Bedding which has been in use.
- (ii.) In relation to a cholera-affected area—
  - (c) Rags, except such rags as are compressed and carried in bales as merchandise in bulk; and
- (iii.) In relation to plague-affected area—
  - (d) Rags, including such rags as are compressed and carried in bales as merchandise in bulk.

The expression "local commodity" used in relation to a specified article means an article kept, placed, or deposited for any purpose of manufacture, trade, or industry within a cholera-affected area or a plague-affected area; and

The expression "owner" used in relation to a specified article includes any person who, as agent or otherwise, for the time being has or exercises such control over the specified article as would extend to the removal of the specified article from any part of England and Wales.

PART II.

Outward Bound Ships.

ART. 4. Part II. of the regulations shall apply and have effect in relation to the district of every local authority throughout England and Wales.

ART. 5.—(1) Where the district is or comprises a cholera-affected area or a plague-affected area, the medical officer of health, in the exercise of his discretion, may at any time, and, on the requisition in writing of the master, shall, within twelve hours after receiving the said requisition, visit an outward bound ship and examine the master and crew and every other person who, as a passenger, or otherwise, is aboard the outward bound ship.

The medical officer of health may, and on the requisition of the master, shall also examine any clothing or bedding, or any other article of personal use which belongs to or in use, or is intended for use by the master, a member of the crew, or any other person aboard the outward bound ship and which, in the opinion of the medical officer of health, may have been exposed to infection.

(2) The medical officer of health may, if he think fit, by arrangement with the master, examine ashore the master or any member of the crew, or any other person who, as a passenger, or in any other capacity intends to be carried in the outward bound ship, and every such examination shall be made within twelve hours before the time at which the master, member of the crew, or such other person as aforesaid is required to go aboard the outward bound ship, for the purpose of beginning an outward voyage.

(3) Where the master of an outward bound ship sends a requisition in writing to the medical officer of health for the purposes of this article he shall so send the requisition not less than twenty-four hours before beginning an outward voyage,

and shall in the said requisition inform the medical officer of health of the time at which the outward bound ship will, for the purpose of the outward voyage, leave any dock, wharf, or place of embarkation within the district.

ART. 6. For the purpose of the examination by the medical officer of health of the master and crew of an outward bound ship, and of every other person who, as a passenger, or in any other capacity, is aboard the outward bound ship, or is about to go aboard, the master, every member of the crew, and every person as aforesaid, shall answer truly all such questions as may be put to him, and give all such information as may be required from him by the medical officer of health.

ART. 7.—(1) Subject to the regulations, the medical officer of health, if on his examination as aforesaid he is of opinion that the several persons examined are not suffering from cholera or plague, or from any illness which, in the opinion of the medical officer of health, may prove to be cholera or plague, and that every part of the outward bound ship and any clothing or bedding or any other article of personal use which belongs to, or is in use, or is intended for use by any such person, is free from infection, may, if he has made the examination in the exercise of his discretion and shall, if he has made the examination on the requisition of the master, give a certificate in writing recording any matters which he deems necessary, and also, where the circumstances so require, the fact that, under his supervision, any part of the outward bound ship or any such clothing, bedding, or other article has been cleansed or disinfected, or the destruction of rats has been effected.

(2) Every certificate of the medical officer of health for the purposes of this article shall be in duplicate, and one copy shall be delivered by the medical officer of health to the master, and the other copy shall be retained by the medical officer of health, or shall be transmitted by him to the local authority.

ART. 8.—(1) If the medical officer of health on making such examination as aforesaid of the master and crew, or of any other person aboard, or about to go aboard, an outward bound ship, shall ascertain that any person so examined is suffering from cholera or plague, or from an illness which, in the opinion of the medical officer of health, may prove to be cholera or plague, the medical officer of health shall forthwith provide for the removal of the person to some hospital or other suitable place appointed for that purpose by the local authority. Every person so removed shall be subject to the rules prescribed by any regulations made by us under the Public Health Acts and in force in the district.

(2) The medical officer of health shall, as regards the outward bound ship, take such steps as appear to him to be necessary, for preventing the spread of infection, and the master shall for that purpose forthwith carry into execution all such directions as shall be given to him by the medical officer of health.

In particular, the master shall cause any clothing or bedding or any other article of personal use which belongs to or is in use or is intended for use by the master, a member of the crew, or any other person aboard the outward bound ship which, in the opinion of the medical officer of health, is infected, to be disinfected or destroyed.

The master shall also cause the quarters of the ship which have been used by any person whom the medical officer of health has ascertained to be suffering from cholera or plague or from an illness which, in the opinion of the medical officer of health, may prove to be cholera or plague, and such other parts of the ship as in the opinion of the medical officer of health are infected, to be disinfected according to his directions.

(3) The master shall not cause or suffer the ship to proceed to sea for the purpose of an outward voyage until the work of disinfection or destruction has been completed to the satisfaction of the medical officer of health, and until that work is so completed the medical officer of health may defer the giving and delivery in pursuance of Article 7 of any such certificate as is therein mentioned.

ART. 9. During the stay of an outward bound ship within a plague-affected area, the master shall, under the direction and to the satisfaction of the medical officer of health, take all such precautions or employ all such means for effectually stopping the access of rats from the shore to the ship as, in the opinion of the medical officer of health, are necessary for the prevention of the conveyance of infection by means of the ship.

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ART. 10. During the stay of an outward bound ship within a cholera-affected area, the master shall take all necessary precautions for securing and maintaining the wholesome condition of any water taken on board for drinking purposes.

ART. 11. The master of an outward bound ship shall, before any such certificate as is mentioned in Article 7 is given or delivered by the medical officer of health, pay to the local authority or to the medical officer of health on behalf of the local authority a sum which shall be fixed by the local authority and shall not exceed the amount which appears in the following table as the prescribed rate of charge applicable to the outward bound ship.

TABLE OF CHARGES.

Description of Ship.	Prescribed Rate of Charge.
For an outward bound ship carrying not more than *ten* persons, including the master and crew . . .	*Ten Shillings.*
For an outward bound ship carrying more than *ten* persons and not more than *thirty* persons, including the master and crew	*One Pound.*
For an outward bound ship carrying more than *thirty* persons and not more than *one hundred* persons, including the master and crew	*Two Pounds.*
and	
For an outward bound ship carrying more than *one hundred* persons, including the master and crew .	*Three Pounds.*

PART III.

Specified Articles.

ART. 12. Part III. of the regulations shall apply and have effect in relation to the district of every local authority throughout England and Wales.

ART. 13. Except as hereinafter provided—

The owner of a specified article, being a local commodity, shall not cause or suffer the specified article to be carried out of a cholera-affected area or out of a plague-affected area with the object of being placed aboard an outward bound ship for the purpose of an outward voyage; and

A person shall not knowingly carry any such specified article from a cholera-affected area or from a plague-affected area with the object of placing it aboard an outward bound ship for the purpose of an outward voyage, and shall not for that purpose knowingly place any such specified article, or knowingly cause or suffer any such specified article to be placed aboard an outward bound ship, and shall not for the said purpose knowingly carry any such specified article or knowingly cause or suffer any such specified article to be carried on an outward bound ship;

Provided that the foregoing prohibitions shall not apply—

Where the specified article or any case or package containing the specified article is indelibly marked with words descriptive of a cholera-affected area or a plague-affected area as the place from which the specified article being a local commodity is sent, and also with the words "not for export beyond the British Islands," or

Where the article, or any case or package containing the article though not marked as hereinbefore required, is accompanied by a certificate of efficient disinfection under the hand of the medical officer of health.

ART. 14. Where for the purposes of Article 13 a certificate of efficient disinfection under the hand of the medical officer of health is required in the case of a specified article, being a local commodity, the owner of the specified article shall before the delivery of the certificate to himself or to any person whom he authorises to receive the same, pay to the local authority or to the medical officer of health on behalf of the local authority the sum of *five shillings.*

ART. 15. Nothing in the regulations shall have effect so as to prohibit the transit through a cholera-affected area or a plague-affected area to an outward bound ship

Appendix II.

for the purpose of an outward voyage of a specified article not being a local commodity, where the specified article is so packed and so carried as effectually to prevent actual and direct contact of the specified article with any person or with any infected article while the specified article is on its way to the outward bound ship.

PART IV.

Medical Assistants and Saving for Mails.

ART. 16. The local authority may appoint one or more legally qualified medical practitioners to act in the execution of the regulations, either in place of or as an assistant or assistants to the medical officer of health, and may pay the practitioner or practitioners so appointed reasonable remuneration for his or their services.

ART. 17. Nothing in the regulations shall render liable to detention, disinfection, or destruction any article forming part of any mail (other than a parcel mail) conveyed under the authority of the Postmaster-General, or of the postal administration of any foreign Government, or shall prejudicially affect the receipt on board and delivery in due course at the port or place of destination of any such mail (other than a parcel mail) in accordance with the provisions of the Post Office Acts.

S. B. PROVIS, *Secretary.*

NOTICE.—[As in Order of September 9th, 1907.]

CHOLERA AND PLAGUE REGULATIONS: COASTING SHIPS.

(September 9th, 1907.)

TO THE SEVERAL PORT SANITARY AUTHORITIES; To all other Sanitary Authorities as herein defined; To all Medical Officers of Health; To all Masters of Ships; And to all others whom it may concern.

* * * * * *

ART. 1. Unless the context otherwise requires, the following expressions shall throughout the regulations have the meanings hereinafter respectively assigned to those expressions; namely,—

The expression "cholera-affected area" or "plague-affected area" means an area which is within the United Kingdom and which, for the time being, is affected with cholera, or plague, as the case may be;

The expression "medical officer of health" includes any duly qualified medical practitioner appointed or employed to act in the execution of the regulations;

The expression "sanitary authority" means every port sanitary authority, and every council of a municipal borough or other urban district, and every rural district council whose borough or district includes or abuts on any part of a Customs port, which part is not within the jurisdiction of a port sanitary authority;

The expression "the district" means the district of a sanitary authority;

The expression "ship" includes a boat and every other description of vessel used in navigation;

The expression "Master" used in relation to a ship includes any officer or person for the time being in charge or command of the ship;

The expressions "Coasting Ship" and "Coast Voyage" mean respectively a ship employed, or in course of preparation for employment, in trading or going, and a voyage beginning and ending, within the following limits, that is to say, the United Kingdom, the Channel Islands, and the Isle of Man; and

The expressions "Infected" and "Infection" mean respectively infected with cholera and plague, and infection from cholera or plague.

ART. 2. The regulations shall apply and have effect in relation to the district of every sanitary authority throughout England and Wales.

ART. 3.—(1) Where the district is or comprises a cholera-affected area or a plague-affected area, the medical officer of health may, or if he have reason to suppose that a coasting ship lying or being within the district is infected, shall, at any time visit the coasting ship and examine the master and crew and every other person who, as a passenger, or otherwise, is aboard the coasting ship.

The medical officer of health may also examine any clothing or bedding, or any other article of personal use which belongs to or is in use, or is intended for use by the master, a member of the crew, or any other person aboard the coasting ship and which, in the opinion of the medical officer of health, may have been exposed to infection.

(2) The medical officer of health may, if he think fit, by arrangement with the master, examine ashore the master or any member of the crew, or any other person who as a passenger or in any other capacity intends to be carried in the coasting ship, and every such examination shall be made within twelve hours before the time at which the master, member of the crew or such other person as aforesaid is required to go aboard the coasting ship, for the purpose of beginning a coast voyage.

ART. 4. For the purpose of the examination by the medical officer of health of the master and crew of a coasting ship, and of every other person who, as a passenger, or in any other capacity, is aboard the coasting ship, or is about to go aboard, the master, every member of the crew, and every person as aforesaid, shall answer truly all such questions as may be put to him, and give all such information as may be required from him by the medical officer of health.

ART. 5.—(1) Subject to the regulations, the medical officer of health, if on his examination as aforesaid he is of opinion that the several persons examined are not suffering from cholera or plague, or from any illness which, in the opinion of the medical officer of health, may prove to be cholera or plague, and that every part of the coasting ship and any clothing or bedding or any other article of personal use which belongs to, or is in use, or intended for use by any such person, is free from infection, may, if requested by the master, give a certificate in writing recording any matters which he deems necessary, and also, where the circumstances so require, the fact that, under his supervision, any part of the coasting ship or any such clothing, bedding, or other article has been cleansed or disinfected, or the destruction of rats has been effected.

(2) Every certificate of the medical officer of health for the purposes of this article shall be in duplicate, and one copy shall be delivered by the medical officer of health to the master, and the other copy shall be retained by the medical officer of health, or shall be transmitted by him to the sanitary authority.

ART. 6.—(1) If the medical officer of health on making such examination as aforesaid of the master and crew, or of any other person aboard, or about to go aboard, a coasting ship, shall ascertain that any person so examined is suffering from cholera or plague, or from an illness which, in the opinion of the medical officer of health, may prove to be cholera or plague, the medical officer of health shall forthwith provide for the removal of the person to some hospital or other suitable place appointed for that purpose by the sanitary authority. Every person so removed shall be subject to the rules prescribed by any regulations made by us under the Public Health Acts and in force in the district.

(2) The medical officer of health shall, as regards the coasting ship, take such steps as appear to him to be necessary for preventing the spread of infection, and the master shall for that purpose forthwith carry into execution all such directions, as shall be given to him by the medical officer of health.

In particular, the master shall cause any clothing or bedding or any other article of personal use which belongs to or is in use or is intended for use by the master, a member of the crew, or any other person aboard the coasting ship which, in the opinion of the medical officer of health, is infected, to be disinfected or destroyed.

The master shall also cause the quarters of the ship which have been used by any person whom the medical officer of health has ascertained to be suffering from cholera or plague or from an illness which, in the opinion of the medical officer of health, may prove to be cholera or plague, and such other parts of the ship as in the opinion of the medical officer of health are infected, to be disinfected according to his directions.

(3) The master shall not cause or suffer the ship to proceed to sea for the purpose

of a coast voyage until the work of disinfection or destruction has been completed to the satisfaction of the medical officer of health, and until that work is so completed the medical officer of health may defer the giving and delivery in pursuance of Article 5 of any certificate as is therein mentioned.

ART. 7. During the stay of a coasting ship within a plague-affected area, the master shall, under the direction and to the satisfaction of the medical officer of health, take all such precautions or employ all such means for effectually stopping the access of rats from the shore to the ship as, in the opinion of the medical officer of health, are necessary for the prevention of the conveyance of infection by means of the ship.

ART. 8. During the stay of a coasting ship within a cholera-affected area, the master shall take all the necessary precautions for securing and maintaining the wholesome condition of any water taken on board for drinking purposes.

ART. 9. Where the sanitary authority on the advice of the medical officer of health so require, the master of a coasting ship shall, before any such certificate as is mentioned in Article 5, is given or delivered by the medical officer of health, pay to the sanitary authority or to the medical officer of health on behalf of the sanitary authority a sum which shall be fixed by the sanitary authority and shall not exceed the amount which appears in the following table as the prescribed rate of charge applicable to the coasting ship.

TABLE OF CHARGES.

Description of Ship.	Prescribed Rate of Charge.
For a coasting ship carrying not more than *ten* persons, including the master and crew	*Ten Shillings.*
For a coasting ship carrying more than *ten* persons, and not more than *thirty* persons, including the master and crew	*One Pound.*
For a coasting ship carrying more than *thirty* persons and not more than *one hundred* persons, including the master and crew	*Two Pounds.*
For a coasting ship carrying more than *one hundred* persons, including the master and crew . . .	*Three Pounds.*

ART. 10. The sanitary authority may appoint one or more legally qualified medical practitioners to act in the execution of the regulations, either in place of or as an assistant or assistants to the medical officer of health, and may pay the practitioner or practitioners so appointed reasonable remuneration for his or their services.

ART. 11. Nothing in the regulations shall render liable to detention, disinfection, or destruction any article forming part of any mail (other than a parcel mail) conveyed under the authority of the Postmaster-General, or of the postal administration of any foreign government, or shall prejudicially affect the receipt on board and delivery in due course to the post office of any such mail (other than a parcel mail) in accordance with the provisions of the Post Office Acts.

S. B. PROVIS, *Secretary.*

NOTICE.—[As in Order of September 9th, 1907.]

EPIDEMIC REGULATIONS: NOTIFICATION OF CASES OF PLAGUE (GENERAL).

(September 19th, 1900.)

To all Sanitary Authorities in England and Wales as herein defined; To all Medical Officers of Health of the Sanitary Authorities aforesaid; And to all others whom it may concern.

Whereas England and Wales appear to be threatened with plague and it is desirable that regulations should be made as hereinafter contained:

Now therefore, we, the Local Government Board, in the exercise of the powers given to us by the Public Health Acts, and any other Acts enabling us in this behalf, do, by this our Order, make the following regulations, and declare the same to be in force in the district of every sanitary authority in England and Wales, and to apply to all vessels within the jurisdiction of a port sanitary authority or a riparian authority:

Art. 1. In this Order—

The expression "sanitary authority" means every port sanitary authority and every council of a county borough and every urban or rural district council, and in the administrative county of London every sanitary authority for the execution of the Public Health (London) Act, 1891.

The expression "medical officer of health" includes any duly qualified medical practitioner appointed or employed by a sanitary authority to act in the execution of any regulations made by us in pursuance of any of the enactments referred to in this Order.

Art. 2. In the district of every sanitary authority which is situate without the administrative county of London the persons mentioned in section 3 of the Infectious Disease (Notification) Act, 1889 (*a*), and the sanitary authority shall, under this Order, have the same powers and duties in relation to the notification of cases of plague as they would have under that Act if plague were an infectious disease to which that Act applied.

In the district of every sanitary authority in the administrative county of London, and in the district of the port sanitary authority of the port of London, the persons mentioned in section 55 of the Public Health (London) Act, 1891 (including the managers of the metropolitan asylum district), and the sanitary authority shall, under this Order, have the same powers and duties in relation to the notification of cases of plague as they would have under that section if plague were an infectious disease to which that section applied.

The sanitary authority shall forthwith cause circular letters to be sent to all legally qualified medical practitioners in the district informing them of their duties under this regulation.

Art. 3. It shall be the duty of every medical officer of health to report forthwith to us any case of plague which may be notified to him, or which may otherwise come or be brought to his knowledge and which may occur in the district or area assigned to his charge.

PREVENTION OF EPIDEMIC DISEASES: REGULATIONS AS TO PLAGUE —DESTRUCTION OF RATS

(November 10th, 1910.)

To the Mayor, Aldermen and Commons of the City of London; To the Councils of the several Metropolitan Boroughs; To the Councils of the several Municipal Boroughs and other Urban Districts; To the Councils of the several Rural Districts; To the several Port Sanitary Authorities; And to all others whom it may concern.

Whereas [*reciting powers to make regulations*].

Now therefore, we, the Local Government Board, do, by this our Order, and in the exercise of the powers conferred on us by the Public Health Act, 1875, the Public

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(*a*) *Ante*, p. 845.

Health (London) Act, 1891, and the Public Health Act, 1896, and every other power enabling us in that behalf, make the following regulations, and declare that the said regulations shall apply and have effect throughout England and Wales, and shall be enforced and executed by the authorities, officers, and servants hereinafter mentioned :—

ART. 1. In this Order—

The expression "local authority" means the common council of the city of London, the council of each metropolitan borough, the council of each municipal borough or other urban district, the council of each rural district and each port sanitary authority ;

The expression "district" means the district of a local authority.

ART. 2. In any district in which a representation is made to the local authority that rats in the district are infected or threatened with plague, or that there is an unusual mortality among rats in the district, the local authority shall report the matter to us, and shall take measures (a) for the destruction of all rats in the district, and (b) for preventing the entrance of rats into buildings and other premises in the district.

ART. 3. For the purposes of these regulations the local authority may appoint such additional officers or servants as they may deem necessary and may delegate to such officers or servants any powers under these regulations.

ART. 4. The expenses incurred by a local authority in the execution of these regulations shall be defrayed in the case of a local authority which is a sanitary authority for the execution of the Public Health (London) Act, 1891, as part of their expenses in the execution of that Act, and in the case of any other local authority as part of their general expenses in the execution of the Public Health Acts.

NOTICE.—[As in Order of September 9th, 1907.]

RATS.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
January 30th, 1923.

SIR,—I am directed by the Minister of Health to refer to the Ministry of Health (Rats and Mice Destruction, Transfer of Powers) Order, 1922, and to state that a general survey of the sanitary administration of Port and Riparian Sanitary Districts in England and Wales has recently been carried out by Medical Officers of this Department, who have reported that the authorities of many of these districts are experiencing difficulty in dealing with the question of rat destruction.

Among the more important functions of Port and Riparian Sanitary Authorities under the Public Health Acts is the prevention of the introduction and spread in this country of ship-borne plague. For this purpose it is desirable that, in addition to their powers under the Public Health Acts, they should be able to take measures under the Rats and Mice (Destruction) Act, 1919, for the destruction of rats both on board ship and also on the quays, wharves and warehouses abutting upon the port.

I am to point out, however, that a Riparian Authority which is not a county borough council is unable to take any measures under the Act of 1919 unless the powers of the county council under that Act have been delegated to them by the county council. Moreover the jurisdiction of port sanitary authorities is, as a rule, confined to the shipping and the waters of the ports, and unless a port sanitary authority is also a county borough council, or a sanitary authority to whom powers under the Act of 1919 have been delegated, they are unable to deal effectively with rats in the wharves and warehouses.

In this connection I am to draw attention to the circular letter issued by the Ministry of Agriculture and Fisheries on the 5th May, 1921, with reference to the delegation of powers under the Rats and Mice (Destruction) Act, 1919, and to state that the Minister would be glad if the county council will take into consideration the question of delegating their jurisdiction under that Act to each of the sanitary authorities within the administrative county which are named in the list enclosed herewith, and inform him of the result.

I am to add that the Minister of Agriculture and Fisheries concurs in the terms of this circular letter.

I am, etc.

The Clerk of the County Council.

COMMONS.

S. R. & O., 1924, No. 1157.

THE COMMONS REGULATIONS, 1924.

DATED 4TH OCTOBER, 1924.

1. A scheme made by a council under the Commons Act, 1899, shall be in the form set forth in the schedule to these Regulations, subject to such modifications, if any, as shall appear to the council to be necessary or expedient and as shall be approved by the Minister of Agriculture and Fisheries (hereinafter referred to as "the Minister").

2. Notice of the intention of a council to make a scheme under the said Act shall be given by the council in manner following:—

(*a*) By inserting an advertisement in the form set forth in the Schedule to these Regulations or to the like effect in at least one newspaper having a wide circulation in the neighbourhood of the common affected by the scheme—the advertisement to be twice inserted with an interval of not less than one week between the insertions.

(*b*) By posting copies of the notice at two or more places on the common.

(*c*) By service of a copy of the notice upon the council of every parish in which any part of the common is situate; and

(*d*) By registered letter sent to every person entitled, as Lord of the Manor or otherwise, to the soil of the common, and addressed to his usual or last known place of abode: provided that where the persons so entitled are numerous or cannot after diligent inquiry be ascertained the Minister may dispense with such notice.

Whenever His Majesty is so entitled, the notice shall be sent to the Commissioners of Woods and Forests, unless His Majesty is so entitled in right of the Duchy of Lancaster, in which case it shall be sent to the Chancellor of the Duchy of Lancaster.

Whenever the Duke of Cornwall is so entitled, the notice shall be sent to the Lord Warden of the Stanneries.

3. Copies of the draft scheme shall be placed on sale at the office of the council making the scheme at a price not exceeding sixpence per copy.

4. The plan referred to in a draft scheme shall be deposited at the office of the council making the scheme, and shall be available for inspection by any person interested in the scheme at all reasonable times.

5. These Regulations shall come into operation on the tenth day of October, one thousand nine hundred and twenty-four, and may be cited as the Commons Regulations, 1924.

6. All Regulations heretofore made under the provisions of the Commons Act, 1899, are hereby revoked except as to any proceedings taken under any such Regulations.

* * * * * *

SCHEDULE.

FORM I.

FORM OF SCHEME.

1. The piece of land with the ponds, streams, paths, and roads thereon, commonly known as Common, situate in the parish of in the County of and hereinafter referred to as "the common," as the same is delineated in a plan sealed

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by, and deposited at, the office of the District Council of , hereinafter called " the council " and thereon coloured green, being a " Common " within the meaning of the Commons Act, 1899, shall henceforth be regulated by this scheme, and the management thereof shall be vested in the council.

2. The powers of the council generally as to appointing or employing officers and servants and paying them under the general Acts applicable to the council shall apply to all such persons as in the judgment of the council may be necessary and proper for the preservation of order on and the enforcement of bye-laws with respect to the common and otherwise for the purposes of this scheme, and the council may make rules for regulating the duties and conduct of the several officers and servants so appointed and employed and may alter such rules as occasion may require.

3. The council may execute any necessary works of drainage, raising, levelling, or fencing, or other works for the protection and improvement of the common, and shall preserve the turf, shrubs, trees, plants, and grass thereon, and for this purpose may, for short periods, enclose by fences such portions as may require rest to revive the same, and may plant trees and shrubs for shelter or ornament, and may place or erect seats, shelters, pavilions, drinking fountains and conveniences upon and light the common and otherwise improve the common as a place for exercise or recreation ; but the council shall do nothing that may otherwise vary or alter the natural features or aspect of the common or interfere with free access to every part thereof, and shall not erect upon the common any shelter, pavilion or other building without the previous consent of the person entitled to the soil of the common.

4. The council shall maintain the common free from all encroachments, and shall not permit any trespass on or partial or other enclosure of any part thereof.

5. The inhabitants of the district and neighbourhood shall have a right of free access to every part of the common and a privilege of playing games and of enjoying other species of recreation thereon, subject to any byelaws made by the council under this scheme.

6. The [*here insert description of any particular trees or objects of historical scientific or antiquarian interest*] are, so far as possible, to be preserved by the council.

7. The council shall have power to repair and maintain the existing paths and roads on the common and to set out, construct, and maintain or authorise the construction and maintenance of such new paths and roads on the common as appear to the council to be necessary or expedient, and to take any proceedings necessary for the stopping or diversion of any highway over the common.

8. The council may, for the prevention of accidents, fence any quarry, pit, pond, stream, or other like place on the common.

9. The council may set apart for games any portion or portions of the common as they may consider expedient, and may form cricket grounds and may allow the same to be temporarily enclosed with any open fence, so as to prevent cattle and horses from straying thereon ; but such grounds shall not be so near to any dwelling-house or road as to create a nuisance or be an annoyance to the inhabitants of the house or to persons using the road.

10. The council may, for the prevention of nuisances and the preservation of order on the common, and subject to the provisions of section 10 of the Commons Act, 1899, make, revoke, and alter byelaws for any of the following purposes, viz. :—

(*a*) For prohibiting the deposit on the common, or in any pond or stream thereon, of road-sand, materials for repair of roads, dung, rubbish, litter, wood or other matter.

(*b*) For prohibiting any person without lawful authority from digging, cutting, or taking turf, sods, gravel, sand, clay, or other substance on or from the common and from cutting, felling, or injuring any gorse, heather, timber, or other tree, shrub, brushwood, or other plant growing on the common.

(*c*) For regulating the place and mode of digging and taking turf, sods, gravel, sand, clay, or other substance, and cutting, felling, and taking trees or underwood on or from the common in exercise of any right of common or other right over the common.

(*e*) For prohibiting the injury, defacement, or removal of seats, shelters, pavilions, fences, notice-boards, or other things put up or maintained by the council on the common.

(*e*) For prohibiting or regulating the posting or painting of bills, placards, advertisements, or notices on trees or fences, erections or notice-boards on the common.

(*f*) For prohibiting any persons without lawful authority from bird catching, setting traps or nets, or liming trees or laying snares for birds or other animals, taking birds' eggs or nests, and shooting or chasing game or other animals on the common.

(*g*) For prohibiting or regulating the drawing, driving or placing upon the common without lawful authority of any carriage, cart, caravan, truck, motor vehicle, motor cycle, aeroplane, flying machine or other vehicle, and the erecting or permitting to remain on the common, without the consent of the council or other lawful authority, of any building, shed, tent, fence, post, railing, or other structure, whether used in connection with the playing of games or not.

(*h*) For prohibiting (except in the case of a fair lawfully held) or regulating the placing on the common of any photographic cart, or of any show, exhibition, swing, roundabout, or other like thing.

(*i*) For prohibiting or regulating the lighting of any fire on the common.

(*j*) For prohibiting or regulating the firing or discharge of firearms or the throwing or discharge of missiles on the common.

(*k*) For regulating games to be played and other means of recreation to be exercised on the common, and assemblages of persons thereon.

(*l*) For regulating the use of any portion of the common temporarily enclosed or set apart under this scheme for any purpose.

(*m*) For prohibiting or regulating horses being exercised or broken in without lawful authority by grooms or others on the common.

(*n*) For prohibiting or regulating the landing or departure of any aeroplanes and flying machines on or from the common.

(*o*) For prohibiting any person without lawful authority from turning out or permitting to remain on the common any cattle, sheep, or other animals.

(*p*) For prohibiting any person from bathing in any pond or stream on the common save in accordance with regulations made by the council.

(*q*) Generally, for prohibiting or regulating any act or thing tending to injury or disfigurement of the common or to interference with the use thereof by the public for the purposes of exercise and recreation.

(*r*) For authorising any officer of the council, after due warning, to remove from the common any vehicle or animal drawn, driven or placed or any structure erected or placed thereon in contravention of any byelaw made under this scheme or to exclude from the common any person who within his view commits, or whom he reasonably suspects of committing an offence against any such byelaw or against the Vagrancy Act, 1824.

(*s*) For prohibiting the hindrance or obstruction of an officer of the council in the exercise of his powers or duties under this scheme or under any byelaws made thereunder.

11. All byelaws made under this scheme shall be published on notice-boards placed on such parts of the common (not less than) as to the council may appear desirable.

12. Nothing in this scheme or any byelaw made thereunder shall prejudice or affect any right of the person entitled as lord of the manor or otherwise to the soil of the common or of any person claiming under him which is lawfully exercisable in, over, under, or on the soil or surface of the common in connection with game, or with mines, minerals, or other substrata or otherwise, or prejudice or affect any right of the commoners in or over the common or the lawful use of any highway or thoroughfare on the common, or affect any power or obligation to repair any such highway or thoroughfare.

13. Printed copies of this scheme and of any byelaws made thereunder shall at all times be sold at the office of the council to all persons desiring to buy the same at a price not exceeding sixpence each.

FORM II.

FORM OF NOTICE.

Commons Act, 1899.

NOTICE is hereby given that the Council intend to make a scheme under the above Act for the regulation and management of COMMON in their district with a view to the expenditure of money on the drainage, levelling and improvement of the common, and to the making of byelaws and regulations for the prevention of nuisances and the preservation of order thereon.

Copies of the draft of the scheme may be obtained (price [not exceeding] sixpence per copy) and the plan therein referred to may be inspected at the offices of the Council.

Any objection or suggestion with respect to the scheme or plan may be sent, post free, to the Secretary, Ministry of Agriculture and Fisheries, 10, Whitehall Place, London, S.W.1, within three months from the date of this notice.

Clerk of the above Council.

THE COMMONS ACT, 1899.

INSTRUCTIONS OF THE MINISTRY OF AGRICULTURE AND FISHERIES WITH RESPECT TO SCHEMES FOR THE REGULATION AND MANAGEMENT OF COMMONS UNDER PART I. OF THE COMMONS ACT, 1899 (62 & 63 VICT. c. 30).

Who can make a scheme and the objects thereof.

1. The council of an urban or rural district are empowered by the above Act to make a scheme for the regulation and management of any common, town or village green within their district, with a view to the expenditure of money on the drainage, levelling and improvement thereof, and to the making of byelaws and regulations for the prevention of nuisances and the preservation of order.

Form of scheme and plan.

2. The scheme is to be in the form prescribed by the Regulations of the Minister made under the Act, and is to identify, by reference to a map, the common or green to be thereby regulated.

The map, in the preparation of which accuracy is essential, should be made on the latest available edition of the 1/2500 scale Ordnance Survey Sheets supplemented, where necessary, by dotted red lines to show such of the limits of the land to be regulated as are not defined by Ordnance Survey detail. The whole area proposed to be regulated should be tinted light green and its limits sharply defined by an edging of dark green. Great care should be taken to avoid the inclusion by the colour edging of ponds, drains, streams, paths, shaws or other features lying against the boundaries of the land but outside the area proposed to be regulated. Where a parish boundary forms part of the boundary of the land, the dark green edging should not go beyond the parish boundary characteristic shown thus : . . . on the Ordnance Survey Sheet. The following note should be conspicuously written on the map : "The green colour includes the whole of the lands, ponds, paths, and streams, forming parts of the common (or commons or town or village green), but is not intended to include any boundary ditches forming parts of adjoining properties."

Notice of intention to make a scheme.

3. Not less than three months before the making of a scheme the council are to give such notice of their intention to make it as is prescribed in the Minister's Regulations, and are to state thereby where copies of the draft of the scheme may be obtained, and where the map therein referred to may be inspected. They are also to send to the Ministry as soon as possible two copies of the draft-scheme and a copy of the deposited map.

Inspection of draft scheme and map and lodging of objections.

4. During the three months any person may obtain a copy of the draft scheme on payment of a sum not exceeding sixpence, and may inspect the map at the prescribed place, and may make in writing to the Ministry any objection or suggestion with respect to the scheme or map.

Statutory Declaration as to service of notices and deposit of draft scheme and map.

5. At the expiration of the three months the council by their clerk or other responsible officer are to send to the Minister the deposited map, and a Statutory Declaration—

(a) that the notice (in the form prescribed in the Minister's Regulations) has been advertised as required in a newspaper or newspapers having a wide circulation in the neighbourhood ;

(b) that it has been served and published in several ways indicated in the Regulations ;

(c) that the draft-scheme with the map has been deposited for the prescribed period at the office of the council ; and

(d) that the officer making the declaration is informed and believes that the person (whose name should be given) served with a notice as being entitled to the soil of the land, either as lord of the manor or otherwise, is the person so entitled.

Inquiry by Ministry.

6. The Minister will, upon receipt of the Declaration and map, take into consideration any objections or suggestions that have been made during the three months, and may, if he thinks fit, direct that an inquiry shall be held by an officer of the Ministry, and for this purpose may require the deposit of a sum of money sufficient to cover the expenses likely to be incurred by the Ministry in connection with the inquiry.

7. After the consideration of such objections or suggestions and of the report of the officer holding the inquiry (if any), the Ministry will inform the council whether the scheme will require to be modified before it can be approved. Approval of scheme.

8. When the final form of the scheme is settled the council will be asked (unless a deposit of a sufficient sum has been previously made) to pay the statutory fee of £2 and any additional expenses (*e.g.* cost of maps). On receipt of the money the Ministry will prepare two copies of the map mounted on linen, and send them to the council, for sealing in due course, with two copies of the scheme, which the council will prepare on parchment or tough paper. Copies of the scheme and map when sealed by the council should be sent to the Ministry. One of the copies will be returned with the Ministry's seal affixed, and the other will be retained by the Ministry for purposes of record. Payment of expenses and sealing of scheme and map.

9. Two printed copies of the approved scheme as prepared for issue to the public should be sent as soon as possible to the Ministry, and also two copies of any byelaws made from time to time under the scheme. It should be noted that any such byelaws must be confirmed by the Minister of Health and not by the Minister of Agriculture and Fisheries. Printed copies of scheme and byelaws.

10. The Act contains a proviso that if, at any time before the Ministry has approved of the scheme, a written notice of dissent is received either— Notice of dissent to scheme.

(a) from the person entitled, as lord of the manor or otherwise, to the soil of the common; or

(b) from persons representing at least one-third in value of such interests in the common as are affected by scheme,

and such notice is not subsequently withdrawn, the Ministry is not to proceed further in the matter.

11. The management of any common regulated by scheme made by a district council is to be vested in the district council. Management of regulated common.

12. A *rural* district council may delegate to a parish council any powers of management thus conferred on the district council in relation to any commons within the parish, and thereupon the Public Health Acts will apply as if the parish council were a parochial committee (see Public Health Act, 1875, s. 202). Delegation of powers to a parish council.

13. A parish council may agree to contribute the whole or any portion of the expenses of and incidental to the preparation and execution of a scheme for the regulation and management of any common within their parish (including any compensation paid under the Act) but subject to the restrictions on expenditure imposed by section eleven of the Local Government Act, 1894. Contribution by a parish council to expenses.

14. The Act provides that no estate, interest, or right of a profitable or beneficial nature in, over, or affecting any common shall, except with the consent of the person entitled thereto, be taken away or injuriously affected by any such scheme without compensation being made or provided for the same by the council making the scheme, and such compensation is, in case of difference, to be ascertained and provided in the same manner as if it were for the compulsory purchase and taking, or the injurious affecting of lands under the Lands Clauses Acts. Saving as to rights of persons legally interested. Provision for compensation.

15. A district council may acquire, by gift or by purchase by agreement, the fee simple or any estate in or any rights in or over any common regulated by a scheme under the Act, and hold the same without licence in mortmain for the purposes of the scheme, and the expenses thus incurred by the district council will be part of their expenses of executing the scheme. Power to acquire fee simple of common for purposes of the scheme.

16. When a common is regulated by a scheme under the Act, the restrictions imposed by section twenty of the Commons Act, 1876, on the digging of gravel for the repair of the highways, will apply, so that no road authority will be able to take material for roads from any part of the common without the consent of the district council, or in default of such consent without an order of the justices in petty sessions. Restrictions as to digging gravel.

17. The power to make a scheme includes power to amend or supplement a scheme. Amending or supplemental schemes

18. The provisions with respect to byelaws contained in sections one hundred and eighty-two to one hundred and eighty-six, both inclusive of the Public Health Act, 1875, and any enactment extending those sections, will apply to all byelaws Byelaws.

made in pursuance of a scheme under the Act, and any fine imposed by any such byelaw will be recoverable summarily and be payable to the council in whom the management of the common is vested.

Payment of expenses.

19. All expenses incurred by the Ministry in relation to a scheme and all expenses of and incidental to the preparation and execution of the scheme (including any compensation paid under the Act), are to be paid by the district council, and are to be treated as part of the expenses of the district council in the execution of the powers conferred by the Public Health Acts.

Power to borrow money for payment of expenses.

20. A district council may for the purposes of the Act borrow money in like manner and subject to the like conditions as they may borrow for defraying expenses incurred in the execution of the Public Health Acts, and those Acts will apply accordingly.

Contributions by urban district councils to expenses of scheme.

21. The council of any urban district may, with a view to the benefit of the inhabitants of their district, and subject to the approval of the Minister of Health, enter into an undertaking with any other council making or having made a scheme to contribute any portion of the expenses incurred by that council in executing the scheme.

Provisions applicable to county boroughs.

22. The above provisions of the Act apply to the council of a county borough in like manner as if that council were the council of an urban district.

Commons to which a scheme cannot apply.

23. No scheme under the Act can apply to any common which is or might be the subject of a scheme made under the Metropolitan Commons Acts, 1866 to 1898, or is regulated by a provisional order under the Inclosure Acts, 1845 to 1882, or has been acquired, or managed as an open space, under the powers of the Corporation of London (Open Spaces) Act, 1878, or any Act therein referred to, or is the subject of any private or local and personal Act of Parliament having for its object the preservation of the common as an open space, or is subject to byelaws made by a parish council under section eight of the Local Government Act, 1894.

Definition of "common."

24. The expression "common" as used in Part I. of the Act includes any town or village green, as well as any land subject to be inclosed under the Inclosure Acts, 1845 to 1882, that is, practically, any commonable land whether waste of a manor or not.

CHARLES J. H. THOMAS, *Secretary.*

MINISTRY OF AGRICULTURE AND FISHERIES,
WHITEHALL PLACE, LONDON, S.W.1.
24th April, 1928.

CONFERENCES.

LOCAL GOVERNMENT CONFERENCES—CIRCULAR TO LOCAL BOARDS.

(*A similar circular accompanied the Order as to rural district councils.*)

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
May 14*th*, 1891.

SIR,—I am directed by the Local Government Board to advert to the provisions of the Public Health and Local Government Conferences Act, 1885 (*a*), under which any local authority within the meaning of the Public Health Act, 1875, other than the urban sanitary authority of a borough, may, when empowered by and subject to any regulations made by the Board, pay the reasonable expenses incurred by any member of the local authority or by the clerk in attending a conference or meeting of the members of the local authorities held for the purpose of discussing any matter connected with the duties devolving on them, and also any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting.

The Board have had under consideration the desirability of regulations being made under the Act referred to, and, having regard to the representations which

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(*a*) *Ante*, p. 764.

have been made to them on the subject, they have considered it advisable to exercise their power of making regulations so far as regards conferences or meetings of members of the urban sanitary authorities to whom the Act applies.

The Board have accordingly issued an Order on the subject, which will apply to the local board of any local government district, and to the improvement commissioners of any Improvement Act district. Two copies of the Order are enclosed.

The Order provides for the payment of the reasonable expenses incurred by the representatives of a local authority to whom the Order applies in attending either at a central conference or meeting open to representatives of all local boards and improvement commissioners, or at a conference or meeting convened for an area including the district from which the representatives are sent. In the latter case, however, the conference or meeting must be held at a place not more than one hundred miles from the district.

The expenses will not be payable unless at a meeting of the local authority of the district a resolution has been passed expressly authorising the attendance at the conference or meeting of a member or members, or of the clerk to the local authority. It is necessary that a written or printed notice that the proposal will be considered at the meeting shall have been sent, by post or otherwise, to each member not less than four days before the date of the meeting of the local authority; and it should be observed that, if the attendance of more than one member is to be authorised, the number must be specified in the resolution.

The Order fixes two as the maximum number of members who may be empowered to attend, and directs that in the case of a central conference only one member shall be authorised to attend from any district more than fifty miles from the place of meeting. These numbers are in addition to the clerk.

The Board have not deemed it practicable to specify the precise sum which should be allowed in respect of an attendance at a conference or meeting. The statute only admits of the expenses actually incurred being charged, and it requires that these should be reasonable. They must necessarily vary in different cases, but the Board think that in addition to the actual travelling expenses they should not exceed the following scale for each person, viz. :—

Seven shillings and sixpence per day when not absent from home at night; and
Fifteen shillings per day when absence from home is necessary.

With regard to the reports of the conferences or meetings it will be seen that the Board have left it to the local authority to determine by resolution what number of copies they will purchase. The power of purchase extends to the reports both of a central conference or meeting, and of any conference or meeting for an area including the district.

I am, etc.

LOCAL GOVERNMENT CONFERENCES—GENERAL ORDER.

(May 13th, 1891.)

To LOCAL BOARDS, &c.

WHEREAS [*section* 2 *of the Public Health and Local Government Conferences Act,* 1885 (ante, *p.* 764) *is recited*].

And whereas local boards of local government districts and improvement commissioners of Improvement Act districts are respectively local authorities within the meaning of the said Act;

Now therefore, we, the Local Government Board, do, by this our Order, empower the local boards of the several local government districts, and the improvement commissioners of the several Improvement Act districts, for the time being in England and Wales, to pay the reasonable expenses incurred by any member or members or by the clerk in attending any such conference or meeting as is mentioned in the above-recited section, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting, subject to the following regulations :—

(1) The expenses incurred in attending a conference or meeting shall only be paid in respect of attendance at a central conference or meeting open to representatives of all local boards and improvement commissioners, or at a conference or meeting convened for an area including the district from which the persons attending as representatives are sent and held at a place distant not more than one hundred miles from such district.

(2) The attendance at any conference or meeting of a member or members of, or of the clerk to, the local authority of any such district shall be expressly authorised by a resolution passed at a meeting of the local authority of such district, a written or printed notice that the proposal is to be considered at that meeting having been sent, by post or otherwise, to each member not less than four days prior to the date of the meeting of the local authority; and where the attendance of more than one member is authorised, the number of members authorised to attend shall be specified in the resolution.

(3) The maximum number of members authorised to attend any conference or meeting shall be two, and in the case of a central conference or meeting only one member shall be authorised to attend from any district which is at a distance of more than fifty miles from the place of meeting.

(4) The number of copies which may be purchased by the local authority of any district of the report of a central conference or meeting, or of any conference or meeting for an area including the district, shall be such as the local authority of the district may, by resolution, determine.

LOCAL GOVERNMENT CONFERENCES—ORDER AS TO RURAL DISTRICT COUNCILS.

(*See the circular to local boards at p.* 3122, *ante.*)

(December 28th, 1896.)

To Rural District Councils, &c.

Whereas [*section* 2 *of the Public Health and Local Government Conferences Act,* 1885 (ante, *p.* 764), *is recited*].

And whereas rural district councils are local authorities within the meaning of the said Act;

Now therefore, we, the Local Government Board, do, by this our Order, empower the rural district councils of the several rural districts, for the time being, in England and Wales to pay the reasonable expenses incurred by any member or members or by the clerk in attending any such conference or meeting as is mentioned in the above-recited section, and any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting, subject to the following regulations:—

(1) The expenses incurred in attending a conference or meeting shall only be paid in respect of attendance at a central conference or meeting open to representatives of all rural districts councils, or at a conference or meeting convened for an area including the district from which the persons attending as representatives are sent and held at a place distant not more than one hundred miles from such district.

(2) The attendance at any conference or meeting of a member or members of, or of the clerk to, the rural district council shall be expressly authorised by a resolution passed at a meeting of the rural district council, a written or printed notice that the proposal is to be considered at that meeting having been sent, by post or otherwise, to each member not less than four days prior to the date of the meeting of the rural district council; and where the attendance of more than one member is authorised, the number of members authorised to attend shall be specified in the resolution.

(3) The maximum number of members authorised to attend any conference or meeting shall be two, and in the case of a central conference or meeting only one member shall be authorised to attend from any district which is at a distance of more than fifty miles from the place of meeting.

(4) The number of copies which may be purchased by any rural district council of the report of a central conference or meeting, or of any conference or meeting for an area including their district, shall be such as the rural district council may, by resolution, determine.

CONTRACTS (*a*).

FAIR WAGES CLAUSES IN CONTRACTS— CIRCULAR.

(September 2nd, 1911.)

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
September 2nd, 1911.

SIR,—I am directed by the Local Government Board to draw the attention of the local authority to the accompanying memorandum embodying the resolution passed by the House of Commons on the 10th March, 1909, on the subject of fair wages clauses in Government contracts, and the recommendations made by the advisory committee of representatives of Government departments which has been established as suggested in paragraph 124 of the Report of the Fair Wages Committee of 1908 (Cd. 4422).

It will be seen that the advisory committee recommend that clauses such as those inserted in Government contracts should also be introduced into contracts which are not entered into by Government departments but which involve the expenditure of public money or other consideration granted by a Government department or which require the approval of the department.

It appears to the Board that the policy adopted in the case of Government contracts should be followed in the cases of all contracts for the execution of works or the supply of materials which are entered into by local authorities or by or on behalf of any committee wholly or in part appointed by a local authority. Whilst they are aware that many local authorities specify in their contracts conditions to be observed by the contractor as to rates of wages and other matters affecting persons employed by him, the Board think that in every case the authority should give the matter careful consideration with the view to the introduction in the contracts of clauses on the lines of those inserted in Government contracts.

I am, Sir, your obedient servant,
H. C. MONRO, *Secretary*.

To the Clerk to the Local Authority.

FAIR WAGES CLAUSES IN GOVERNMENT CONTRACTS.

The following clauses recommended by the Fair Wages Advisory Committee for general use in Government contracts, with a view to carrying out the objects of the fair wages resolutions of the House of Commons, have been generally adopted by the contracting departments :—

FOR INCLUSION IN ALL CONTRACTS.

1.—*Fair Wages Clause.*

The contractor shall in the execution of his contract observe and fulfil the obligations upon contractors specified in the resolution passed by the House of Commons on the 10th March, 1909, namely: "The contractor shall . . . pay rates of wages and observe hours of labour not less favourable than those commonly recognised by employers and trade societies (or, in the absence of such recognised wages and hours, those which in practice prevail amongst good employers) in the trade in the district where the work is carried out. Where there are no such wages and hours recognised or prevailing in the district, those recognised or prevailing in the nearest district in which the general industrial circumstances are similar shall be adopted. Further, the conditions of employment generally accepted in the district in the trade concerned shall be taken into account in considering how far the terms of the fair wages clauses are being observed. The contractor shall be prohibited from transferring or assigning,

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(*a*) See also the Trade Disputes Act, 1927, *ante*, p. 2944.

directly or indirectly, to any person or persons whatever, any portion of his contract without the written permission of the department. Sub-letting, other than that which may be customary in the trade concerned, shall be prohibited. The contractor shall be responsible for the observance of the fair wages clauses by the sub-contractor."

2.—*Exhibition of Notice at Works.*

The contractor shall cause the preceding condition to be prominently exhibited for the information of his workpeople, on the premises where work is being executed under the contract.

3.—*Inspection of Wages Books, &c.*

The contractor shall keep proper wages books and time sheets, showing the wages paid and [so far as practicable] the time worked by the workpeople in his employ in and about the execution of the contract, and such wages books and time sheets shall be produced whenever required for the inspection of any officer authorised by the department (*a*).

FOR INCLUSION IN CONTRACTS IN CERTAIN TRADES.

4.—*Factory Clause.*

All work executed under the contract shall be carried out at the contractor's own factory or workshop at , or other place approved by the department (*a*), and no work under the contract shall be done in the homes of the workpeople.

5.—*Direct Payment of Wages.*

All wages earned by workers engaged on work under the contract shall be paid directly to them and not through a foreman or others supervising or taking part in the operations on which the workers are engaged.

SEMI-GOVERNMENT CONTRACTS

The Fair Wages Advisory Committee have recommended, that in the case of contracts which are not entered into by a Government department but which involve the expenditure of public money or other consideration granted by the department, or which have to be approved by a Government department, the department concerned should adopt the principle already followed in some instances and should require the insertion in such contracts of fair wages clauses on the lines of those inserted in Government contracts, with such modifications as may be necessary in particular cases.

March, 1911.

TRADE BOARDS ACT, 1909, CONTRACTS OF LOCAL AUTHORITIES CIRCULAR.

(July 29th, 1910)

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
July 29th, 1910.

I am directed by the Local Government Board to state that they have been desired by the Board of Trade to draw the attention of local authorities to certain provisions in the Trade Boards Act, 1909, which are of importance in their bearing upon the contracts of local authorities.

The trades to which the Act at present applies are set out in the schedule to the Act and comprise:—

1. Ready-made and wholesale bespoke tailoring and any other branch of tailoring in which the Board of Trade consider that the system of manufacture is generally similar to that prevailing in the wholesale trade.
2. The making of boxes or parts thereof made wholly or partially of paper, cardboard, chip, or similar material.
3. Machine-made lace and net finishing and mending or darning operations of lace curtain finishing.
4. Hammered and dollied or tommied chain-making.

But the Board of Trade may, by Provisional Order to be confirmed by Parliament, extend the provisions of the Act to any other trade if the rate of wages prevailing in any branch of the trade is exceptionally low as compared with that in

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(*a*) Specify the department.

other employments, and the circumstances of the trade are such as to render the application of the Act expedient.

The Act provides for the establishment of Trade Boards, the chief business of which will be to fix minimum rates of wages for their trades. The Board of Trade may make an Order making a rate obligatory in cases to which it is applicable on all persons employing labour and on all persons employed. Until the issue of such an obligatory Order the minimum rate fixed by a Trade Board has only the limited operation indicated in section 7 of the Act (*a*). The provisions of this section are those to which it is particularly desired to draw the attention of the local authority.

The effect of the section, so far as the local authority are concerned, is that, pending the coming into full operation of any minimum rate of wages fixed by the Trade Board, the local authority are precluded from entering into contracts with any employer in the particular trade and area to which the rate is applicable, who has not given the specified notice to the Trade Board that he is willing that the minimum rate should be obligatory upon him.

Great importance is attached to the observance by local authorities of the statutory obligation thus imposed upon them, and it is requested that before entering into a contract the local authority will ascertain whether it involves employment to which a minimum rate of wages is applicable in pursuance of the section quoted, and, if so, whether the person to whom the contract is proposed to be given is an employer by whom notice under the section has been given to the Trade Board.

No minimum rates of wages have yet been fixed under the Act, and some of the Trade Boards are only now on the point of being constituted. Notice of certain rates which they propose to fix, has, however, been given by the Trade Board for the hammered and dollied or tommied chain trade.

When rates have been fixed by any Trade Board information as to the registration of employers under section 7 of the Act will be obtainable on application to the secretary of the Trade Board in question at the office of Trade Boards, Trafalgar Buildings, Northumberland Avenue, London, S.W.

I am, etc.

CIRCULAR 400.

CIRCULAR TO LOCAL AUTHORITIES.

MINISTRY OF HEALTH,
15*th May*, 1923.

CONTRACTS.

SIR,—I am directed by the Minister of Health to inform you that the Government have decided that, as regards all works in respect of which grants are given expressly because of unemployment by the Unemployment Grants Committee or by any Government Department, it shall be a condition of the grant that all contracts for or incidental to the works are to be placed in this country.

This follows a similar condition with regard to schemes in respect of which guarantees are given under the Trade Facilities Act.

The Government also urge that, in view of present conditions, the same principle should be adopted, in the absence of special circumstances, in the case of all contracts in respect of works carried out by Local Authorities, whether or not the expenditure on the works is assisted by grants from the National Exchequer or from the Road Fund.

I am, etc.

(*a*) This section is now repealed, but rates made thereunder still have the limited operation provided by s. 4 (5) of the Trades Boards Act, 1918.

CIRCULAR 569.

CIRCULAR OF MINISTRY OF HEALTH, DATED 24TH MARCH, 1925, AND ADDRESSED TO ALL LOCAL AUTHORITIES.

CONTRACTS.

SIR,—I am directed by the Minister of Health to inform you that at the Imperial Economic Conference in 1923 the following resolution was passed :—

"(1) That this Imperial Economic Conference reaffirms the principle that in all Government contracts effective preference be given to goods made and materials produced within the Empire, except where undertakings entered into prior to this Conference preclude such a course or special circumstances render it undesirable or unnecessary.

"(2) That, so far as practicable, efforts be made to ensure that the materials used in carrying out contracts be of Empire production.

"(3) That State, provincial and local government authorities should be encouraged to take note of the foregoing resolutions."

The Government will be glad if the matter is considered by your authority with a view to giving effect to this resolution, subject to the condition that, in view of the present special circumstances with regard to unemployment, no alteration should be made in the policy laid down in Circular 400 of the 15th May, 1923, with regard to the placing of contracts in this country.

I am, etc.

CIRCULAR 686.

TO LOCAL AUTHORITIES.

MINISTRY OF HEALTH,
31*st March*, 1926.

KING'S ROLL.

SIR,—I am directed by the Minister of Health to refer to Circular 473 of 19th January, 1924, which invited local authorities to take steps to give effect to the recommendation of the King's Roll National Council by giving a preference in all their contracts to firms who are on the King's Roll.

The Minister directs the attention of your authority to the following resolution passed by both Houses of Parliament on the 16th February, 1926 :—

> "That, in the opinion of this House, it is the duty of the Government in all Government contracts to make provision for the employment to the fullest possible extent of disabled ex-service men, and to this end to confine such contracts, save in exceptional circumstances, to employers enrolled on the King's National Roll."

A large number of local authorities already adopt the practice of either restricting their contracts to firms on the Roll or giving preference to such firms. If your authority have not done so, the Minister will be glad if they will give the matter their consideration with a view to the adoption of this course.

The Minister takes this opportunity of again drawing attention to Circulars 400 of 15th May, 1923, and 569 of 24th March, 1925, with regard to contracts, and of emphasising the help that may be given to British trade if local authorities will not only place their contracts with British firms, but also make sure that so far as is reasonably practicable British materials and components only are used in the goods purchased.

I am, etc.

CREMATION.

REGULATIONS MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT, DATED APRIL 26, 1920, UNDER SECTION 7 OF THE CREMATION ACT, 1902 (*a*).

I hereby, in pursuance of section 7 of the Cremation Act, 1902, make the following regulations :—

Definitions.

"Cremation authority" means any burial authority or any company or person by whom a crematorium has been established.

"Medical referee" means a medical referee or deputy medical referee appointed in pursuance of Regulation 10.

Maintenance and Inspection of Crematoria.

1. Every crematorium shall be—

(*a*) maintained in good working order ;
(*b*) provided with a sufficient number of attendants ; and
(*c*) kept constantly in a cleanly and orderly condition :

Provided that a crematorium may be closed by order of the cremation authority if not less than one month's notice be given by advertisement in two papers circulating in the locality and by written notice fixed at the entrance to the crematorium.

The cremation authority shall give notice in writing to the Secretary of State of the opening or closing of any crematorium.

2. Every crematorium shall be open to inspection at any reasonable time by any person appointed for that purpose by the Secretary of State or by the Ministry of Health.

Conditions under which Cremations may take place.

3. No cremations of human remains shall take place except in a crematorium of the opening of which notice has been given to the Secretary of State.

4. It shall not be lawful to cremate the remains of any person who is known to have left a written direction to the contrary.

5. It shall not be lawful to cremate human remains which have not been identified.

[6. Except where an inquest has been held and a certificate given by a coroner in Form E (*see* Regulation 8), no cremation shall be allowed until the death of the deceased has been duly registered or a certificate has been given in pursuance of s. 2 (2) of the Act of 1926 that the death of the deceased is not required by law to be registered in England] (*b*).

7. No cremation shall be allowed to take place unless application therefor be made, and the particulars stated in the application be confirmed by statutory declaration, in accordance with Form A in the schedule hereto.

The application must be signed and the statutory declaration made by an executor or by the nearest surviving relative of the deceased, or, if made by any other person, must show a satisfactory reason why the application is not made by an executor or by the nearest surviving relative.

8. Except as hereafter provided, no cremation shall be allowed to take place unless

(*a*) A certificate in Form B be given by a registered medical practitioner who has attended the deceased during his last illness and who can certify definitely as to the cause of death, and a confirmatory medical certificate

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(*a*) These regulations having been laid before both Houses of Parliament for 40 days came into force on June 5th, 1920. They have been amended by Regulations of June, 23rd, 1926, and May 6th, 1927, *post*, p. 3137, and are set out in their amended form.

(*b*) The regulation in brackets was substituted by the amending regulations of 1927.

in Form C be given by another medical practitioner, who must be qualified as prescribed in Regulation 9; or

(*b*) A post-mortem examination has been made by a medical practitioner expert in pathology, appointed by the cremation authority (or in case of emergency appointed by the medical referee), and a certificate given by him in Form D; or

(*c*) An inquest has been held and a certificate has been given by the coroner in Form E.

No cremation shall take place except on the written authority of the medical referee given in Form F.

9. The confirmatory medical certificate in Form C, if not given by the medical referee, must be given by a registered medical practitioner of not less than five years' standing, who must either

(*a*) be appointed for the purpose by the cremation authority; or

(*b*) hold one of the following appointments:—Medical Officer of Health, Police Surgeon, Certifying Surgeon under the Factory and Workshop Act, 1901, Medical Referee under the Workmen's Compensation Act, 1897; or

(*c*) hold an appointment as physician or surgeon in a public general hospital containing not less than 50 beds.

10. Every cremation authority shall appoint a medical referee, who must be a registered medical practitioner of not less than five years' standing and must possess such experience and qualifications as will fit him for the discharge of the duties required of him by these regulations. If otherwise qualified he may be a person holding the office of coroner or of medical officer of health.

Every cremation authority shall also appoint a deputy medical referee possessing the like qualifications to act in the absence of the medical referee and in any case in which the medical referee has been the medical attendant of the deceased.

The cremation authority on making any such appointment shall notify the name, address, and qualifications of the medical referee or deputy medical referee to the Secretary of State.

11. It shall be lawful for the medical referee if he has personally investigated the cause of death to give a certificate in Form C, and if he has made the post-mortem examination to give a certificate in Form D. The medical referee, if a coroner, may himself give the coroner's certificate in Form E.

12. The duties of the medical referee shall be as follows:—

(1) He shall not allow any cremation to take place if it appears that the deceased left a written direction to the contrary.

[(2) He shall not (except where an inquest has been held and a certificate given by a coroner in Form E) allow any cremation to take place unless he is satisfied—

(*a*) by the production of a certificate in pursuance of s. 2 (1) of the Act of 1926 that the death of the deceased has been duly registered; or

(*b*) by the production of a certificate in pursuance of s. 2 (2) of the Act of 1926 that the death of the deceased is not required by law to be registered in England.

The production of a duplicate which has been duly issued in pursuance of s. 2 (4) of the Act of 1926 may be accepted in lieu of the production of the original certificate under sub-s. (1) or sub-s. (2)] (*a*).

(3) He shall, before allowing the cremation, examine the application and certificates and ascertain that they are such as are required by these regulations and that the inquiry made by the persons giving the certificates has been adequate. He may make any inquiry with regard to the application and certificates that he may think necessary.

(4) He shall not allow the cremation unless he is satisfied that the application is made by an executor or by the nearest surviving relative of the deceased,

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(*a*) The paragraph in brackets is substituted by the amending regulations of 1927.

or, if made by any other person, that the fact that the executor or nearest relative has not made the application is sufficiently explained, and that the person making the application is a proper person to do so.

(5) He shall not allow the cremation unless he is satisfied that the fact and cause of death have been definitely ascertained; and in particular, if the cause of death assigned in the medical certificates be such as, regard being had to all the circumstances, might be due to poison, to violence, to any illegal operation, or to privation or neglect, he shall require a post-mortem examination to be held, and if that fails to reveal the cause of death, shall decline to allow the cremation unless an inquest be held and a certificate given by the coroner in Form E.

(6) If it appears that death was due to poison, to violence, to any illegal operation or to privation or neglect, or if there is any suspicious circumstances whatsoever, whether revealed in the certificates or otherwise coming to his knowledge, he shall decline to allow the cremation unless an inquest be held and a certificate given by the coroner in Form E.

Provided that if in any case to which the foregoing rule applies it is shown to the satisfaction of the Secretary of State that by reason of any special circumstances it is impracticable or undesirable that an inquest shall be held, he may by order under his hand authorise the medical referee to allow the cremation without an inquest being held and certificate given by the coroner.

(7) If a coroner has given notice that he intends to hold an inquest on the body, he shall not allow the cremation to take place until the inquest has been held.

(8) He may in any case decline to allow the cremation without stating any reason.

In the case of the remains of a person who has died in any place out of England the medical referee may accept a declaration containing the particulars prescribed in Form A if it be made before any person having authority in that place to administer an oath or to take a declaration; and he may accept certificates in Forms B, C, and D, if they be signed by any medical practitioners who are shown to his satisfaction to possess qualifications substantially equivalent to those prescribed in the case of each certificate by these regulations.

In any such case the Secretary of State, if satisfied that the case is one in which cremation may properly take place, may by order under his hand authorise the medical referee to allow the cremation without the production *of a Certificate of Registry of Death, or* (a) of Forms B and C.

13. The foregoing regulations, 5 to 12, shall not apply to the cremation of the remains of a deceased person who has already been buried for not less than one year. Such remains may be cremated, subject to such conditions as the Secretary of State may impose in the exhumation licence granted by him or otherwise; and any such cremation in which those conditions are not observed shall be deemed a contravention of these regulations.

14. In the case of any person dying of plague, cholera, or yellow fever on board ship or in a hospital or temporary place of reception of the sick provided by a port or other local authority under the Public Health Acts or by a hospital committee under the Isolation Hospital Acts, the medical referee, if satisfied as to the cause of death, may dispense with any of the requirements of regulations 4, 5, 6, 7, 8, 9, and 12. These regulations may also be temporarily suspended or modified in any district during an epidemic or for other sufficient reason by an order of the Secretary of State on the application of a local authority.

15. Notwithstanding the foregoing regulations 6 to 12, the medical referee may permit the cremation of the remains of a stillborn child if it be certified to be stillborn by a registered medical practitioner after examination of the body, and if the referee after such inquiries as he may think necessary is satisfied that it was stillborn, and that there is no reason for further examination [but before permitting such

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(a) Words in italics repealed by amending regulations of 1927.

cremation, the medical referee shall, except where an inquest has been held and a certificate given by a coroner in Form E, require the production of a certificate in pursuance of s. 7 (4) of the Act of 1926 that the still-birth has been duly registered] (*a*).

Disposition of Ashes.

16. After the cremation of the remains of a deceased person the ashes shall be given into the charge of the person who applied for the cremation if he so desires. If not, they shall be retained by the cremation authority, and, in the absence of any special arrangement for their burial or preservation, they shall be decently interred in a burial ground or in land adjoining the crematorium reserved for the burial of ashes. In the case of ashes left temporarily in the charge of the cremation authority and not removed within a reasonable time, a fortnight's notice shall be given to the person who applied for the cremation before the remains are interred.

Registration of Cremations, etc.

17. Every cremation authority shall appoint a registrar who shall keep a register of all cremations carried out by the cremation authority in Form G. He shall make the entries relating to each cremation immediately after the cremation has taken place, except the entry in the last column, which he shall make as soon as the remains of the deceased have been handed to the relatives or otherwise disposed of.

18. All applications, certificates, statutory declarations and other documents relating to any cremation shall be marked with a number corresponding to the number in the register, shall be filed in order, and shall be carefully preserved by the cremation authority: [Provided that the cremation authority may, if they think fit, destroy any such applications, certificates, statutory declarations or other documents (but not the register of cremations or any part of such register) after the expiration of fifteen years from the date of the cremation to which they relate] (*b*).

All such registers and documents shall be open to inspection at any reasonable hour by any person appointed for that purpose by the Secretary of State, the Ministry of Health or the chief officer of any Police Force.

19. When any crematorium is closed as provided in Regulation 1, the cremation authority shall send all registers and documents relating to the cremations which have taken place therein to the Secretary of State, or otherwise dispose of them as he may direct.

20. The Secretary of State may make any inquiry he thinks fit as to the carrying out of these Regulations in connection with any crematorium.

21. I hereby revoke the Regulations made by the Secretary of State on the 31st March, 1903, and the 16th September, 1914.

E. SHORTT,
One of His Majesty's Principal
Secretaries of State.

(*a*) Words in brackets added by amending regulations of 1927.
(*b*) Words in brackets added by amending regulations of 1925.

Appendix II.

SCHEDULE.

DRAFT FORMS.

FORM A.

Application for Cremation, with Statutory Declaration.

I, (*name of applicant*)
(*address*)
(*occupation*)
apply to the
to undertake the cremation of the remains of
(*name of deceased*)
(*address*)
(*occupation*)
(*age*) (*sex*)
(*whether married, widow, widower, or unmarried*)

The true answers to the questions set out below are as follows :—

1. Are you an executor or the nearest surviving relative of the deceased ?

2. If not, state
   - (a) Your relationship to the deceased. (a)
   - (b) The reason why the application is made by you and not by an executor or any nearer relative. (b)

3. Did the deceased leave any written directions as to the mode of disposal of his remains ? If so, what ?

4. Have the near relatives * of the deceased been informed of the proposed cremation ?

   * The term "near relative" as here used includes widow or widower, parents, children above the age of 16, and any other relative usually residing with the deceased

5. Has any near relative of the deceased expressed any objection to the proposed cremation ? If so, on what ground ?

6. What was the date and hour of the death of deceased ?

7. What was the place where deceased died ? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, etc.)

8. Do you know, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to
   - (a) violence ;
   - (b) poison ;
   - (c) privation or neglect ?

9. Do you know any reason whatever for supposing that an examination of the remains of the deceased may be desirable ?

10. Give name and address of the ordinary medical attendant of the deceased.

11. Give names and addresses of the medical practitioners who attended deceased during his last illness.

I do hereby solemnly and sincerely declare that all the particulars stated above are true, and that to the best of my knowledge and belief no material particular has been omitted ; and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1835.

(*Signature*)

(*a*) Declared at
the day of
before me,
(*Signature*)

(*a*) This declaration must be made before a Justice of the Peace or a Commissioner of Oaths.

FORM B.

Certificate of Medical Attendant.

I am informed that application is about to be made for the cremation of the remains of
(*name of deceased*)
(*address*)
(*occupation*)

Having attended the deceased before death, and seen and identified the body after death, I give the following answers to the questions set out below:—

1. On what date, and at what hour did he or she die ?

2. What was the place where the deceased died ? (Give address and say whether own residence, lodgings, hotel, hospital, nursing home, etc.)

3. Are you a relative of the deceased ? If so, state the relationship.

4. Have you, so far as you are aware, any pecuniary interest in the death of the deceased ?

5. Where you the ordinary medical attendant of the deceased ? If so, for how long ?

6. Did you attend the deceased during his or her last illness ? If so, for how long ?

7. When did you last see the deceased alive ? (Say how many days or hours before death.)

8. How soon after death did you see the body, and what examination of it did you make ?

9. What was the cause of death ? { Primary / Secondary

(Specify the disease, injury, etc., and if possible distinguish the primary from the secondary cause as in the Death Certificate ?

What was its duration in years, months, or days ?

9A. Was there any other cause which contributed to or accelerated death ? If so, state it, and if more than one other cause, state them all.

10. What was the mode of death ? (Say whether syncope, coma, exhaustion, convulsions, etc.)

What was its duration in days, hours, or minutes ?

11. State how far the answers to the last two questions are the result of your own observations, or are based on statements made by others. If on statements made by others, say by whom.

12. Did the deceased undergo any operation during the final illness or within a year before death ? If so, what was its nature, and who performed it ?

13. By whom was the deceased nursed during his or her last illness ? (Give names, and say whether professional nurse, relative, etc. If the illness was a long one, this question should be answered with reference to the period of four weeks before the death.)

14. Who were the persons (if any) present at the moment of death ?

15. In view of the knowledge of the deceased's habits and constitution do you feel any doubt whatever as to the character of the disease or the cause of death ?

16. Do you now, or have you any reason to suspect, that the death of the deceased was due, directly or indirectly, to
   (a) violence;
   (b) poison;
   (c) privation or neglect?

17. Have you any reason whatever to suppose a further examination of the body to be desirable?

18. Have you given the certificate required for registration of death?

I hereby certify that the answers given above are true and accurate to the best of my knowledge and belief,

that there is no circumstance known to me which can give rise to any suspicion that the death was due wholly or in part to any other cause than $\left\{\begin{matrix}\text{disease}\\\text{accident}\end{matrix}\right\}$ and

that there is no circumstance of any sort known to me which makes it undesirable that the body should be cremated.

(*Signature*)
(*Address*)
(*Registered qualifications*)

(*Date*)

NOTE.—This certificate must be handed or sent in a closed envelope by the Medical practitioner who signs it to the Medical practitioner who is to give the confirmatory certificate below.

FORM C.

Confirmatory Medical Certificate.

I have examined the foregoing medical certificate, and have made personal inquiry as stated in my answers to the questions below:—

1. Have you seen the body of the deceased?

2. Have you carefully examined the body externally?

3. Have you made a post-mortem examination?

4. Have you seen and questioned the medical practioner who gave the above certificate?

5. Have you seen and questioned any other medical practitioner who attended the deceased?

6. Have you seen and questioned any person who nursed the deceased during his last illness, or who was present at the death?

7. Have you seen and questioned any of the relatives of the deceased?

8. Have you seen and questioned any other person?

(In the answers to question 5, 6, 7, and 8, give names and addresses of persons seen and say whether you saw them alone.)

I am satisfied that the cause of death was

and I certify that I know of no circumstance which can give rise to any suspicion that death was due wholly or in part to any other cause than $\left\{\begin{matrix}\text{disease}\\\text{accident}\end{matrix}\right.$

and that there is no circumstance of any sort known to me which makes it undesirable that the body should be cremated.

(*Signature*)
(*Address*)
(*Date*) (*Registered qualifications*)
(*Office*)

NOTE.—The Certificate in Forms B and C must be handed or sent in a closed envelope to the Medical Referee by one or other of the Medical practitioners by whom they are given.

FORM D.

Certificate after Post-Mortem Examination.

I hereby certify that, acting (*a*) *on the instructions of*
Medical Referee to the
I made a post-mortem examination of the remains of
(*Name*)
(*Address*)
(*Occupation*)

The result of the examination is as follows :—

I am satisfied that the cause of death was
and that there is no reason *for making any toxicological analysis* (*b*) *or* for the holding of an inquest.

(*Signature*)
(*Address*)
(*Date*) (*Registered qualification*)

FORM E (*c*).

Coroner's Certificate.

I certify that I held an inquest on the body of
and that the verdict of the Jury was as follows :—

Medical evidence was given by

I am satisfied from the evidence that the cause of death was and that no circumstance exists which could render necessary any further examination of the remains or any analysis of any part of the body.

(*Date*)

Coroner.

FORM F.

Authority to Cremate.

Whereas application has been made for the cremation of the remains of
(*Name*) (*d*)
(*Address*)
(*Occupation*)

And whereas I have satisfied myself that all the requirements of the Cremation Act, 1902, and of the Regulations made in pursuance of that Act, have been complied with, that the cause of death has been definitely ascertained, and that there exists no reason for any further inquiry or examination :

I hereby authorise the Superintendent of the Crematorium at to cremate the said remains.

(*Signature*)
Medical Referee to the
(*Date*)

NOTE.—This authority should be signed in duplicate—one copy to be retained with certificates and the other sent by the Medical Referee to the Superintendent of Crematorium.

FORM G.

Register of Cremations.

* * * * * *

(*a*) Where the Medical Referee himself gives this certificate, strike out the words in italics and insert "as."

(*b*) The words in italics should be omitted where a toxicological analysis has been made and its result is stated in this certificate or in a certificate attached to it.

(*c*) See as to the addition to be made to this form the amending regulations of 1927.

(*d*) In the case of a stillborn child in place of the name, address, and occupation, insert a description sufficient to identify the body, and in place of the words "that the cause of death has been definitely ascertained" insert the words "that the child was stillborn."

REGULATION, DATED 23RD JUNE, 1925, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT UNDER SECT. 7 OF THE CREMATION ACT, 1902.

In pursuance of Sect. 7 of the Cremation Act, 1902, I hereby make the following Regulation amending Regulation 18 of the Regulations made under that section by the Secretary of State on the 26th April, 1920 :—

In Regulation 18 the following words shall be added at the end of the first paragraph : " Provided that the Cremation Authority may, if they think fit, destroy any such applications, certificates, statutory declarations or other documents (but not the register of cremations or any part of such register) after the expiration of fifteen years from the date of the cremation to which they relate."

S. R. & O., 1927, No. 575.

THE CREMATION REGULATIONS, 1927, DATED 6TH MAY, 1927, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT, UNDER S. 7 OF THE CREMATION ACT, 1902 (2 EDW. 7, C. 8), AND S. 10 OF THE BIRTHS AND DEATHS REGISTRATION ACT, 1926 (*a*).

In pursuance of s. 7 of the Cremation Act, 1902, and s. 10 of the Births and Deaths Registration Act, 1926, I hereby make the following Regulations.

Definitions.

In these Regulations " The Principal Regulations " means the Regulations made by the Secretary of State under s. 7 of the Cremation Act, 1902, on 26th April, 1920.

" The Registrar " means the registrar appointed in pursuance of Regulation 17 of the Principal Regulations.

" The Act of 1926 " means the Births and Deaths Registration Act, 1926.

1. These Regulations shall apply to any cremation of human remains which takes place after 30th June, 1927.

2. The following Regulation shall be substituted for Regulation 6 of the Principal Regulations :—

" 6. Except where an inquest has been held and a certificate given by a coroner in Form E (*see* Regulation 8), no cremation shall be allowed until the death of the deceased has been duly registered or a certificate has been given in pursuance of s. 2 (2) of the Act of 1926 that the death of the deceased is not required by law to be registered in England."

3. Regulation 12 of the Principal Regulations shall be amended as follows :—

(1) The following paragraph shall be substituted for the paragraph numbered (2):—

" (2) He shall not (except where an inquest has been held and a certificate given by a coroner in Form E) allow any cremation to take place unless he is satisfied—

(*a*) by the production of a certificate in pursuance of s. 2 (1) of the Act of 1926 that the death of the deceased has been duly registered ; or

(*b*) by the production of a certificate in pursuance of s. 2 (2) of the Act of 1926 that the death of the deceased is not required by law to be registered in England.

The production of a duplicate which has been duly issued in pursuance of s. 2 (4) of the Act of 1926 may be accepted in lieu of the production of the original certificate under sub-s. (1) or sub-s. (2)."

(2) In the last paragraph of the Regulation the words " a certificate of registry of death or of " shall be omitted.

(*a*) These Regulations having been laid before both Houses of Parliament for 40 days came into force on 19th June, 1927.

4. The following paragraph shall be added at the end of Regulation 15 of the Principal Regulations:—

> "but before permitting such cremation, the medical referee shall, except where an inquest has been held and a certificate given by a coroner in Form E, require the production of a certificate in pursuance of s. 7 (4) of the Act of 1926 that the still-birth has been duly registered."

5. Any certificate given by a coroner in the Form E in the Schedule to the Principal Regulations shall have attached thereto a detachable portion (which shall be in the form set out in the Schedule to these Regulations) for use by the registrar in pursuance of the following Regulation.

6.—(1) (*a*) Subject to the provisions of paras. (2) and (3) of this Regulation the registrar shall, within ninety-six hours of the cremation of the body of any deceased person, send to the registrar of births and deaths for the sub-district in which the death took place or, if the death took place elsewhere than in England, to the registrar of births and deaths for the sub-district in which the crematorium is situated, a notification of the cremation of the body and of the date and place of such cremation.

(*b*) Where the body has been cremated without inquest, the notification shall be sent in the manner for the time being prescribed by the Registrar-General under the Act of 1926, for notifications under s. 3 (1) of that Act.*

(*c*) Where the body has been cremated after inquest, such notification as aforesaid shall be sent upon the detachable portion of the certificate given by the coroner in Form E.

(2) This Regulation shall not apply to any cremation of human remains which has taken place under Regulation 13 of the Principal Regulations.

(3) Where any cremation of human remains has taken place under Regulation 14 of the Principal Regulations, the registrar shall (subject to the provisions of any order made by the Secretary of State under that regulation) within 96 hours of the cremation forward to the Registrar-General a copy of the relative entry in the Register of Cremations together with particulars of the place of death of the deceased and the cause of death as established to the satisfaction of the medical referee.

7. These Regulations may be cited as the Cremation Regulations, 1927, and the Regulations made by the Secretary of State on the 26th April, 1920, and the 23rd June, 1925, may, together with these Regulations, be cited as the Cremation Regulations, 1920–27.

W. JOYNSON-HICKS,
One of His Majesty's Principal Secretaries of State.

Home Office,
6th May, 1927.

SCHEDULE.

NOTIFICATION OF CREMATION.

(For use by the Registrar appointed by the Cremation Authority.)
This is to notify that the body of deceased, who died on at was cremated on (*a*) at (*b*) .
Witness my hand this day of 19 .

(Signature)...............
on behalf of...............

(*a*) Here state date of cremation.
(*b*) Here state place of cremation.

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* Regulation 87 (1) of the Registration (Births, Stillbirths, Deaths and Marriages) Consolidated Regulations, 1927, requires the notification to be made upon the portion, provided for the purpose, of the certificate issued by the registrar of births and deaths under section 2 of the Act of 1926.

Appendix II.

DISEASES AND HOSPITALS.

See also "CHOLERA, etc.," *ante*, p. 3097, "MILK AND DAIRIES," *post*, p. 3558, and "OFFICERS," *post*, p. 3612.

ON THE PROVISION OF ISOLATION HOSPITAL ACCOMMODATION BY LOCAL AUTHORITIES (*a*).

This memorandum is designed to represent to those who are responsible for the health of communities the importance of providing hospital accommodation for the isolation of cases of infectious disease, and of doing so before the actual invasion of their districts by such disease. It is further intended to indicate to local authorities, more expecially to those of districts of small or moderate size, the means by which they may most advantageously make such provision. Some general principles to be held in view by all authorities who propose to provide, by means of loans sanctioned by the Local Government Board, isolation hospitals for their districts will be set forth in the course of the memorandum. Those in italics are points which the Board regard as indispensable.

The provision of hospital accommodation for cases of infectious diseases is to be regarded primarily as a measure of sanitary defence, for the protection of the public against the spread of these diseases. It is true that such accommodation incidentally serves other useful purposes. Thus, it is frequently of value for the relief of individuals suffering from infectious disease, whose sufferings may be alleviated and their recovery promoted by affording them better accommodation and attendance than they are able to obtain at their own homes. Or it may be the means of avoiding serious inconvenience and pecuniary loss, as when infectious disease breaks out in a school, a lodging house, or a place of business. But, nevertheless, the most important function which such a hospital serves is that of the isolation of the first cases of infectious disease with a view to preventing its further spread in the household or locality invaded.

In order that a hospital may fulfil this function it is essential that it should be in readiness beforehand. Experience has shown that on the invasion of an epidemic, a hospital, even of temporary kind, can seldom be provided and got ready for use until the time when it would have been of most service is past. The accommodation, moreover, which is required when an epidemic has become established is on a larger scale than would have sufficed for the isolation of the first cases; and hospitals hurriedly erected during the stress of an epidemic are never satisfactory in construction or suited to the permanent needs of the district.

An isolation hospital being intended primarily for the protection of the public at large rather than for the benefit of individuals, it is undesirable that admission should be subject to restrictive charges and conditions which may tend to prevent the use of the hospital by the poorer portion of the community; that is to say, by those who have the least facilities for isolation and treatment at their own homes. In some districts, however, *e.g.*, at health resorts, it may be advisable to provide special accommodation of a superior kind, such as private wards, for persons willing to pay for it.

Area to be served by a Hospital.—The extent of area for which an isolation hospital may serve will depend in some degree upon considerations of local topography. If the area be too large the usefulness of the hospital will be diminished, owing to the difficulties attending the conveyance of patients over long distances. But, on the other hand, the unnecessary multiplication of small hospitals is to be avoided on grounds of economy and of efficiency. As compared with that of several smaller hospitals, the establishment of a single hospital containing an equal number of beds saves the cost of duplicating various buildings, appliances, and officers; it facilitates the classification of patients according to the diseases from which they are suffering; and it enables a more efficient staff to be maintained, since the hospital is less likely to remain empty for considerable periods. Hence, where districts are not very large

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(*a*) See s. 131 of the P. H. A., 1875, *ante*, p. 251, the Isolation Hospital Acts, 1893, *ante*, p. 953, and 1901, *ante*, p. 1081, and the L. G. A., 1929, ss. 14 and 63, *ante*, pp. 1871, and 1928.

or populous, combination for the purpose of providing hospital accommodation is often of advantage. In the less densely populated parts of the country, a market town with the surrounding rural district, or the several sanitary districts comprised in one poor law union, may form a convenient area for the purpose of combined hospital provision. A hospital intended solely for small-pox may often with advantage serve a larger area than a hospital for other infectious diseases. The modes by which local authorities may combine for the provision of hospitals are set forth in an office memorandum on "Isolation Hospitals," which may be obtained on application, for the guidance of local authorities desirous of such combination or of establishing hospitals under the sanction of the Local Government Board.

Size of Hospital in proportion to population.—The amount of permanent isolation hospital accommodation which should be provided in proportion to the population will depend upon various considerations, among the most important of which are the character of the district, whether urban or rural; the rate of increase of population; the housing and the habits of the people; and the amount of intercourse with other places from which infectious disease may be introduced. As a rough estimate, one bed for every thousand inhabitants is sometimes adopted, but in view of the diverse circumstances of different districts this cannot be regarded as a definite standard. Moreover, the sufficiency of the hospital accommodation will depend not merely upon the aggregate number of beds, but also upon the way in which they are arranged in wards. In a single block with wards connected together only one disease can safely be treated at a time; and thus, at a hospital containing only one such block, occasions may arise when, owing to the hospital being partly occupied by one disease, a case of a second disease requiring isolation cannot safely be taken in, although there may be a number of beds empty at the time.

It is common to find that the demand for hospital accommodation, when people have come to appreciate the benefits of its use, increases far beyond what was at first anticipated; and for this reason, as well as to allow for growth of the population, and for the possible need for temporary extensions during epidemics, it is well at the outset to provide for the contingency of future enlargement.

Site.—In selecting a site for an isolation hospital the following considerations should be had in view:—It should be convenient of access, and, as far as practicable, central for the population and area which it is to serve; but of course not in a very populous neighbourhood. (In the case of hospitals in which small-pox is intended to be received the choice of site must be specially governed by considerations as to the number of inhabitants in the neighbourhood, which will be referred to later on.) It will be of much convenience if sewers and a public water service are available; but, if not, a sufficient supply of wholesome water must be provided, and arrangements will have to be made for the treatment of the sewage by application to land, due care being taken to avoid pollution of any well or spring or of any river. The site should be in a healthy and open situation with a dry subsoil, and should be preferably of a compact and regular shape, and not too steep. Its area will depend upon the size of the hospital, and, except in the case of a very small hospital, should rarely be less than two acres; indeed, it is well to obtain a larger site than may at first be required, in order to afford space for subsequent extension if necessary. More land, too, will be needed if the sewage has to be disposed of on the site. *The site, or so much of it as is to form the grounds of the hospital, should be enclosed by a wall or close fence at least* 6 *feet* 6 *inches in height, and every building which is to contain infected persons or things should be at least* 40 *feet distant from the boundary* (*a*).

Hospital buildings.—These should be of three classes, viz.: 1st, ward-blocks for the reception of the sick; 2nd, administration-block for the housing of the staff and stores; and 3rd, out-offices, as laundry and mortuary. In hospitals for permanent use these buildings should be of brick or stone. Temporary buildings, as, for instance, buildings constructed of wood or corrugated iron, are ill suited for permanent

(*a*) If desired, an open unclimbable railing may be substituted for a wall or close fence for so much of the boundary as is within supervision and control from the administration block or porter's lodge, as between the points X-X on the annexed block plan A, but in that case a second line of unclimbable fence should be constructed within the first, as indicated on the plan. In very unfrequented situations a stout hedge or shrubbery between two rows of barbed wire fencing or unclimbable iron railing may sometimes suffice in place of a wall or close fence.

Appendix II.

use as hospitals, for the reason that it is difficult to maintain them at a proper temperature during extremes of hot and cold weather; moreover they are less durable than brick or stone buildings, requiring more frequent repairs in order to keep them in a properly weather-proof condition, and they are liable to be destroyed by fire and storm. *It is not the practice of the Local Government Board in ordinary cases to sanction loans for iron hospitals or for hospital buildings of temporary character.*

Existing buildings originally designed for a different purpose, such as dwelling houses, even when of large size, are rarely found to be well adapted for the reception of patients; especially for the accommodation at one time of patients suffering from different infectious diseases. An existing house, however, may sometimes serve as the administration-block, if it have sufficient land attached on which to erect ward-blocks.

The *administration-block*, which should be kept free from patients and infected articles, should be so placed as to control the entrance to the hospital grounds, unless a porter's lodge is intended to be erected. It should contain quarters for the matron or caretaker, and a sufficient number of bedrooms for the nurses and servants who will be required to work the hospital when in full operation; also a nurses' sitting-room; a kitchen (preferably in a one-storey projection with top ventilation), store-rooms, dispensary, etc. In hospitals of considerable size quarters for a resident medical officer will also be necessary. It is well to provide in the administration-block accommodation on a scale somewhat in excess of what may be at first required, in order that it may be available for future extensions of the hospital, temporary or permanent; but in any case the block should be so planned that it can be easily enlarged in the future if necessary.

The *ward-blocks* should be one-storey buildings, unless where in exceptional cases or at large hospitals exigencies of space may render it necessary to construct blocks of two storeys; in such case each storey should have a separate entrance from the open air. The annexed plans illustrate two different types of ward-block suitable for small or moderate-sized hospitals. The type illustrated in plan C is the most advantageous, as regards both cost of construction and convenience of administration, where a number of patients of both sexes suffering from the same disease have to be treated at one time. The number of beds in each ward will vary with the requirements of the district, and it is sometimes found desirable to make one ward rather larger than the other, as indicated on the plan, in order that young children of both sexes may be treated in the women's ward. The space in the centre of the block over the nurse's duty-room and entrance-hall (the height of which need not be so great as that of the wards) is sometimes utilised as a day-room for convalescent patients.

Plan B shows a ward-block with small wards separately entered from the open air under a verandah. Accommodation of this kind is useful not only for cases of a second disease, but also under a variety of circumstances, as for the keeping under observation of a case of doubtful nature; for the segregation of a complicated, delirious, or offensive case; or as private wards for paying patients, etc.

Single-bed wards in connection with a block of the type of plan C are sometimes found useful for the segregation of a case of the same disease as that treated at the same time in the main wards, but small wards so situated cannot be safely used for patients with a different disease, or for cases of which the nature is still doubtful. A convenient position for such single-bed wards is indicated on the plan.

For very large hospitals others types of ward may be found of advantage.

In the ward-blocks each bed must have at least 12 *linear feet of wall space,* 144 *square feet of floor space, and* 2,000 *cubic feet of air space.* In calculating the latter any height of wards above 13 feet should not be taken into account. The walls should be of adequate thickness; and the inner face of the walls as well as the floors and woodwork should be constructed with smooth impervious surfaces and rounded angles, so as to facilitate cleanliness and to avoid spaces which may harbour dust and dirt. Ventilation should be by windows on opposite sides of the ward; the windows should be double-hung sashes with fanlight above, and the fanlight should be made to fall inwards, hopper-fashion, with side cheeks to prevent down draughts. The area of the windows should be sufficient but not excessive; one square foot of window to every 70 cubic feet of ward space is a suitable proportion. The best aspect for the ward-blocks is usually with the windows facing respectively south-east

Appendix II. and north-west. The wards should have adequate means of warming, which may with advantage be so contrived as to furnish a supply of warm fresh air. An ample supply of hot water for baths should be provided, and bath-rooms should be capable of being warmed. The closets and slop-sinks should be placed in annexes separated from the wards by cross-ventilated lobbies. The closets should be water-closets where practicable; and the slop-sinks should be of an appropriate pattern adapted to receive the solid and liquid contents of bed-pans, the waste-pipe being 3 inches in diameter and arranged similarly to the soil-pipe of a water-closet.

The *out-offices* will comprise such buildings as laundry, disinfecting-chamber, mortuary and ambulance-shed; and in large establishments a boiler-house and engine-house may be needed. Except in very small hospitals, the laundry should comprise a wash-house, a drying-closet and an ironing-room. An apparatus should be provided for the disinfection by steam of bedding and articles which cannot be washed. The mortuary should be in a cool and unobtrusive position, and should be lighted from the north only.

A discharging block is not unfrequently provided, consisting of an undressing-room, a bath-room, and a dressing-room, in which convalescents may take their final bath and put on clean clothes before leaving the hospital.

Each building which is to contain infected persons or things should be at least 40 feet distant from any of the other buildings.

The drains of each block should be trapped from the common drain and ventilated separately by an inlet just above the trap and by ventilating shafts at their highest points.

The annexed block plan A illustrates the arrangement upon a rectangular site of about two acres of a hospital containing sixteen beds, in two ward-blocks with administration-block and out-offices; space being also reserved for future extensions. The best arrangement of the buildings will, however, in practice largely depend upon the shape and contour of the site.

If, owing to the bleakness of the site, it is considered desirable that the several blocks should be connected by covered ways, these should not be enclosed, but should be open at the sides. A screen for protection against wind and driving rain may be provided if desired.

Hospitals for Small-pox.—In view of the frequently demonstrated liability of small-pox hospitals to disseminate that disease to neighbouring communities, and in order to lessen the risk of such occurrence, the Board require the following conditions to be complied with in the case of small-pox hospitals provided by means of loans sanctioned by them:

1st. *The site must not have within a quarter of a mile of it either a hospital, whether for infectious diseases or not, or a workhouse, asylum, or any similar establishment, or a population of as many as* 200 *persons.*

2nd. *The site must not have within half a mile of it a population of as many as* 600 *persons, whether in one or more institutions, or in dwelling-houses.*

3rd. *Even where the above conditions are fulfilled, a hospital must not be used at one and the same time for the reception of cases of small-pox and of any other class of disease.*

Useful information on the administration of isolation hospitals, derived from experience of them in various parts of England and Wales, will be found in a report [C.—3290] of the Medical Department, 1882—re-issued in 1901.

W. H. POWER, *Medical Officer.*

Local Government Board, Medical Department,
May, 1902.

APPENDIX TO MEMORANDUM ON THE PROVISION OF ISOLATION HOSPITAL ACCOMMODATION BY LOCAL AUTHORITIES.

The annexed plan D for an Observation Block is intended to provide isolation accommodation for single cases of infectious diseases, for cases of mixed infection, or for cases of doubtful diagnosis; and is arranged in such a way that one nurse may, assuming that rigid precautions are taken, attend to more than one such case.

It will be noted that the new plan D only provides 1,440 cubic feet of air-space per bed instead of the 2,000 cubic feet required in ward-blocks. This has been permitted in view of the separation of individual patients and the efficient cross-ventilation which the plan provides, expense at the same time being diminished.

ARTHUR NEWSHOLME, *Medical Officer*.

Local Government Board, Medical Department,
March, 1908.

ISOLATION HOSPITALS.

MEMORANDUM FOR THE GUIDANCE OF LOCAL AUTHORITIES IN APPLYING TO THE LOCAL GOVERNMENT BOARD FOR SANCTION TO LOANS FOR THE PROVISION OF ISOLATION HOSPITALS; FOR THE CONSTITUTION OF JOINT HOSPITAL DISTRICTS; AND IN PROCEEDINGS UNDER THE ISOLATION HOSPITALS ACT, 1893.

(A) UNDER THE PUBLIC HEALTH ACT, 1875.

1. Under section 131 of the Public Health Act, 1875:

> "Any local authority may provide for the use of the inhabitants of their district hospitals or temporary places for the reception of the sick, and for that purpose may build themselves such hospitals or places of reception; or contract for the use of any such hospital or part of a hospital or place of reception; or enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their district, on payment of such annual or other sum as may be agreed on.
>
> "Two or more local authorities may combine in providing a common hospital."

Provision of hospitals by local authorities.

2. If a local authority desire to obtain a loan to defray the cost of providing a hospital, the sanction of the Local Government Board must be obtained (Public Health Act, 1875, sections 233 and 234). Any provisional agreement entered into by the local authority for the purchase of land as a site for the hospital should be made conditional upon such sanction being given.

3. Any application to the Board for sanction to a loan should be accompanied by:

(1) A copy of the local authority's resolution directing the application to be made;

(2) Detailed estimates (in forms which the Board supply on application) of the cost of the proposed works;

(3) A map (say on the scale of inch to the mile) showing the boundaries of the sanitary district or districts for which the hospital is to serve, the parish and sanitary district in which the site is comprised, the position of the proposed hospital site, and the means of access to the site from the various parts of the district or districts; and

(4) A further map on a larger scale (say on the scale of 25 inches to the mile) or plan showing the area and shape of the proposed site, and its relation to houses and lands, in its immediate vicinity, and showing also the points of the compass;

(5) Plans of the proposed hospital buildings, in cases where the application includes the cost of such buildings;

(6) A statement showing the number of persons residing within a quarter of a mile and half a mile, respectively, from the site;

(7) Information as to the available water supply and the proposed means for disposing of the sewage of the hospital; and

(8) Particulars (in forms which the Board supply on application) respecting the assessable value and the existing debt for sanitary purposes of the district or districts.

4. The plans of the hospital buildings should be submitted to the Board at an early stage of their preparation. If they are not found to be satisfactory, the Board are usually willing to arrange for a conference on the subject at their office between representatives of the local authority (accompanied by their architect and medical officer of health) and representatives of the Board's medical and architectural departments.

Appendix II.

5. Before sanctioning a loan the Board usually cause a public local inquiry into the matter to be held in the district by one of their inspectors, at which any person interested may attend and give evidence. Due public notice of any such inquiry is given in the locality concerned.

Provision of hospitals by two or more local authorities acting in combination.

6. When two or more local authorities desire to combine in providing a hospital, it is often desirable to form the combined districts into a joint hospital district, by a provisional Order under section 279 of the Public Health Act, 1875, with a joint hospital board as the governing body.

A joint hospital board consists of members elected by the local authorities concerned, together with such ex-officio members as the Local Government Board may by the provisional Order determine (section 280, Public Health Act, 1875).

> Joint boards exercise their powers independently of the local authorities comprised within the united district.
>
> By section 244 of the Public Health Act they are enabled to borrow money, and under section 280 a joint board is a body corporate with power to hold lands for the purposes of their constitution.
>
> They are also empowered to issue precepts to the local authorities within the united district for the sums to be contributed by such authorities towards the expenses of the joint board, and, in case of default, to proceed in a summary manner to raise such sums.
>
> Moreover, by the provisional Order constituting the united district the joint board are directly invested with various powers in relation to their meetings and officers, conduct of business, contracts, purchase of land either by agreement or compulsorily, arbitration, audit of accounts, legal proceedings, and with any other powers which the special circumstances of the case may require, so as to enable them to perform their duties in the most convenient and efficient manner.

7. Applications to the Board for the issue of provisional Orders forming united districts for hospital purposes should be accompanied by copies of resolutions of the local authorities concerned, and should be made as soon as practicable after the 1*st October* in each year.

8. Applications for loans by joint hospital boards should be made in the manner indicated in paragraphs 3 to 5 above.

(B) UNDER THE ISOLATION HOSPITALS ACT, 1893.

9. Under the Isolation Hospitals Act, 1893, county councils are empowered to constitute hospital districts, consisting in each case either of a single local area or of two or more local areas as defined by section 26 of the Act; and under section 8 (3) "if any local authority, having jurisdiction within any part of the proposed hospital district, object to the formation of such a district, or to the addition or subtraction thereto or therefrom of any local area within their jurisdiction, such authority may at any time within three months from the date of the Order appeal to the Local Government Board, and the decision of such Board shall be conclusive."

10. Under section 22 of the Act "a county council may borrow on the security of the county rate, and in manner provided by the Local Government Act, 1888, any money required for the purpose of carrying into effect the provisions of this Act." The sanction of the Local Government Board is required to any such borrowing by a county council.

11. Hospital committees, and the local authorities having jurisdiction in the areas included within a hospital district set up by a county council, are not empowered themselves to borrow money for the purposes of the Isolation Hospitals Act; but under section 22 of that Act any loans borrowed by a county council to carry the provisions of the Act into effect, "and any other money expended by them for the purposes of this Act, together with interest thereon . . . shall be repaid to the county council out of the local rate" as in the Act directed.

12. In dealing with applications from county councils for sanction to loans under this Act, the Board act upon the principles (set out in the earlier sections of the present memorandum) which guide them in dealing with applications by local authorities for sanction to borrow money for hospital purposes under the Public Health Act.

Local Government Board, Whitehall, S.W.

PROVISION, ETC., OF DIPHTHERIA ANTI-TOXIN—ORDER.

(15th August, 1910.)

* * * * * *

ARTICLE I.—We sanction the provision by the council of every county borough, the council of every urban district, and the council of every rural district, or their contracting with any person for the provision, in pursuance of section 133 of the Public Health Act, 1875, of a temporary supply of diphtheria anti-toxin, and of medical assistance in connexion with the temporary supply of diphtheria anti-toxin, for the poorer inhabitants of their district, subject to the following condition, that is to say,—

> The arrangements with respect to the keeping, distribution, and use of the diphtheria anti-toxin shall be made in accordance with the advice of the medical officer of health.

ARTICLE II.—The duties assigned to the medical officer of health by such one of the two General Orders dated the twenty-third day of March, one thousand eight hundred and ninety-one, as applies to his case, or other the regulations for the time being issued by us and superseding the regulations prescribed by the said Orders, shall be deemed to extend to and to include all action by the medical officer of health in the execution of this Order.

ARTICLE III.—Where one-half of the salary of a medical officer of health is intended to be payable by a county council or by the council of a county borough under the Local Government Act, 1888, such one of the two General Orders dated the twenty-third day of March, one thousand eight hundred and ninety-one, as applies to his case, or other the regulations for the time being issued by us and superseding the regulations prescribed by the said Orders, shall apply and have effect as if the regulations thereby prescribed included a provision authorising the council of the district, or requiring them at our direction, to pay from time to time to the medical officer of health, in addition to the salary or other compensation payable under the said regulations, a reasonable compensation for all action by the medical officer of health in the execution of this Order.

NOTIFICATION AND TREATMENT OF CEREBRO-SPINAL FEVER AND ACUTE POLIOMYELITIS—GENERAL ORDER.

(August 15th, 1912.)

WHEREAS [*recites section* 130 *of the P. H. A.*, 1875, *as amended by the P. H. A.*, 1896.]

NOW THEREFORE, we by this our Order, and in the exercise of the powers conferred upon us by the Public Health Act, 1875, and the Public Health Act, 1896, and of every other power enabling us in that behalf, do make the following regulations, that is to say:—

ARTICLE I.—In these regulations—

The expression "local authority" means the council of a municipal borough or other urban district or the council of a rural district; and

The expression "medical practitioner" means duly qualified medical practitioner.

ARTICLE II.—These regulations shall come into operation on the first day of September, one thousand nine hundred and twelve, and, subject as provided in Article V. hereof, shall then and thereafter apply and have effect throughout England and Wales, and shall be enforced and executed by every local authority.

ARTICLE III.—Subject as provided in these regulations the persons mentioned in section 3 of the Infectious Disease (Notification) Act, 1889 (hereinafter referred to as "the Act of 1889") and the local authority shall, under these regulations, have the same powers and duties in relation to cases of cerebro-spinal fever and of acute poliomyelitis as they have under that Act and under the Infectious Disease (Prevention) Act, 1890, and under the Public Health Acts in the case of infectious diseases to which the Act of 1889 applies.

ARTICLE IV.—Every medical practitioner who sends to the medical officer of health a certificate of a case of cerebro-spinal fever or acute poliomyelitis under the Act of 1889 or under these regulations shall at the same time state on the certificate the age and sex of the patient and the date of the onset of the disease.

ARTICLE V.—(1) In any district in which the Act of 1889 applies to cerebro-spinal fever and acute poliomyelitis by virtue of an Order made by the local authority and approved by us thereunder these regulations shall not come into operation, except to the extent of the regulations prescribed by Articles IV. and VI. hereof, until such Order as aforesaid shall expire or shall have been revoked.

(2) Nothing in these regulations shall apply or have effect in relation to any district in which cases of cerebro-spinal fever and acute poliomyelitis are for the time being required to be notified to the medical officer of health in pursuance of the provisions of a local Act or of an order made thereunder.

(3) Nothing in these regulations shall require a medical practitioner to notify any case of cerebro-spinal fever or acute poliomyelitis which has already, to his knowledge, been notified under these regulations or under the Act of 1889.

ARTICLE VI.—The local authority shall forthwith cause notice to be given to every medical practitioner practising within the district of the local authority of the duties imposed upon him by these regulations.

ARTICLE VII.—These regulations may be cited as "The Public Health (Cerebro-Spinal Fever and Acute Poliomyelitis) Regulations, 1912."

Given under the Seal of Office of the Local Government Board, this fifteenth day of August, in the year one thousand nine hundred and twelve.

ASSIGNMENT OF CERTAIN POWERS UNDER THE INFECTIOUS DISEASE (PREVENTION) ACT, 1890—GENERAL ORDER.

(August 20th, 1912.)

WHEREAS [*recites section* 1 *of the P. H.* (*Ports*) *Act,* 1896].

And whereas by divers Orders issued by us, section 120 of the Public Health Act, 1875, has been put in force in the several port sanitary districts in England and Wales (other than the district of the port sanitary authority of the port of London), or some of them;

And whereas [*recites section* 5 *of the Infectious Disease* (*Prevention*) *Act,* 1890 (*herein-after referred to as* "*the Act*")].

And whereas it is expedient that the provisions of section 5 of the Act with certain necessary modifications should be assigned to the several port sanitary authorities other than the port sanitary authority of the port of London in substitution for the provisions of section 120 of the Public Health Act, 1875:

NOW THEREFORE, we, the Local Government Board, in pursuance of the powers given to us by the statutes in that behalf, do hereby order as follows:—

ARTICLE I.—This Order shall come into operation on the first day of September, one thousand nine hundred and twelve.

ARTICLE II.—Subject as herein-after mentioned, we do hereby assign to every port sanitary authority other than the port sanitary authority of the port of London, all powers, rights, duties, capacities, and obligations under the provisions of section 5 of the Act, in relation to any infectious disease to which the Public Health Act, 1875, applies, and under sections 16, 17, 18, and 20 of the Act so far as those sections relate to the exercise of the powers, rights, duties, capacities, and obligations under the provisions of section 5 of the Act as hereby assigned.

ARTICLE III.—For the purposes of the assignment of the said powers, rights, duties, capacities, and obligations under sections 5, 16, 17, 18, and 20 of the Act to every port sanitary authority other than the port sanitary authority of the port of London as aforesaid, the said sections shall be modified so as to read as follows:—

"5. Section one hundred and twenty of the Public Health Act, 1875, so far as it applies to any port sanitary district, shall be no longer in force, and the following provisions shall be in force in lieu thereof; that is to say:—

"(1) Where the medical officer of health of any port sanitary authority certifies that the cleansing and disinfecting of—

"(a) any berth, cabin, or other place which is or has been occupied, or is or has been provided or appropriated for occupation, by any person while on board any ship, or

"(b) any articles on board any ship which are likely to retain infection, would tend to prevent or check infectious disease, the clerk to the port sanitary authority shall give notice in writing to the master of such ship, that such berth, cabin, or other place or that such articles will be cleansed and disinfected by the port sanitary authority at the cost of the master of such ship, unless such master informs the port sanitary authority within six hours from the receipt of the notice that he will forthwith cleanse and disinfect such berth cabin or other place or such articles to the satisfaction of the medical officer of health.

"(2) If within six hours from the receipt of the notice the master does not inform the port sanitary authority as aforesaid, or if, having so informed the port sanitary authority, he fails to have such berth cabin or other place or such articles disinfected as aforesaid, the berth cabin or other place or such articles shall be cleansed and disinfected by the officers of the port sanitary authority under the superintendence of the medical officer of health, and the expenses incurred may be recovered from the master in a summary manner.

"(3) Provided that where the master of any such ship is unable, in the opinion of the port sanitary authority or of their medical officer of health, effectually to cleanse and disinfect any such berth cabin or other place of such articles, the same may without any such notice being given as aforesaid, but with the consent of such master, be cleansed and disinfected by the officers of and at the cost of the port sanitary authority, and such cleansing and disinfection shall be completed with all reasonable despatch by such officers."

"16. Every person who shall wilfully obstruct any duly authorised officer of the port sanitary authority in carrying out the provisions of sections 5 and 17 of this Act shall be liable to a penalty not exceeding five pounds, and if the offence is a continuing one, to a daily penalty not exceeding forty shillings a day so long as the offence continues."

"17. For the purpose of carrying into effect the provisions of section 5 of this Act the port sanitary authority may, by any officer appointed in that behalf, who shall produce his authority in writing, enter at any time on any ship."

"18. Every penalty imposed by section 16 of this Act shall be recoverable in a court of summary jurisdiction on the information or complaint of the port sanitary authority, or of their duly authorised officer, but not otherwise, and shall be paid to the port sanitary authority."

"20. Any expenses incurred by a port sanitary authority in the execution of any of the provisions of sections 5, 17 or 18 of this Act shall be paid as part of the expenses of that authority in the execution of the Acts relating to public health."

ARTICLE IV.—In the provisions of the Act applied as modified by this Order to port sanitary authorities other than the port sanitary authority for the port of London, the expression "medical officer of health" shall include any person duly authorised to act temporarily as medical officer of health.

ARTICLE V.—This Order may be cited as "The Port Sanitary Authorities (Assignment of Powers) Order, 1912."

NOTIFICATION AND TREATMENT OF TUBERCULOSIS—GENERAL ORDER (*a*).

(19th December, 1912.)

* * * * * *

WHEREAS [*recites section* 130 *of the P. H. A.*, 1875, *as amended by the P. H. A.*, 1896].

And whereas tuberculosis is an endemic and an infectious disease;

And whereas by the Public Health (Tuberculosis) Regulations, 1908, by the Public

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(*a*) See also the Regulations of 1921, 1924, and 1925, *post*, pp. 3167 and 3169.

Health (Tuberculosis in Hospitals) Regulations, 1911, and by the Public Health (Tuberculosis) Regulations, 1911, we made certain regulations for preventing the spread of pulmonary tuberculosis;

And whereas it appears to us to be expedient that the said regulations should be revoked, and that the regulations which are hereinafter set forth should be made in relation to tuberculosis:

NOW THEREFORE, we, by this our Order and in the exercise of the powers conferred upon us by the Public Health Act, 1875, the Public Health (London) Act, 1891, and the Public Health Act, 1896, and of every other power enabling us in that behalf, do hereby make the following regulations, that is to say:—

ARTICLE I.—(Definitions.)

ARTICLE II.—On and after the date of the operation of these regulations the previous regulations and all Orders made by the Local Government Board thereunder shall be revoked.

ARTICLE III.—These regulations shall come into operation on the first day of February, one thousand nine hundred and thirteen, and, subject to the provisions of Article XVII. of these regulations, shall then and thereafter apply and have effect throughout England and Wales, and shall be enforced and executed by every local authority.

ARTICLE IV.—For the purposes of these regulations—

Every local authority shall provide and maintain a sufficient supply of printed copies of the forms set out in the Schedule A. to these regulations, and shall as soon as practicable after these regulations come into operation, and afterwards from time to time when application is made to them, furnish—

(*a*) printed copies of Form A. to every medical practitioner resident or practising within the district of the local authority;

(*b*) printed copies of Form B. to the school medical inspector or inspectors of every public elementary school situate within the district of the local authority; and

(*c*) printed copies of Form C. and Form D. to the medical officers of every Poor Law institution and sanatorium situate within the district of the local authority.

ARTICLE V.—Subject to the provisions of these regulations every medical practitioner (unless acting as a school medical inspector) attending on or called in to visit any person (whether at an institution or otherwise), shall, within forty-eight hours after first becoming aware that such person is suffering from tuberculosis, make and sign a notification of the case in Form A., and shall transmit the notification to the medical officer of health for the district within which the place of residence of the person is situate at the date of the notification:

Provided that a medical practitioner shall not notify a case of tuberculosis under this article if he has reasonable grounds for believing that the case has already been notified, either under this Order or under the previous regulations or otherwise, to the medical officer of health for the district within which the place of residence of the person is situate:

Provided further that if a notification is required in pursuance of this article in respect of an in-patient at an institution, the notification shall be sent to the medical officer of health for the district in which the usual place of residence of the patient is situate.

ARTICLE VI.—Every school medical inspector shall, as soon as practicable after the end of each week, make and sign a notification in Form B. of all cases of tuberculosis of which he has first become aware in the course of inspections made by him during the week of children attending public elementary schools, and shall transmit the notification to the medical officer of health for the district within which the places of residence of the children are situate. When the places of residence are situate in more than one district, a separate notification shall be transmitted to the medical officer of health of each district.

ARTICLE VII.—The medical officer of a Poor Law institution or of a sanatorium shall, as soon as practicable after the end of each week—

(*a*) make and sign a notification in Form C. of all cases of tuberculosis admitted during the week and not being cases which are required to be notified under

Article V. of these regulations, and transmit the notification to the medical officer of health for the district within which the places of residence of the persons notified are situate; and

(*b*) make and sign a notification in Form D. of all cases of tuberculosis discharged during the week, other than cases transferred to a Poor Law institution or a sanatorium, and transmit the notification to the medical officer of health for the district within which the places of destination of the persons notified are situate.

When the places of residence, or the places of destination, as the case may be, of the persons to be notified are situate in more than one district a separate notification shall be transmitted to the medical officer of health of each district.

ARTICLE VIII.—For the purposes of these regulations a medical practitioner shall be deemed to have become aware that a person is suffering from tuberculosis when he has arrived at this conclusion from evidence other than that derived solely from tuberculin tests applied to that person.

ARTICLE IX.—A notification to be transmitted to a medical officer of health in pursuance of these regulations may be transmitted by being delivered to that officer or by being delivered at his office or residence, or may be sent by prepaid letter post addressed to him at his office or at his residence. Every notification shall be enclosed in a sealed envelope addressed to the medical officer of health.

ARTICLE X.—(1) Every medical practitioner described in column 1 of the Schedule B. to these regulations shall be entitled to receive for each notification duly made, signed and transmitted by him under Article V. of these regulations the fee specified in column 2 of the said schedule opposite to the description of the medical practitioner in column 1, and for every notification duly made, signed and transmitted by him under Article VII. of these regulations, the fee specified in column 3 of the said schedule opposite to the description of the medical practitioner in column 1.

(2) As soon as practicable after the end of the quarter during which the notification was sent to the local authority for the district within which the place of residence or place of destination of the person notified is situate that local authority shall pay the fee for the same, and a medical practitioner shall not be required for that purpose to submit an account of fees claimed by him under these regulations.

(3) The said fees shall in each case be deemed to cover all expenses, including the cost of transmission.

ARTICLE XI.—(1) A medical officer of health, on receipt of a notification which has been erroneously addressed to him by a medical practitioner, shall forthwith transmit the notification to the medical officer of health to whom the notification ought, in pursuance of these regulations, to have been addressed, and shall at the same time inform the medical practitioner that he has done so, and shall give to him the name and address of the medical officer of health to whom the notification has been sent.

(2) Every medical officer of health shall cause to be entered in a register to be kept by him for that purpose the full particulars contained in every notification received by him under these regulations and relating to a person whose place of residence or place of destination is situate within the district for which he is medical officer of health. The said register shall be kept in the custody of the medical officer of health and shall not be open to inspection by any person other than a person specially authorised by resolution of the local authority, the medical officer of health for the administrative county within which the district is situate, a school medical inspector for any area within which the district is situate, or an officer of any government department authorised in that respect by that department.

Every notification and every document relating to a person notified under these regulations shall be regarded by the medical officer of health, and by every person who has access thereto, as confidential.

(3) The medical officer of health shall, as soon as practicable after the end of each week, send to the medical officer of health for the administrative county within which the district is situate a statement of every notification received by him during the week in pursuance of these regulations and relating to a person whose place of residence is situate within the district for which he is medical officer of health. The statement shall show on which form the notification was made and shall contain the information in regard to each person which was given in the notification.

(4) Any expenses incurred by a medical officer of health in carrying out the duties imposed upon him by this article shall be defrayed by the local authority of the district for which he is medical officer of health.

ARTICLE XII.—Upon the receipt of a notification under these regulations the medical officer of health, or an officer of the local authority acting under the instructions of the medical officer of health, shall make such inquiries and take such steps as are necessary or desirable for investigating the source of infection, for preventing the spread of infection, and for removing conditions favourable to infection;

Provided that nothing in this article shall be deemed to authorise a medical officer of health or other officer to take any of the steps herein mentioned at any institution other than one belonging to the local authority, except with the consent of the managers of that institution.

ARTICLE XIII.—For the purposes of these regulations—

(1) A local authority on the advice of their medical officer of health may supply all such medical or other assistance, and all such facilities and articles as may reasonably be required for the detection of tuberculosis, for preventing the spread of infection and for removing conditions favourable to infection, and for that purpose may appoint such officers, do such acts and make such arrangements as may be necessary:

Provided that nothing in this sub-division of this article shall be deemed to authorise a local authority to take any of the measures herein mentioned at any institution other than one belonging to the local authority.

(2) A local authority on the advice of their medical officer of health, may provide and publish or distribute suitable summaries of information and instruction respecting tuberculosis, and the precautions to be taken against the spread of infection from that disease.

ARTICLE XIV.—Nothing in these regulations shall apply to or impose any duty or obligation upon any medical practitioner acting in his capacity as—

(*a*) Medical officer of one of his Majesty's prisons or of a Borstal institution, a certified reformatory school, a certified industrial school, a State or certified inebriate reformatory, or a criminal lunatic asylum;

(*b*) Medical examiner of candidates for some office or appointment;

(*c*) Medical examiner on behalf of an insurance company of a person proposing to insure his life at the risk of that company;

(*d*) Medical examiner of the passengers and crew of an emigrant ship; or

(*e*) Certifying or appointed surgeon under the Factory and Workshop Acts.

ARTICLE XV.—Nothing in these regulations shall have effect so as to require a notification to be transmitted to a medical officer of health, in respect of any inmate of any building, ship, vessel, boat, tent, van, shed or similar structure belonging to His Majesty the King.

ARTICLE XVI.—Nothing in these regulations shall have effect so as to apply, or so as to authorise or require a medical officer of health or a local authority, or any other person or authority, directly or indirectly, to put in force with respect to any person in relation to whom a notification in pursuance of these regulations has been transmitted to a medical officer of health any enactment which renders the person, or any one in charge of the person, or any other person, liable to a penalty, or subjects the person to any restriction, prohibition, or disability affecting himself, or his employment, occupation or means of livelihood, on the ground of his suffering from tuberculosis.

ARTICLE XVII.—Nothing in these regulations shall have effect in derogation of any power conferred, or of any duty or obligation imposed with respect to tuberculosis by a local Act, and these regulations shall not apply to a district in which any such local Act as aforesaid is in force except so far as they impose duties and obligations or confer powers which are not imposed or conferred by the local Act and which are not inconsistent with any duties, obligations, or powers which are imposed or conferred by the local Act. Such modification as may be necessary to give effect to the intention of this article shall be deemed to have been made in these regulations in relation to any such district as aforesaid.

ARTICLE XVIII.—These regulations may be cited as "the Public Health (Tuberculosis) Regulations, 1912."

SCHEDULE A.

FORMS A, B, C, AND D.

* * * * * *

SCHEDULE B.

TABLE OF FEES TO BE PAID FOR NOTIFICATIONS.

1. Description of Medical Practitioner.	2. Amount of Fee for each Notification under Article V.	3. Amount of Fee for each Notification under Article VII.	
		For the first Name on each List.	For each additional Name.
Acting in the capacity of:—	s. d.	s. d.	s. d.
Private practitioner	2 6	—	—
Medical officer of a hospital . . .	1 0	—	—
Medical officer of a Poor Law institution .	1 0	1 0	0 3
District medical officer	1 0	—	—

THE PUBLIC HEALTH (VENEREAL DISEASES) REGULATIONS, 1916. DATED JULY 12TH, 1916 (*a*).

* * * * * *

NOW THEREFORE, we, the Local Government Board, do by this our Order, and in the exercise of the powers conferred on us by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, and the Public Health (Prevention and Treatment of Disease) Act, 1913, and every other power enabling us in that behalf, make the following regulations, and also declare and direct as follows:—

ARTICLE I.—Every council shall, subject to the approval of the Local Government Board, make arrangements for enabling any medical practitioner, practising in the area of the council, to obtain, at the cost of the council, a scientific report on any material which the medical practitioner may submit from a patient suspected to be suffering from venereal disease.

ARTICLE II.—(1) Every council shall prepare and submit to the Local Government Board a scheme—(*a*) for the treatment at and in hospitals or other institutions of persons suffering from venereal disease; and (*b*) for supplying medical practitioners with salvarsan or its substitutes for the treatment and prevention of venereal disease; and when the Board have approved the scheme the council shall make arrangements for carrying it into effect at the cost of the council.

(2) All information obtained in regard to any person treated under a scheme approved in pursuance of this Article shall be regarded as confidential.

ARTICLE III.—(1) Any council may, subject to the approval of the Local Government Board, make arrangements for any of the purposes of this Order with the managers of any hospital, institution or society; but until the Board have approved of those arrangements and of the hospital, institution or society, no expenditure under the arrangements shall be incurred.

(*a*) The M. of H. may make regulations prescribing the qualifications of medical officers and health visitors appointed by a local authority under these regulations (L. G. A., 1929, s. 59 (1), *ante*, p. 1925). See the Regulations at p. 3624, *post*.

(2) Any approval given by the Local Government Board under this Article may be given for such term and subject to such conditions as the Board may think fit, and any such approval may be withdrawn by the Board.

ARTICLE IV.—Any council may make such provision for the giving of instructional lectures and for the publication of information on questions relating to venereal disease as the council may think necessary or desirable.

ARTICLE V.—For the purposes of this Order—

(1) The expression "council" means county council, county borough council, and the common council of the City of London.

(2) The expression "area of the council" means the administrative county, the county borough, or the City of London, as the circumstances may require; and in the case of the administrative county of London, it means the administrative county exclusive of the City of London.

(3) "Venereal disease" means syphilis, gonorrhœa and soft chancre.

ARTICLE VI.—The expenses incurred under these regulations shall in the case of a county council be defrayed as expenses for general county purposes, in the case of a county borough council as part of the expenses incurred by the council in the execution of the Public Health Acts, and in the case of the common council of the City of London as part of the expenses incurred by the council in the execution of the Public Health (London) Act, 1891.

ARTICLE VII.—These regulations shall come into operation on the date of this Order, and shall then and thereafter apply and have effect throughout England and Wales, and shall be executed by every council.

CIRCULAR TO COUNTY COUNCILS, ETC.

DOMICILIARY TREATMENT OF TUBERCULOSIS.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
September 20, 1916.

SIR,—I am directed by the President of the Local Government Board to refer to the circular letter issued by this department on the 27th July, 1912, enclosing copies of an Order made by the Board on the 26th July, 1912, prescribing the manner of domiciliary treatment of insured persons suffering from tuberculosis approved by the Board for the purpose of section 16 (1) (*b*) of the National Insurance Act, 1911.

The Board stated in the circular letter referred to that they regarded the regulations made by this Order as somewhat provisional in character, and that they had reserved to themselves power to modify the regulations, should experience show that modifications were desirable, and they have now arrived at the conclusion that it would be expedient to amend and simplify the regulations in some respects. A further Order, of which copies are enclosed, has therefore been made by the Board, rescinding the Order of the 26th July, 1912, and prescribing afresh the manner of domiciliary treatment of insured persons suffering from tuberculosis approved by the Board for the purpose of section 16 (1) (*b*) of the National Insurance Act, 1911. It will be observed that the new Order will come into operation on the 1st January, 1917, and, in consequence of the provisions of section 42 (1) of the National Insurance Act, 1913, will apply only to England, excluding Monmouthshire.

The effect of the Order will be to rescind the provisions of Article II. (3) and (4) of the Order of the 26th July, 1912, whereby a medical practitioner carrying out the domiciliary treatment of an insured person suffering from tuberculosis is required to keep a continuous record of the clinical history of the illness of the patient and particulars of the treatment given to the patient under his direction, and to submit the card or sheet containing the record periodically to the Consulting Officer. It is anticipated that the abolition of this requirement will appreciably diminish the calls upon the time of practitioners undertaking the domiciliary treatment of insured tuberculous patients.

At the same time the Order (see Article II. (3) and the Schedule) prescribes the form in which the medical practitioner shall make his periodical reports to the consulting

Appendix II.

officer in regard to each of the patients under his care, and provides that the medical practitioner shall make arrangements with the consulting officer for each of his patients to be examined by the consulting officer not less often than once in every twelve months (see Article II. (4)).

The Order will be shortly placed on sale so that further copies may be obtained, either directly or through any bookseller, from Messrs. Wyman and Sons, Limited, 29, Bream's Buildings, Fetter Lane, London, E.C.

I am, etc.

GENERAL ORDER.

NATIONAL INSURANCE ACT, 1911.

Approval under section (1) (*b*).

TUBERCULOSIS (DOMICILIARY TREATMENT IN ENGLAND) ORDER, 1916.

* * * * * *

NOW THEREFORE, in the exercise of the powers given to us by the statutes in that behalf, we hereby rescind the Order of 1912, and, subject to the provisions of any Order which we may hereafter issue, we hereby approve of treatment otherwise than in sanatoria or other institutions of insured persons suffering from tuberculosis when undertaken in such manner as to comply with the following regulations, that is to say :—

ARTICLE I.—In these regulations, unless the contrary intention appears :—

The expression " sanitary district " means the City of London, any metropolitan borough, municipal borough or other urban district, or any rural district ;

The expression " sanitary authority " means any local authority entrusted with the execution of the Public Health Act, 1875, or in the case of London the Public Health (London) Act, 1891 ;

The expression " dispensary area " means an area which is served by a main dispensary (or by a main dispensary and one or more branch dispensaries) approved by us under section 16 (1) (*a*) of the National Insurance Act, 1911, and is under the clinical charge of one medical officer (herein-after called the " Tuberculosis Officer ") or of one tuberculosis officer and one or more assistant tuberculosis officers ;

The expression " consulting officer " means the tuberculosis officer of a dispensary area, or such other medical officer as we may from time to time approve for the purposes of these regulations ;

The expression " medical practitioner " means a registered medical practitioner.

ARTICLE II.—The treatment shall be carried out under the care and direction of a medical practitioner subject to the following conditions, and to such other conditions as we may in any case from time to time approve ; that is to say :—

(1) That the medical practitioner attend each patient at such intervals as may be necessary in the interest of the patient.

(2) That the medical practitioner give the patient such instructions as are required as to his mode of living, diet, rest and work, and as to precautions necessary to protect the patient against re-infection.

(3) That the medical practitioner prepare and transmit to the consulting officer at such reasonable intervals, not being less often than once in every three months, as may be arranged between them, a report in regard to each patient in the form set forth in the schedule to these regulations.

(4) That the medical practitioner make arrangements with the consulting officer for each patient to be examined by the consulting officer not less often than once in every twelve months.

(5) That the medical practitioner confer with the consulting officer at such times and in such circumstances as may be arranged between them in regard to patients under the care of the medical practitioner.

(6) That the medical practitioner from time to time inform the medical officer of health of the sanitary district in which the patient resides, of any circumstances known to the medical practitioner which may affect adversely the sanitary conditions under which the patient is living, and in respect to which action by the medical officer of health or of the sanitary authority would, in the opinion of the medical practitioner, be necessary or desirable.

ARTICLE III.—These regulations shall come into operation on the first day of January, one thousand nine hundred and seventeen, and shall apply and have effect throughout England, with the exception of Monmouthshire.

S. R. & O., 1917, No. 146.

THE PUBLIC HEALTH (SMALL-POX PREVENTION) REGULATIONS, 1917. DATED FEBRUARY 12TH, 1917.

* * * * * *

Definitions.

ARTICLE I.—In these regulations, unless the contrary intention appears :—

(*a*) The expression "local authority" means, as the case may be, the mayor, aldermen, and commons of the City of London in common council assembled, the council of a metropolitan borough, the council of a municipal borough or other urban district, the council of a rural district, or the council of the Isles of Scilly.

(*b*) The expression "medical officer of health" includes any assistant medical officer of health.

ARTICLE II.—The medical officer of health of any local authority may, on the occurrence of any case of small-pox and where the circumstances, in his opinion, so require and permit, perform vaccination or re-vaccination on any person who has come in contact with the infection and is willing to be vaccinated, and without charge to the said person.

ARTICLE III.—The medical officer of health shall keep a record of every vaccination or re-vaccination performed by him, with the results as ascertained by inspection, which shall contain the following particulars :—

The date of the vaccination or re-vaccination, the names, age, and address of each person vaccinated, the result of the vaccination or re-vaccination, and the source of the lymph used together with the official reference number if it is obtained from the national vaccine establishment.

ARTICLE IV.—Any expenses incurred by a local authority in the execution of these regulations shall be deemed to be incurred in the execution of the Public Health Act, 1875, or the Public Health (London) Act, 1891, as the case may be, and may be defrayed accordingly.

ARTICLE V.—A person shall not wilfully obstruct a medical officer of health in the exercise of any power or the discharge of any duty under these regulations, and a refusal to comply with a reasonable requisition of a medical officer of health shall, for the purposes of these regulations, be deemed to be a wilful obstruction of the medical officer of health.

CIRCULAR TO BOROUGHS, ETC.

THE PUBLIC HEALTH (SMALL-POX PREVENTION) REGULATIONS, 1917.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
February 13*th*, 1917.

SIR,—I am directed by the President of the Local Government Board to state that it has been represented to him that it is desirable that further facilities should be provided for securing on the occurrence of any case of small-pox the prompt vaccination and revaccination of persons who have come in contact with the infection.

Appendix II.

Regulations have therefore been made empowering medical officers of health of sanitary districts to perform vaccination or revaccination of any such persons who are willing to be vaccinated. Two copies of the Order are enclosed with an additional copy of this circular. It is requested that one of the copies of the circular and regulations may be handed to the medical officer of health.

In the performance of vaccination in pursuance of the regulations the following instructions should be observed:—

(*a*) Vaccination should at every stage be carried out with aseptic precautions, which should include the cleansing of the surface of the skin before vaccination, the use of sterilised instruments, and the protection of the vaccinated surface against extraneous infection both on the performance of the operation and on inspection of the results.

Advice as to the precautions to be taken in this respect until the scabs have fallen and the arm has healed should always be given to the person vaccinated, or, in the case of the vaccination of a child not more than fourteen years of age, to the parent or other person having the custody of the child.

(*b*) In all ordinary cases of primary vaccination the medical officer of health should aim at producing four separate good-sized vesicles or groups of vesicles, not less than half an inch from one another. The total area of vesiculation resulting from the vaccination should not be less than half a square inch.

(*c*) If any person vaccinated or revaccinated by a medical officer of health in pursuance of these regulations require medical treatment in consequence of the vaccination or revaccination the local authority should offer to provide such medical treatment as may be required.

It will be clearly understood that the powers conferred upon the medical officer of health under these regulations are only intended to be exercised in the cases of persons who have been in immediate contact with persons suffering from small-pox

The local authority should arrange to pay to the medical officer of health such sum as is reasonable in respect of the extra work which he undertakes in pursuance of these regulations. For their guidance the Board may state that in their view the payment should be not less than two shillings and sixpence for every vaccination or revaccination performed.

Additional copies of the regulations and circular will be supplied on application.

I am, etc.

[Revised instructions as to vaccination by public vaccinators have been issued in consequence of the report of a committee on the subject. See Circular 1025a of August 19th, 1929, and the Vaccination Order, 1929 (S. R. & O., 1929, No. 640).]

PUBLIC HEALTH (NOTIFICATION OF INFECTIOUS DISEASE) REGULATIONS, 1918.—GENERAL ORDER.

(January 19th, 1918.)

* * * * * *

NOW THEREFORE, we, in the exercise of the powers conferred upon us by the Public Health Act, 1875, the Infectious Disease (Notification) Act, 1889, the Public Health (London) Act, 1891, and the Public Health Act, 1896, and of every other power enabling us in that behalf, do by this our Order make the following regulations, that is to say:—

ARTICLE I.—These regulations shall come into operation on the 1st day of March, 1918, and shall apply and have effect throughout England and Wales.

ARTICLE II.—The said Orders dated the 12th day of September, 1889, and the 3rd day of December, 1891, and so much of the Public Health (Tuberculosis) Regulations, 1912, as prescribed the Form A in the schedule thereto, and so much of the Public Health (Measles and German Measles) Regulations, 1915, as prescribed the form in the schedule thereto, shall be and the same are hereby rescinded.

ARTICLE III.—(1) The Form of Certificate contained in the schedule A hereto shall, unless we otherwise prescribe, or save as we otherwise sanction, be the form for the purpose of any certificate or notification of an infectious disease to be given by a medical practitioner to the medical officer of health for a municipal borough or for any other urban district or for a rural district or for a port sanitary district (other than the port of London) under—

(*a*) Sub-section (1) (*b*) of section 3 of the Infectious Disease (Notification) Act, 1889;
(*b*) The said General Order dated the 19th day of September, 1900;
(*c*) The Public Health (Cerebro-Spinal Fever and Acute Poliomyelitis) Regulations, 1912;
(*d*) Article V. of the Public Health (Tuberculosis) Regulations, 1912;
(*e*) The Public Health (Ophthalmia Neonatorum) Regulations, 1914; and
(*f*) The Public Health (Measles and German Measles) Regulations, 1915.

(2) The Form of Certificate contained in the schedule B hereto shall, until we otherwise prescribe, be the form for the purpose of any certificate or notification of an infectious disease to be given by a medical practitioner to the medical officer of health for the city of London, for the port of London, or for a metropolitan borough under any of the enactments and regulations specified in sub-division (1) of this article and under sub-section (1) (*b*) of section 55 of the Public Health (London) Act, 1891.

ARTICLE IV.—The provisions contained in Article IX. of the Public Health (Tuberculosis) Regulations, 1912, in Article VII. of the Public Health (Ophthalmia Neonatorum) Regulations, 1914, and in Article VII. of the Public Health (Measles and German Measles) Regulations, 1915, relative to the transmission of a notification to a medical officer of health shall be altered by the addition to each of those articles of the following words; that is to say:—

> "Provided that the requirement herein contained that a notification shall be enclosed in a sealed envelope shall be deemed to be complied with if the notification is folded in such a manner that during its transmission the particulars of the notification cannot be observed."

ARTICLE V.—These regulations may be cited as "The Public Health (Notification of Infectious Disease) Regulations, 1918."

SCHEDULES.

* * * * * *

THE PUBLIC HEALTH (ACUTE ENCEPHALITIS LETHARGICA AND ACUTE POLIO-ENCEPHALITIS) REGULATIONS, 1918. DATED DECEMBER 17TH, 1918.

* * * * * *

WHEREAS we, the Local Government Board, are empowered by section 130 of the Public Health Act, 1875, as amended by the Public Health Act, 1896, from time to time to make, alter and revoke regulations with a view to the treatment of persons affected with any epidemic, endemic, or infectious disease, and for preventing the spread of the disease; and to provide for the enforcement and execution of the regulations;

And whereas acute encephalitis lethargica and acute polio-encephalitis are epidemic and infectious diseases;

And whereas it appears to us to be expedient that such regulations as are hereinafter set forth should be made in relation to acute encephalitis lethargica and acute polio-encephalitis:

NOW THEREFORE, we, by this our Order, and in the exercise of the powers conferred upon us by the Public Health Act, 1875, the Public Health (London) Act, 1891, and the Public Health Act, 1896, and of every other power enabling us in that behalf, do make the following regulations, that is to say:—

ARTICLE I.—In these regulations, unless the contrary intention appears:—

(a) The expression "local authority" means, as the case may be, the mayor, aldermen, and commons of the City of London in common council assembled, the council of a metropolitan borough, the council of a municipal borough or other urban district, or the council of a rural district:

(b) The expression "district" means the district subject to the jurisdiction of the local authority for the purposes of the Public Health (London) Act, 1891, or the Public Health Act, 1875, as the case may be;

(c) The expression "medical practitioner" means a duly qualified medical practitioner;

(d) The expression "the Act of 1889" means the Infectious Disease (Notification) Act, 1889, and the expression "the Act of 1891" means the Public Health (London) Act, 1891.

ARTICLE II.—These regulations shall come into operation on the 1st day of January, 1919, and shall continue in operation for the period of one year from that date and shall be enforced and executed in every district by the local authority.

ARTICLE III.—Subject as provided in these regulations, and subject to the provisions of section 5 of the Local Government (Emergency Provisions) Act, 1916, every local authority and medical practitioner, shall, under these regulations, have the same powers and duties in relation to the notification to the medical officer of health—

(1) of cases of acute encephalitis lethargica, as they have under the Act of 1889 or the Act of 1891, as the case may be, and

(2) of cases of acute polio-encephalitis, as they have under the Act of 1889,

in the case of infectious diseases to which those Acts respectively apply.

ARTICLE IV.—The certificate to be sent by a medical practitioner to the medical officer of health of a case of acute encephalitis lethargica or of acute polio-encephalitis, shall be in that form prescribed by the Public Health (Notification of Infectious Disease) Regulations, 1918, which is appropriate to the case.

ARTICLE V.—Nothing in these regulations shall require a medical practitioner to notify any case of acute encephalitis lethargica or of acute polio-encephalitis which has already, to his knowledge, been notified to the medical officer of health.

ARTICLE VI.—The local authority shall forthwith cause notice to be given to every medical practitioner practising within the district of the local authority of the duties imposed upon him by these regulations.

S. R. & O., 1919, No. 767.

THE PUBLIC HEALTH (CEREBRO-SPINAL FEVER) REGULATIONS, 1919. DATED JUNE 16TH, 1919.

* * * * * *

ARTICLE I.—The council of any administrative county and of any county borough may provide or arrange—

(1) for the examination and treatment of any person who for the time being is in the county or borough as the case may be and is either suspected to be suffering from cerebro-spinal fever, or has been in contact with a person suffering or suspected to be suffering from the disease: and

(2) for the provision of serum and vaccine for the treatment of cases or suspected cases of the disease, together with the necessary apparatus for the use of the serum or vaccine.

ARTICLE II.—The expenses incurred under these regulations, and any expenses incurred before the date hereof under the regulations hereby rescinded, shall in the case of a county council be defrayed as expenses for general county purposes, and in the case of a county borough council as part of the expenses incurred by the council in the execution of the Public Health Acts.

ARTICLE III.—These regulations shall come into operation on the date of this Order, and shall then and thereafter apply and have effect throughout England and Wales.

Appendix II.

TO COUNTY COUNCILS AND SANITARY AUTHORITIES.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
November 28th, 1919.

MEASLES AND GERMAN MEASLES.

SIR,—I am directed by the Minister of Health to state that the large numbers of deaths which occur annually from measles, and the disabilities and impairment of health which are the after-result of this disease in so many cases make it, in the view of the Ministry, extremely important that all practical measures for combating the mortality from measles should be extended and developed as much as possible.

The Ministry have therefore considered it desirable to review the whole position including the working and results of the present notification arrangements which were made obligatory by the Local Government Board Order of 27th November, 1915 (Notification and Treatment of Measles and German Measles). The Ministry have given careful consideration to various criticisms which have reached them as to the ineffectiveness of that Order, and have come to the conclusion that its continuance on present lines is not the best method of dealing with the problem.

A new Order (copies enclosed) has, therefore, been made which rescinds the former Order as from 31st December next, and I am to request that the rescission of the regulations may be brought to the notice of all medical practitioners and made known by every practicable means throughout the district of the authority. In bringing the new Order to the notice of local health authorities the Ministry wish it to be understood that it is in no sense their intention to impose any check on the action which such authorities can take to combat the mortality from measles. On the contrary, the withdrawal of the Notification Order in its present form still leaves local authorities free to organise various forms of combating and preventing the spread of the disease immediately on receiving information respecting cases of measles occurring in their districts from the many different local sources of information now available. Such information should enable appropriate action to be taken not less speedily in regard to cases of measles than has been possible when knowledge of the incidence of the disease has depended solely on notification.

Section 1 of this circular gives a brief summary of the principal ways in which local action can be taken for this purpose.

Section 2 refers to the grants available for work in connection with measles.

Section 3 indicates the action which can be taken by local authorities who may be of opinion that continuation of some system of compulsory notification is desirable in their areas. The date for the coming into operation of the Order is fixed for the 31st December next, in order to allow of the inauguration of any revised arrangements, where this is desired, without break of continuity.

Under the terms of section 133 of the Public Health Act, 1875, and of section 77 of the Public Health (London) Act, 1891, any local authority may, with the sanction of the Local Government Board (now the Ministry of Health) themselves provide a temporary supply of medicine and medical assistance for the poorer inhabitants of their district, and the Ministry hereby give general consent to the exercise of these powers by any local authority in regard to measles.

Section 1—*Practical Measures.*

Apart from any information which may in particular localities continue to be obtained from some form of notification of measles, it is important that the medical officer of health in all districts should utilise to the full the various opportunities which are available to him to learn of the occurrence of measles arising in his district and to follow its epidemic variations. This information can be obtained principally through the reports of health visitors, school nurses and the school attendance officer, while parents and guardians should also be encouraged to report cases to the office of the local sanitary authority.

1. *Instruction of Parents and Guardians.*—Formal and informal lectures by the medical officer of health or medical practitioners to those most likely to influence the public attitude to measles; instruction imparted at the Infant Welfare Centre, and other propaganda work, such as the distribution of posters, pamphlets, etc., on the disease all prove useful in instructing the public concerning measles. The

practical advice of the health visitor or nurse, exemplified in a particular case in the home, will educate the parent and spread practical working knowledge more satisfactorily than any other method.

2. *Health Visiting.*—It should be a general instruction to health visitors to whom measles work is assigned that, on learning of the occurrence of a case of measles in their particular district, a visit should be made promptly to the home of the sufferer. The health visitor advises the parents or persons in charge as to the infectious nature of the disease and the precautions to be taken, and gives elementary instructions as to nursing where this is required. She makes enquiries as to the existence of previous cases, or of other cases of the disease, and as to whether the school authorities have been informed. She reports on her visit to the medical officer of health; doing so immediately, if she finds conditions of environment which seem to call for action by the public health authority, or if the case is obviously one in which steps should be taken at once to secure medical treatment and nursing. If she receives no other instructions she continues her visits as required until the child is convalescent. On receipt of her report, the medical officer of health decides whether it is necessary for him to communicate with the medical attendant, if any, or to make a personal visit to the house, and whether nursing or other assistance is required, and in what way it can be supplied.

It is not necessary, as a rule, to appoint health visitors solely for measles visiting. It is convenient that health visitors engaged in maternity and child welfare visiting should also undertake the visiting of cases of measles. In periods of severe epidemics of measles it may be necessary for a local authority to employ the whole resources of its health visiting staff in measles visiting. In such times of stress, if the staff available is insufficient to allow of visits to all cases, such action should be confined to children under five years of age.

3. *Nursing Provision.*—This is of the first importance in preventing mortality and disablement resulting from measles. The services of nurses are not perpetually required, but it is essential that sanitary authorities should have a call on the services of nurses for home nursing whenever the need for utilising them arises.

Arrangements may be made for engaging the nurses of a district nursing association, or by employing the nurses of the sanitary authorities' isolation hospital staff. Often local authorities of contiguous districts can usefully combine with the object of providing nurses who can serve a large number of smaller urban districts and rural districts, and who can be dispatched to the seat of outbreaks of measles as required. The various component authorities combining for this purpose contribute to the cost in proportion to their populations or otherwise. Another, and in some cases a more efficient and economical arrangement, is for the county council to provide a staff of nurses for the visiting and nursing of measles and other infectious diseases, such as whooping cough, poliomyelitis, epidemic diarrhœa and ophthalmia neonatorum in children under five years of age throughout the county. This provision can be made by county councils exercising their powers under the Maternity and Child Welfare Act, 1918. The direct employment of these nurses by the county council for the benefit of the whole administrative county simplifies the financial arrangements, since the county can be rated equally for the salaries, and no charge need be made for their services to the particular local authorities who use them.

With regard to health visitors and nurses undertaking visits to the homes of cases of measles while engaged also on other branches of work, the Ministry are advised that subject to the taking of simple precautions, on the advice of the medical officer of health, there is little or no risk of the conveyance of infection from house to house.

It is, naturally, of the utmost importance that health visitors and nurses employed by the local authorities in visiting and nursing cases of measles should not only be fully acquainted with the principles which govern the work but should know how in practice to make the best of unsatisfactory conditions of environment in the interest of the sick child and the family.

4. *Medical Assistance.*—The health visitor should be instructed to advise the calling in of a doctor in all cases of measles. Medical assistance may be provided for necessitous cases at the expense of the sanitary authority, on the advice of the medical officer of health.

5. *Institutional Treatment.*—Although the majority of cases must necessarily be treated at home, yet cases occur where, for one or another reason, hospital treatment is specially desirable, and provision should be made for such cases. Institutional treatment in measles is specially valuable for severe or necessitous cases coming from bad home surroundings, whose prospect of recovery may be improved by hospital treatment; and on account of the provision made in institutions for the prevention of complications and sequelæ of the disease.

The Local Government Board in 1911, issued orders enabling the managers of the Metropolitan Asylums Board to receive patients suffering from measles into their hospitals under certain conditions. At present, admission is restricted to very severe cases and to children of the poorest class, who cannot receive proper attention at their homes. The cases are recommended for admission by medical officers of health and poor law medical officers. In certain large urban centres in England and Wales, some hospital provision for necessitous cases has been made, but the provision is generally inadequate for the needs of the population. In other cases it is entirely lacking. The provision of numerous small wards, containing only a few patients, which allow of successive cleansing of each ward, together with prompt isolation of a case of bronchial pneumonia, are calculated to secure favourable results in hospital treatment. The adoption of such measures in France has proved efficacious in checking mortality from the disease.

6. *Convalescent Home Treatment.*—For children who have recently passed through an attack of measles a certain period of treatment in a convalescent home is often specially important for complete recovery.

It is desirable, therefore, that local authorities should either themselves or through a voluntary agency, arrange for beds in convalescent homes for children convalescent from measles. The selection of suitable cases can be entrusted to the medical officer of health.

7. *After-Care.*—The health visitor should keep under review children who have recently suffered from measles. The disease is often followed by a more or less prolonged period of ill-health which can be ameliorated by good home conditions, suitable food, fresh air and so forth. Special medical observation of these cases, *e.g.* at the Child Welfare Centre, or at a school clinic, seems desirable for some months in order that if sequelæ arise the child may promptly receive the benefit of expert advice.

8. *Measles in Institutions.*—The risks of measles should always be kept in mind in connection with day nurseries, crèches and other institutions for children. The authorities of such institutions should consult the medical officer of health, or the medical officer in attendance at the institution on all cases of suspected infectious disease arising in the institution at ordinary times, and with regard to all children presenting themselves for admission during the prevalence of a measles epidemic.

Section 2.—Grants for Measles Work (*a*).

(*a*) These grants forming part of the maternity and child welfare grants are discontinued as from April 1st, 1930, by s. 85, Sched. II. of the L. G. A., 1929, *ante*, pp. 1948, 2007.

Section 3.—Authorities adopting Compulsory Notification of Measles and German Measles (*Rubeola*).

Since the issue of the Order of 27th November, 1915, experience of the notification of measles in practice has shown that this system under which notification is required of the first case in a household attended by a medical practitioner, and of each case in the household by the parents of the patient, is not an essential factor in a practical scheme having the diminution of the mortality from measles as its aim. According to the information of the Ministry the local authorities which have been most active in this work have had still in large measure to rely on their own means for finding out cases of measles, for example through the reports of health visitors and through information obtained from the schools, with the result that notification afterwards received has been redundant. On the other hand, in certain districts notifications have been filed without appropriate action, and in such cases it is difficult to justify the expenditure on notification fees.

The withdrawal of the Order of 1915 does not preclude any local authority which is satisfied that notification is a useful adjunct to measles work from continuing notification. The Ministry are willing to consider an application from any sanitary authority for an Order on the lines of the Order of 27th November, 1915, making the compulsory notification of measles and German measles applicable to cases of these diseases occurring in their district, provided that any sanitary authority so applying possesses, and is prepared to utilise, a satisfactory organisation for dealing with cases of measles; in the absence of sufficient evidence in these respects it is obvious that very little useful purpose would be served by the Order, and that it, therefore, could not be justified.

When reason is shown, the Ministry are prepared to consider a local Order which would require compulsory notification for *all* cases of measles occurring in the district, not merely the first cases as in the Order of 1915.

A copy of the enclosed Order and of this circular have been forwarded to the medical officer of health.

The circular and Order will be placed on sale so that copies may shortly be obtained through any bookseller or directly from H.M. Stationery Office at the following addresses:—Imperial House, Kingsway, London, W.C.2; 28, Abingdon Street, London, S.W.1; 37, Peter Street, Manchester; and 1, St. Andrew's Crescent, Cardiff.

I am, etc.

THE PUBLIC HEALTH (MEASLES AND GERMAN MEASLES) REGULATIONS, 1915, RESCISSION ORDER, 1919. DATED NOVEMBER 27TH, 1919.

* * * * * *

WHEREAS by the Public Health (Measles and German Measles) Regulations, 1915, provision was made for the notification and treatment of measles and German measles;

And whereas it is expedient that the said regulations should be rescinded:

NOW THEREFORE, the Minister of Health, in pursuance of his powers in that behalf, hereby orders as follows:—

ARTICLE I.—This Order may be cited as "The Public Health (Measles and German Measles) Regulations, 1915, Rescission Order, 1919."

ARTICLE II.—The Public Health (Measles and German Measles) Regulations, 1915, shall, as from the 31st day of December, 1919, be rescinded, without prejudice to any right or liability acquired or incurred under those regulations.

THE PUBLIC HEALTH (ACUTE ENCEPHALITIS LETHARGICA AND ACUTE POLIO-ENCEPHALITIS) REGULATIONS, 1919. DATED DECEMBER 31ST, 1919.

* * * * * *

WHEREAS by the Public Health (Acute Encephalitis Lethargica and Acute Polio-Encephalitis) Regulations, 1918 (hereinafter referred to as "the principal regulations"), provision was made for the notification of cases of acute encephalitis lethargica and acute polio-encephalitis during the period of one year from the 1st day of January, 1919;

And whereas it is expedient that the period of operation of the principal regulations should be extended:

NOW THEREFORE, the Minister of Health, in pursuance of all powers enabling him in that behalf, hereby Orders that the principal regulations shall, notwithstanding anything contained in Article II. thereof, continue in force until the Minister by Order otherwise directs.

S. R. & O., 1920, No. 1294.

THE PORT SANITARY AUTHORITIES (INFECTIOUS DISEASES) REGULATIONS, 1920. DATED JULY 14TH, 1920.

1. These regulations may be cited as the Port Sanitary Authorities (Infectious Diseases) Regulations, 1920, and shall come into operation on the first day of August, 1920.

2.—(1) In these regulations, unless the context otherwise requires,—

"The Minister" means the Minister of Health;

"Sanitary authority" means every port sanitary authority and every council of a municipal borough or urban or rural district whose borough or district includes or abuts on any part of a customs port not within the jurisdiction of a port sanitary authority;

"District" means the district of a sanitary authority, and in the case of a sanitary authority other than a port sanitary authority, includes the waters of any customs port adjacent to any part of their district;

"Medical officer of health" includes any duly qualified medical practitioner appointed or employed by a sanitary authority to act in the execution of these regulations;

"Ship" means a ship in or arriving in a district, and includes a vessel or boat;

"Master" includes a pilot, officer or any other person for the time being in charge or command of a ship;

"Infectious disease" means any epidemic or acute infectious disease;

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

3. For the purposes of these regulations the medical officer of health shall have power to enter or board any ship, and may cause the ship to be brought to, and, if necessary, moored or anchored in some safe and convenient place while it is visited and examined.

4. The medical officer of health may, and if so required by the sanitary authority or by the Minister shall,—

(*a*) examine any person who is suffering from infectious disease on board a ship;

(*b*) examine any person who is on board a ship, where he has reasonable grounds for believing or suspecting that infectious disease is or may be present on the ship, or that persons on board the ship have been exposed to infection from infectious disease during the voyage of the ship or during a period of three weeks immediately preceding the arrival of the ship in the district;

(*c*) examine any person on board a ship who is reasonably believed to be verminous;

(*d*) detain for the purpose of examination either upon the ship or at some appointed place on shore any person whom he is empowered or required under this article to examine;

(*e*) cause any such person and the clothing of or any other articles belonging to such person to be cleansed and disinfected;

(*f*) prohibit any such person from leaving the ship, or from leaving the ship save upon such conditions as may be specified in writing by the medical officer of health and appear to him to be reasonably necessary to prevent the spread of infection in the district or elsewhere;

(*g*) require the master to take or assist in taking such steps as, in the opinion of the medical officer of health, are reasonably necessary to prevent the spread of infection by any such person, and for the removal of conditions on the ship likely to convey infection, including the destruction of vermin, and the removal of conditions which harbour vermin:

Provided that any directions given by the Minister to the medical officer of health under this article shall be forthwith communicated to the sanitary authority.

5.—(1) The medical officer of health may cause any person on the ship who is suffering from infectious disease to be removed, if his condition so permits, to some hospital or other suitable place appointed for that purpose by the sanitary authority.

(2) If the condition of any such person does not permit of his removal as aforesaid, the medical officer of health may by notice in writing to the master prohibit

his removal or departure from the ship save with the consent in writing of the medical officer of health.

6. The master of any ship shall—

(a) notify forthwith the medical officer of health of any case of infectious disease on the ship, and of any circumstances on board the ship likely to lead to infection or the spread of infectious disease, including the sanitary condition of the ship and the presence of dead rats or mortality or sickness among rats in the ship;

(b) furnish the sanitary authority and the medical officer of health with all such information as may be reasonably required by them for the purposes of these regulations;

(c) comply with any directions or requirements of the sanitary authority or the medical officer of health given or made in pursuance of these regulations;

(d) give all such assistance to the sanitary authority or the medical officer of health as may be reasonably required by them in the execution of their duties in pursuance of these regulations.

7. Every person on board a ship shall comply with all directions, requirements or conditions given, made or imposed by the sanitary authority or the medical officer of health in pursuance of these regulations, and shall furnish all such information as may be reasonably required by them (including information as to his name, destination, and address), and where any person has for the time being the custody or charge of a child or other person on board a ship who is under disability he shall comply with any directions or requirements so given or made, and shall furnish all such information as aforesaid, in respect of such child or other person.

8. The sanitary authority may for the purposes of these regulations, and if so required by the Minister shall,—

(a) appoint one or more duly qualified medical practitioners for the purpose of assisting the medical officer of health in the performance of his duties and pay any such practitioner such reasonable remuneration for his services as the Minister may approve;

(b) appoint or employ with the approval of the Minister such other persons as they may think fit to exercise or perform under the direction of the medical officer of health or otherwise such powers and duties as the sanitary authority may assign to them;

(c) provide or arrange for the provision of—

  (i) premises and waiting rooms for the purposes of medical examination;
  (ii) apparatus or means for the cleansing and disinfection of ships, persons, clothing, and other articles;
  (iii) premises for the temporary accommodation of persons for whom such accommodation is required for the purposes of these regulations;
  (iv) hospital accommodation for persons to whom these regulations are applicable;
  (v) means of transport;

(d) do all such other things as in the opinion of the sanitary authority or of the Minister, as the case may be, are necessary for the purpose of enabling the provisions of these regulations to be complied with.

9. Article 3 of the Port Sanitary Authorities (Assignment of Powers) Order, 1912 (which relates to the cleansing of berths and cabins), shall be extended so as to apply to the whole of any ship or to any part thereof.

10. The provisions of these regulations shall be in addition to and not in derogation of the provisions of any regulations heretofore made by the Local Government Board and at present in force with respect to the powers and duties of sanitary authorities and of medical officers of health as herein defined.

11. Any expenses incurred by a sanitary authority in the execution of these regulations shall be defrayed in the same manner as the expenses incurred by them in the execution and discharge of their existing powers and duties.

NOTE.—By section 1 (3) of the Public Health Act, 1896, any person, &c.

Appendix II.

FINANCIAL ARRANGEMENTS TO BE MADE ON AND AFTER THE 1ST MAY, 1921, IN REGARD TO THE SCHEMES OF LOCAL AUTHORITIES FOR THE TREATMENT OF TUBERCULOSIS IN ENGLAND.

1. The Minister of Health will repay to the councils of counties and county boroughs (and to the joint committees for tuberculosis constituted under section 64 (3) of the National Insurance Act, 1911, for the exercise of all the powers of the constituent councils in regard to the institutional treatment of tuberculosis) the approved expenditure incurred by the councils and joint committees in the provision of residential treatment for tuberculous ex-service men in accordance with the arrangements set out in Memo. 30/T issued by the Minister of Health on the 31st March, 1921.

2.—(*a*) The Minister of Health will pay to each of the above-named councils and joint committees, in respect of the services to be rendered by their tuberculosis officers during the eight months 1st May to 31st December, 1921, in accordance with section 22. A of Memo. 30/T, the share of the council or joint committee in the sum of £6,650 mentioned in section 5 of circular 190, issued by the Minister on the 31st March, 1921. This sum will be allocated between the councils and joint committees in proportion to the populations of their areas, and the amount available for the county of London will be apportioned between the metropolitan borough councils in accordance with the populations of the several metropolitan boroughs.

(*b*) The records of the numbers of notifications, reports, etc., to be kept by tuberculosis officers, as indicated at the end of paragraph 22.A of Memo. 30/T, will be utilised in determining the amount of the payment to be made for these services for periods subsequent to 31st December, 1921.

3. Parliament will be asked to vote such an amount as will enable the Minister of Health to pay, as from the 1st May, 1921, to the councils of counties and county boroughs, and to the joint committees specified in paragraph 1 of this memorandum, a block grant of an annual amount equivalent to the amount received in respect of the year 1920 under their principal agreements with the insurance committees of their areas for the treatment of insured persons suffering from tuberculosis; or, in the case of those councils which have no comprehensive agreements with the insurance committees of their areas for the institutional treatment of insured persons, to the amount of the sanatorium benefit income which is available to the insurance committees of those areas in respect of the year 1920 for defraying the cost of institutional treatment.

The sum to be voted will also include a sum equivalent to the annual amount at present available to the Seaman's National Insurance Society for defraying the cost of the institutional treatment of tuberculosis. This sum will be distributed annually amongst the councils of those areas in which the society's members are located, in proportion to the number of members located in each area.

For the period 1st May, 1921, to 31st March, 1922, eleven-twelfths of the annual amount will be payable.

4. The Minister of Health will continue to distribute the annual Exchequer grant in aid of the cost of schemes of institutional treatment, equivalent to 50 per cent. of the net approved expenditure of councils and joint committees, after deduction of the amounts payable in accordance with the preceding paragraphs of this memorandum and of any receipts of the council or joint committee from any other source in respect of their scheme.

5. Parliament will be asked to vote such an amount as will enable the Minister of Health to pay grants to councils and joint committees equivalent to 50 per cent. of their approved expenditure on the provision of extra nourishment as part of the treatment of tuberculous persons who are not under treatment in residential institutions, subject to the annual expenditure for this purpose not exceeding £2 per 1000 of the population of the area of the council or joint committee.

MINISTRY OF HEALTH,
WHITEHALL, S.W.1.
March 31*st*, 1921.

Appendix II.

TREATMENT OF TUBERCULOSIS.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.,
March 31*st*, 1921.

SIR,—(1) I am directed by the Minister of Health to refer to circular 158 issued on the 1st December last, in which it was indicated that the first day of May, 1921, had been appointed as the date on which section 4 of the National Health Insurance Act, 1920 (which provides that sanatorium benefit shall cease to be included among the benefits conferred by Part I. of the National Insurance Act, 1911) should come into operation. On and after the 1st May next, insurance committees will accordingly no longer have the duty of providing treatment for insured persons suffering from tuberculosis, except in so far as medical treatment and attendance are provided, as part of medical benefit under section 8 (1) (*a*) of the National Insurance Act, 1911, as interpreted by section 4 (3) of the National Health Insurance Act, 1920; and the contributions payable by insured persons and their employers under the National Health Insurance Acts will not include any payment towards the cost of the institutional treatment of insured persons suffering from tuberculosis. It will therefore rest with the county and county borough councils to provide institutional treatment for such persons as well as for other members of the community.

(2) In practically every county and county borough a scheme for the institutional treatment of tuberculosis, comprising both dispensaries and residential institutions, is already in operation or in course of development, and is available for the treatment of the whole population of the area of the council. In the large majority of these areas agreements are also in operation by which the councils provide institutional treatment for insured persons suffering from tuberculosis in consideration of the payments by the insurance committees which are specified in the agreements. These agreements will of necessity be determined when sanatorium benefit is discontinued, and copies are enclosed of draft regulations under section 4 (2) of the National Health Insurance Act, 1920, providing for the termination of such agreements as at the 30th April, 1921. The arrangements which will be made for increasing the grant payable to councils in aid of their approved expenditure on the treatment of tuberculosis, consequent upon the discontinuance of the contributions hitherto received from the insurance committees, are explained in the accompanying Memorandum 31/T.

(3) In those areas in which the council have already undertaken, by agreement with the insurance committee, to provide institutional treatment for insured persons, no difficulty should arise in the continued provision by the council of the institutional treatment needed by such persons on and after the 1st May next. In the remaining areas it will be necessary for the council to supplement the provision they have already made, either by taking over the arrangements made by the insurance committee for the provision of residential treatment, or by making other arrangements for that purpose, to come into operation on the 1st May, under which at least an equivalent amount of residential treatment will be provided; and the Minister should be informed at the earliest possible date of the precise arrangements which the councils of these areas propose to make for that purpose.

It is important that there should be no interruption on the appointed day of the course of treatment provided by an insurance committee for any insured person. For this purpose, whether or not there is a general agreement in force between the council and the insurance committee in regard to the institutional treatment of insured persons, the council should obtain from the insurance committee as soon as possible a list showing any ex-service men and other persons who will be receiving treatment on the 30th April in residential institutions under arrangements made by the insurance committee otherwise than with the council, and make due provision for continuing the course of treatment being received by such persons.

(4) The regulations referred to in paragraph 3 provide for the following matters :—

* * * * * *

(5) The attention of the council is particularly drawn to the separate memorandum 30/T, issued with this circular, dealing with the special arrangements which should be made by the council for the treatment of ex-service men suffering from tuberculosis. The memorandum indicates the nature of the arrangements at present in force, and

explains in detail the arrangements which will be brought into operation on the 1st May, 1921. Provision is made for repayment to the council of the cost of residential treatment provided for ex-service men in accordance with these arrangements.

* * * * * *

(7) On the discontinuance of sanatorium benefit, insured persons will, of course, be no longer in a position to apply to their insurance committees for that benefit, and arrangements should be made whereby all cases of such persons, and of other members of the community, who are suffering from tuberculosis, are brought to the notice of the tuberculosis officer at the earliest possible date. Apart from cases in which patients apply to the council or their officers for treatment, this will usually be effected through the notification of the case under the Public Health (Tuberculosis) Regulations, 1912, and in order to secure prompt notification it is suggested that councils should once more circularise the medical practitioners practising in their areas, drawing attention to the importance of strict compliance with their obligations under Article V. of the regulations, and of their utilising freely the services of the tuberculosis officers in order that in any doubtful case a definite diagnosis may be arrived at as soon as possible. It is assumed that in all counties the weekly statements of notifications furnished to the county medical officer of health under Article XI. (3) of the regulations, and in county boroughs the notifications received by the medical officer of health, are at once made available for the tuberculosis officers.

(8) With the termination of sanatorium benefit, the Tuberculosis (Domiciliary Treatment in England) Order, 1916, will cease to have effect, but regulations (a draft of which is enclosed) will shortly be made by the Minister under the National Health Insurance Acts, 1911 to 1920, in order to provide for the continuance of periodical reports by insurance practitioners upon insured persons under treatment by such practitioners for tuberculosis, and for consultations in regard to such cases between the practitioner and the tuberculosis officer. A stock of the forms prescribed by the regulations for the purpose of these periodical reports will be supplied by this department to insurance committees, for distribution to the insurance practitioners in their respective areas. If, however, the council are for any special reasons desirous of themselves providing a stock of the forms for use in their area, it will be open to them to do so; and in that event they should arrange for the distribution of the forms through the insurance committee, and should also notify this department. It should also be borne in mind, if this course is followed, that as the regulations provide that the insurance practitioner is to make his first report in regard to each case when treatment for tuberculosis is first required to be given, it is important that the forms should be in the hands of the insurance practitioners by the 1st May. The reports will be transmitted by each practitioner to the regional medical officer appointed by the Minister under the provisions of the National Health Insurance (Medical Benefit) Regulations, 1920, for the district in which the practitioner carries on insurance practice, and will be forwarded to the medical officer to the appropriate tuberculosis officer.

(9) Insurance committees in general have made some provision, in the administration of sanatorium benefit, for the supply of extra nourishment to insured persons suffering from tuberculosis in cases where the tuberculosis officer has certified that the provision of such extra nourishment is necessary for the proper treatment of the case. The Minister is advised that such provision, in suitable cases, is to be regarded as an essential part of treatment, and he is prepared to consider applications from councils under section 3 of the Public Health (Prevention and Treatment of Disease) Act, 1913, for sanction to arrangements for the supply of extra nourishment to persons suffering from tuberculosis who are under treatment at home or at a dispensary. The arrangements should provide that extra nourishment will only be supplied as part of treatment on the recommendation of the tuberculosis officer in each case, and should indicate what precautions will be taken to prevent abuse; and an estimate should be furnished of expenditure to be incurred on this service during the period expiring on the 31st March, 1922. The arrangements should extend not only to insured persons, but to the population generally, excepting tuberculous ex-service men whose disease has been held to be attributable to or aggravated by war service. The provision of extra nourishment for these men, if their medical attendants certify that they need special diet, is a matter for the Local War Pensions

Appendix II.

Committees as explained in the circular letter addressed to insurance committees on the 10th February last, a copy of which was enclosed with circular 179.

In order that there may be no break in the supply of extra nourishment to insured persons, it is suggested that councils should temporarily take over, as from the 1st May next, the arrangements at present made by insurance committees, and the Minister hereby sanctions any reasonable expenditure incurred for this purpose in anticipation of his sanction to the complete arrangements proposed by the council. The basis upon which grants will be available for this service is explained in Memorandum 31/T.

* * * * * *

The Clerk of the Council,
or Joint Committee,
or The Town Clerk.

S. R. & O., 1921, No. 660.

THE PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1921, DATED APRIL 21, 1921, MADE BY THE MINISTER OF HEALTH.

* * * * * *

2. In the Regulations of 1912 the following definitions shall be substituted for the definitions contained in paragraphs (*h*) and (*i*) of Article I. of those regulations, that is to say—

"(*h*) The expression 'tuberculosis dispensary' means a non-residential institution approved by the Minister of Health for the treatment of tuberculosis."

"(*i*) The expression 'sanatorium' means a residential institution approved by the Minister of Health for the treatment of tuberculosis."

3. Sub-division (2) of Article XI. of the Regulations of 1912 shall be altered and have effect as if the words "the medical officer of a tuberculosis dispensary which serves any area within which the district is situate" were inserted therein immediately before the words "a school medical inspector."

4. Every medical officer of health shall from time to time, but not less often than once in every quarter, revise the register of notifications required to be kept by him in pursuance of Article XI. of the Regulations of 1912, by removing from such register the entries therein relating to notifications in respect of persons who have to his knowledge died or have ceased permanently to reside within the district for which he is medical officer of health.

5. Every medical officer of health, on becoming aware that a person who has been resident in his district and who is suffering from tuberculosis has permanently changed his place of residence into some other district, shall forthwith notify the medical officer of health of that district of the case and of all relevant particulars thereof which are contained in the register of notifications kept by him.

LOCAL AUTHORITIES.

MINISTRY OF HEALTH, WHITEHALL, S.W. 1.
April 21, 1921.

PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1921.

SIR,—I am directed by the minister of health to enclose herewith copies of the Public Health (Tuberculosis) Regulations, 1921, which have been issued for the purpose of amending the Public Health (Tuberculosis) Regulations, 1912, in certain respects.

In accordance with the provisions of section 4 of the National Health Insurance Act, 1920, sanatorium benefit will terminate in England and Wales on the 30th instant, and the provisions of section 16 (1) (*a*) of the National Insurance Act, 1911, will then cease to have effect. It has, consequently, been necessary to alter the definitions contained in paragraphs (*h*) and (*i*) of Article I. of the Regulations of 1912, and the necessary provision for this purpose is contained in Article 2 of the present regulations.

The effect of Article 3 of the present regulations is to enable the medical officer of a tuberculosis dispensary to have access to the register of notifications hereinafter referred to.

Experience has shown that in many districts the register of notifications which the medical officer of health is required to keep under Article XI. (2) of the Regulations of 1912 has not been kept up to date, and Article 4 of the present regulations therefore requires that every medical officer of health shall from time to time, but not less often than once in every quarter, revise the register by removing from it the entries therein relating to notifications in respect of persons who have, to his knowledge, died, and of persons who have ceased permanently to reside within his district.

Difficulties may be experienced in county districts in obtaining complete information for the purposes of this Article, but if there is adequate co-operation between the medical officer of health and the tuberculosis officer appointed by the county council for the district, the medical officer of health should be able generally to secure prompt information both of the deaths of notified patients and of removals of such patients to other districts. In the circular issued by the Local Government Board on the 20th December, 1912, with reference to the Regulations of 1912, it was pointed out that close co-operation between the medical officer of health and the tuberculosis officer was essential, and I am to draw attention to the suggestion which was then made that it would be desirable that the tuberculosis officer should, for the purpose of the tuberculosis regulations, act as an officer of the sanitary authority under the direction of the medical officer of health.

I am also to refer to section 28 of the Registration of Births and Deaths Act, 1874, under which a sanitary authority can obtain from the registrar of births and deaths, on payment of the prescribed fees, returns of the particulars registered concerning deaths from tuberculosis.

Article 5 of the present regulations requires every medical officer of health, on becoming aware that a person suffering from tuberculosis, who has been resident in his district, has permanently changed his place of residence, to notify forthwith the medical officer of health of the district to which the person has removed, and to furnish him with all relevant particulars of the case which are contained in the register of notifications. It will be apparent that for the due performance of his duties under this Article also, it is important that the medical officer of health should be in close touch with the work of the tuberculosis officer.

The present regulations will come into operation on the 1st May, and I am to request that the requirements of the regulations may at once be brought to the notice of the medical officer of health, to whom copies of the regulations and of this circular have been sent direct.

* * * * * *

I am, etc.

THE MINISTRY OF HEALTH (RATS AND MICE DESTRUCTION, TRANSFER OF POWERS) ORDER, 1922.

At the Court at Buckingham Palace, the 10th day of August, 1922.

* * * * * *

And whereas it appears to His Majesty that the powers and duties conferred or imposed upon the Minister of Agriculture and Fisheries under the Rats and Mice (Destruction) Act, 1919, relate, as respects port sanitary districts and vessels, to matters affecting or incidental to the health of the people, and that it is expedient that the said powers and duties should be transferred to the Minister of Health :

Now, therefore, His Majesty, by and with the advice of his privy council, is pleased to order, and it is hereby ordered, as follows :—

* * * * * *

On and after the date of this Order, the powers and duties of the Minister of Agriculture and Fisheries under the Rats and Mice (Destruction) Act, 1919, so far as they relate to the supervision of the administration and enforcement of that Act in any port sanitary district or in regard to vessels, shall be transferred to the Minister of Health.

References to the Minister of Health shall be substituted for references to the Minister of Agriculture and Fisheries in sections 3 and 7 of the said Act so far as those sections relate to the enforcement of that Act in a port sanitary district or in regard to vessels.

S. R. & O., 1924, No. 1411.

THE PUBLIC HEALTH (TUBERCULOSIS) REGULATIONS, 1924, DATED 18TH DECEMBER, 1924, MADE BY THE MINISTER OF HEALTH.

69,551.

* * * * * *

1. These Regulations . . . shall come into operation on the 1st day of January, 1925, and shall be read as one with the Regulations of 1912 and the Public Health (Tuberculosis) Regulations, 1921.

2. Every medical officer of health shall furnish the medical officer of health of the administrative county within which his district is situate, as soon as practicable after the end of each quarter, with a statement, compiled from the Register of Notifications required to be kept by him by Article XI. of the Regulations of 1912, and showing—

(*a*) The number of cases of tuberculosis on his register at the commencement of the quarter ;

(*b*) The number of cases notified to him under the Regulations of 1912 for the first time during the quarter ;

(*c*) The number of cases removed from the register during the quarter (giving the name and address of each such case, and the reason for such removal) ; and

(*d*) The number of cases remaining on the register at the end of the quarter.

Separate figures shall be given in each case for males and females, and for pulmonary and non-pulmonary cases.

3. In these regulations, the expression "quarter" means each period of three months ending on the 31st day of March, the 30th day of June, the 30th day of September, or the 31st day of December, as the case may be.

S. R. & O., 1925, No. 757.

THE PUBLIC HEALTH (PREVENTION OF TUBERCULOSIS) REGULATIONS, 1925, DATED 31ST JULY, 1925, MADE BY THE MINISTER OF HEALTH UNDER SECTION 130 OF THE PUBLIC HEALTH ACT, 1875, AS EXTENDED BY THE PUBLIC HEALTH (LONDON) ACT, 1891, THE PUBLIC HEALTH ACT, 1896, AND THE PUBLIC HEALTH (REGULATIONS AS TO FOOD) ACT, 1907.

The Minister of Health, in the exercise of the powers conferred on him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, and the Public Health (Regulations as to Food) Act, 1907, hereby makes the following regulations :—

* * * * * *

3. The local authority shall enforce and execute these regulations and for this purpose shall make such inquiries and take such other steps as may seem to them to be necessary for securing the due observance of the regulations in their district.

4. No person who is aware that he is suffering from tuberculosis of the respiratory tract shall enter upon any employment or occupation in connection with a dairy which would involve the milking of cows, the treatment of milk, or the handling of vessels used for containing milk.

5. Notwithstanding anything contained in the Public Health (Tuberculosis) Regulations, 1912, if a local authority, on the report in writing of their medical officer of health, are satisfied that a person residing in their district who is engaged in any such employment or occupation as aforesaid is suffering from tuberculosis of the respiratory tract and is in an infectious state, they may by notice in writing signed by the clerk or the medical officer of health require such person to discontinue his employment or occupation on or before the date specified in the notice, such date being not less than seven days after the service of the said notice, and such person shall thereupon comply with the said notice. A notice issued by the local authority under these regulations shall be in the form set forth in the Schedule thereto.

6.—(1) If any person deems himself aggrieved by a requirement of a local authority under these regulations, he may, within fourteen days after the service of notice of the requirement, appeal to a court of summary jurisdiction and shall in that event give written notice to the clerk to the local authority of his intention to appeal and the ground thereof.

(2) The court may make such order in the matter as may seem equitable to them, and may award costs, which shall be recoverable summarily as a civil debt, and the order so made shall be binding and conclusive.

(3) Upon the hearing of an appeal under this article the court shall have power with the consent of the appellant to direct that he be examined by a registered medical practitioner nominated by the court.

7. The provisions of section 308 of the Public Health Act, 1875 (which relates to compensation for damages sustained by reason of the exercise of the powers of the Act), shall apply to any person who sustains any damage by reason of the exercise of any of the powers to these regulations in relation to any matter as to which he is not himself in default.

SCHEDULE.

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S. R. & O., 1926, No. 971.

PUBLIC HEALTH, ENGLAND.

PREVENTION OF EPIDEMIC, ENDEMIC OR INFECTIOUS DISEASES.

THE PUBLIC HEALTH (OPHTHALMIA NEONATORUM) REGULATIONS, 1926, DATED 31ST JULY, 1926, MADE BY THE MINISTER OF HEALTH (a).

The Minister of Health, in exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, and the Public Health Act, 1896, and of every other power enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Public Health (Ophthalmia Neonatorum) Regulations, 1926, and shall come into operation on the 1st day of October, 1926.

2.—(1) In these Regulations, unless the contrary intention appears :—

"Local authority" means the common council of the City of London, the council of a metropolitan borough, the council of a municipal borough, or other urban district, or the council of a rural district ;

"Medical officer of health" means medical officer of health of a local authority ;

(a) These regulations are amended by amending regulations of 1928, *post*, p. 3183.

Appendix II.

"Medical practitioner" means any person for the time being registered under the Medical Acts;

"Ophthalmia neonatorum" means a purulent discharge from the eyes of an infant commencing within twenty-one days from the date of its birth;

"The Minister" means the Minister of Health;

"The Infectious Disease (Notification) Acts" means the Infectious Disease (Notification) Acts, 1889 to 1899, and includes section 55 of the Public Health (London) Act, 1891, and any provisions relating to the notification of infectious disease contained in any local Act or Order made thereunder.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The Public Health (Ophthalmia Neonatorum) Regulations, 1914, and, so far as they relate to ophthalmia neonatorum, the Notification of Infectious Disease (London) Regulations, 1920, are hereby revoked, but without prejudice to any right, obligation, or liability acquired, accrued or incurred thereunder.

4. The local authority shall enforce and execute these Regulations in their district and shall forthwith cause notice to be given to all medical practitioners resident or practising within the district of the duties thereby imposed upon them.

5.—(1) Subject to the provisions of these regulations every medical practitioner, on first becoming aware that a child upon whom he is in professional attendance is suffering from ophthalmia neonatorum, shall forthwith make and sign a notification of the case in the form prescribed for the purpose of certificates under the Public Health (Notification of Infectious Disease) Regulations, 1918, at the same time stating in writing, either on the form or on a separate sheet attached to the form, the date of birth of the child, the name and address [at the time of notification] (*a*) of the parent or other person, if any, having charge of the child, and the date of the onset of the disease, and shall transmit the notification and statement to the medical officer of health of the district within which [he is attending such child] (*a*) at the date of notification:

Provided that a medical practitioner shall not be required to notify a case of ophthalmia neonatorum, under these regulations if the case is notifiable or has been notified under the Infectious Disease (Notification) Acts.

(2) Every medical practitioner who transmits to a medical officer of health a notification of a case of ophthalmia neonatorum under the Infectious Disease (Notification) Acts shall at the same time state in writing, either on the form or on a separate sheet attached to the form, the date of birth of the child, the name and address [at the time of notification] (*a*) of the parent or other person, if any, having charge of the child, and the date of the onset of the disease.

6. A notification to be transmitted to a medical officer of health in pursuance of these regulations shall be addressed to that officer and may be transmitted by being delivered to him or by being delivered at his office or residence, or may be sent by prepaid letter post addressed to him at his office or at his residence. The notification shall either be enclosed in a sealed envelope or shall be folded in such manner that during its transmission the particulars of the notification cannot be observed.

7.—(1) The local authority shall pay to every medical practitioner a fee of two shillings and sixpence for each notification duly made, signed and transmitted by him under these regulations if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or of any institution.

(2) Every fee shall be paid as soon as practicable after the end of the quarter during which the notification was sent, and the local authority shall not require before payment an account of fees claimed under these Regulations.

(3) The said fees shall in each case be deemed to cover all expenses, including the cost of transmission.

8. The medical officer of health of the local authority shall forward a copy of every notification received by him under these Regulations to the medical officer

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(*a*) Words in square brackets inserted in consequence of Amending Regulations of 1928, *post*, p. 3183.

Appendix II. of health of the administrative county within which the district is situate within twenty-four hours after the receipt of the notification.

9. The provisions of sub-section (4) of section 55 of the Public Health (London) Act, 1891, shall apply to any notification received by a medical officer of health of any local authority in the administrative county of London, in pursuance of these Regulations, in like manner as the provisions of the subsection apply to a certificate received by a medical officer of health under the said section.

10. Where a child is an inmate of any building, ship, vessel, boat, tent, van, shed, or similar structure belonging to His Majesty the King, nothing in these Regulations shall be construed as requiring a notification to be transmitted to a medical officer of health in respect of that child in any case not falling within the provisions of paragraph (*b*) of section 5 of the Local Government (Emergency Provisions) Act, 1916 (as made permanent by the Expiring Laws Act, 1925, and as applied to the Royal Air Force by the Air Force (Application of Enactments) (No. 2) Order, 1918.

* * * * * *

CIRCULAR 722.

COUNTY COUNCILS—LOCAL SANITARY AUTHORITIES.

MINISTRY OF HEALTH, WHITEHALL, LONDON, S.W.1,
9th August, 1926.

PUERPERAL FEVER AND PUERPERAL PYREXIA.

SIR,—I am directed by the Minister of Health to forward to you the enclosed copies of the Public Health (Notification of Puerperal Fever and Puerperal Pyrevia) Regulations, 1926, which will come into operation on the 1st October, 1926.

Notification.

Puerperal fever has been notifiable throughout the country since the Infectious Disease (Notification) Extension Act, 1899, came into force. Experience has shown, however, that for a variety of reasons notification of this disease has been far from complete; with the result that not only are the statistics relating to the disease inaccurate and misleading (particularly as regards incidence and fatality rate), but measures for the prevention and effective treatment of the condition have been seriously hampered. In this connection, reference may be made to pages 58 to 62 Dame Janet Campbell's report on Maternal Mortality (Reports on Public Health and Medical Subjects No. 25) which was issued in 1924.

The main reason for the comparative failure to notify is to be found in the fact that puerperal fever is ill defined and is not a specific disease comparable with scarlet fever or diphtheria. There is frequently, therefore, a genuine doubt as to the correct diagnosis. The term moreover bears a connotation which may be thought to imply some slur upon the patient or medical attendant, and this may possibly act as a deterrent to notification of a doubtful case. In any event, it is certain that many cases are not notified at all and that severe cases are often notified only when it is too late for effective action to be taken ; and it is therefore important to modify the existing arrangements for the notification of puerperal fever by requiring the prompt notification of this morbid process as soon as symptoms suggestive of septic infection become manifest, in order that adequate nursing and treatment can be ensured and the spread of infection to others prevented.

The Minister consulted the section of obstetrics and gynæcology of the Royal Society of Medicine in this matter, and a representative committee appointed by the section submitted a report in February, 1925, upon which the enclosed Regulations are based.

The Minister is advised that it will ultimately be desirable to replace the term "puerperal fever" by the term "puerperal pyrexia," the latter being defined in terms which involve no theory as to causation, but without legislation amending the Infectious Disease (Notification) Acts it is not practicable to substitute "puerperal pyrexia" for "puerperal fever" as a disease notifiable under those Acts. The Regulations therefore, while prescribing new forms for the notification of cases of puerperal fever, also require the notification of cases of puerperal pyrexia (as defined in the Regulations) *in addition to* the present notification of puerperal fever under the Infectious Disease (Notification) Acts, thus placing an obligation upon medical practitioners to notify all cases of pyrexia during the puerperium irrespective of the cause to which the fever may be attributed. It is recognised that this requirement will lead to a great increase in the number of notifications and that many cases so reported will be relatively trivial in degree, but the great importance of securing adequate treatment in the early stages of puerperal infection is regarded as outweighing any objection to the notification of a certain amount of minor illness which gives no cause for anxiety.

Reports received on inquiries recently carried out in regard to the occurrence of puerperal infection in connection with various maternity institutions in different parts of the country, lead the Minister to think that pyrexia during the puerperium is not infrequently looked upon as a comparatively unimportant incident, and that proper precautions to prevent the spread of infection are at times neglected with disastrous results. He desires to take this opportunity of impressing upon all those concerned with administration or treatment in maternity institutions that the presence of infection, however slight in degree, in a patient or in a member of the staff should be considered as liable to give rise to an outbreak of virulent infection and should be dealt with accordingly.

Article 3 of the Regulations requires the local authority to cause notice to be given to all medical practitioners resident or practising within the district of the authority of the duties imposed upon them by the Regulations, and Article 4 requires the authority also to supply practitioners with copies of the notification forms which are prescribed in the Schedules to the Regulations. In this connection, it will be desirable to explain that the effect of Articles 7 and 8 is merely to require medical practitioners when notifying a case of puerperal fever under the Infectious Disease (Notification) Act, 1889, or under section 55 of the Public Health (London) Act, 1891, to use the form prescribed in Part I. or Part II., as the case may be, of the First Schedule to the present Regulations, instead of the forms contained in the Schedules to the Public Health (Notification of Infectious Disease) Regulations, 1918. The attention of practitioners should also be specially called to the definition of "puerperal pyrexia" and to the fact that the notification forms enable practitioners, when notifying a case of either puerperal fever or puerperal pyrexia, to indicate whether any assistance in dealing with the case is desired.

It will be observed that Article 13 of the Regulations requires the medical officer of health of any local authority in London, who receives a notification of a case of puerperal pyrexia, to send a copy of the notification, within twelve hours after its receipt, to the metropolitan asylum managers. This requirement already applies to notifications of cases of puerperal fever by virtue of section 55 (4) of the Public Health (London) Act, 1891, and in this connection I am to draw the attention of metropolitan borough councils to Circular 622 which was issued on the 14th September, 1925, and to suggest that the attention of medical practitioners in London should again be drawn to the special arrangements described in that Circular which have been made by the metropolitan asylum managers for the treatment of cases of puerperal fever.

Facilities for Treatment.

It will be realised that if the more complete notification is to have practical value it should be supplemented by the provision, when necessary, of facilities for assistance in diagnosis and for the treatment of patients who are not able to secure adequate treatment for themselves. These facilities can most readily be provided by the local authorities which are administering schemes under the Maternity and Child Welfare Act, 1918, and it will be observed that provision is made in Article 5 of the Regulations by which these authorities will receive prompt information of cases arising in the districts of sanitary authorities which do not administer such schemes. Maternity and child welfare authorities are empowered, with the sanction of the Minister, to make provision for the special treatment of women suffering from puerperal pyrexia, for consultation with an obstetric specialist, for skilled nursing, or for institutional treatment; and it is important that these authorities and their medical officers of health should do all that is possible to meet the requests of medical practitioners for special assistance for women suffering from puerperal pyrexia which is, or is likely to be, serious in character, in order that maternal mortality and morbidity from this cause may be so far as possible prevented.

If special assistance from the local authority is desired, the medical officer of health should ask the medical practitioner to supply him with further information which might include some or all of the following points:—

1. Conditions in the patient, if any, prior to the labour, which might have been factors in producing the pyrexia, *e.g.* septic foci, vaginal discharge, carious teeth, etc.
2. The names of all persons who have made internal examinations, including the name of the person who delivered the patient: their occupations and professional qualifications (if any).
3. Day and hour of commencement of labour or miscarriage.
4. The clinical course of labour or miscarriage, mentioning any special means used to assist labour, *e.g.* obstetrical operations or manual removal of placenta; and any injuries incurred by the patient.
5. The duration of labour and time of termination of labour or miscarriage.
6. The clinical history subsequent to delivery, including the amount and character of lochia; copy of temperature chart, etc.
7. The time of the onset and the probable cause of pyrexia.
8. Any cases of specific fevers, erysipelas, puerperal pyrexia, or other possible forms of sepsis, visited recently by doctor or other attendant, giving dates.

I am, etc.

The Clerk of the Council or The Town Clerk.

S. R. & O., 1926, No. 972.

PUBLIC HEALTH, ENGLAND.

THE PUBLIC HEALTH (NOTIFICATION OF PUERPERAL FEVER AND PUERPERAL PYREXIA) REGULATIONS, 1926, DATED 31ST JULY, 1926, MADE BY THE MINISTER OF HEALTH (*a*).

The Minister of Health in exercise of the powers conferred on him by the Public Health Act, 1875, the Infectious Disease (Notification) Act, 1889, the Public Health (London) Act, 1891, and of every other power enabling him in that behalf hereby makes the following Regulations:

PART I.—*General.*

1. These Regulations may be cited as the Public Health (Notification of Puerperal Fever and Puerperal Pyrexia) Regulations, 1926, and shall come into operation on the 1st day of October, 1926.

2.—(1) In these Regulations, unless the contrary intention appears:

"Local authority" means the common council of the City of London, the council of a metropolitan borough, the council of a municipal borough or other urban district, the council of a rural district, or a port sanitary authority.

"Medical officer of health" means medical officer of health of a local authority;

"Medical practitioner" means any person for the time being registered under the Medical Acts;

"The Minister" means the Minister of Health;

(*a*) These regulations are amended by Amending Regulations of 1928 at p. 3183, *post.*

"The Infectious Disease (Notification) Acts" means the Infectious Disease (Notification) Acts, 1889 to 1899, and includes section 55 of the Public Health (London) Act, 1891, and any provisions relating to the notification of infectious disease contained in any local Act or order made thereunder.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The local authority shall enforce and execute these Regulations in their district and shall forthwith cause notice to be given to all medical practitioners resident or practising within the district of the duties thereby imposed upon them.

4. For the purposes of these Regulations the local authority shall provide and maintain a sufficient supply of printed copies of the appropriate forms set out in the Schedules to these Regulations, and shall as soon as practicable after these Regulations come into operation, and afterwards from time to time when application is made to them, furnish printed copies of the said forms to every medical practitioner resident or practising within the district.

5. The medical officer of health of the authority shall forward a copy of every notification received by him under Part II. or Part III. of these Regulations to the medical officer of health of the administrative county within which the district is situate within 24 hours after the receipt of the notification.

6. Where a woman is an inmate of any building, ship, vessel, boat, tent, van, shed, or similar structure belonging to His Majesty the King, nothing in these Regulations shall be construed as requiring a notification to be transmitted to a medical officer of health in respect of that woman in any case not falling within the provisions of paragraph (*b*) of section 5 of the Local Government (Emergency Provisions) Act, 1916 (as made permanent by the Expiring Laws Act, 1925, and as applied to the Royal Air Force by the Air Force (Application of Enactments) (No. 2) Order, 1918).

PART II.—*Puerperal Fever.*

7. The form of certificate contained in Part I. of the First Schedule to these Regulations shall be the form for the purpose of any notification of puerperal fever to be given by a medical practitioner to the medical officer of health of a municipal borough or of any other urban district or of a rural district or of a port sanitary district (other than the London port sanitary district) under subsection (1) (*b*) of section 3 of the Infectious Disease (Notification) Act, 1889, and the form of certificate contained in Part II. of the said schedule shall be the form for the purpose of any notification of puerperal fever to be given by a medical practitioner to the medical officer of health of the City of London, of the London port sanitary district or of a metropolitan borough under subsection (1) (*b*) of section 55 of the Public Health (London) Act, 1891.

8. In so far as they relate to puerperal fever the Public Health (Notification of Infectious Disease) Regulations, 1918, are hereby revoked but without prejudice to any right, obligation or liability acquired, accrued or incurred thereunder.

PART III.—*Puerperal Pyrexia.*

9. In this part of these Regulations the expression "puerperal pyrexia" means any febrile condition (other than a condition which is required to be notified as puerperal fever under the Infectious Disease (Notification) Acts) occurring in a woman within 21 days after childbirth or miscarriage in which a temperature of 100·4° Fahrenheit (38° Centigrade) or more has been sustained during a period of 24 hours or has recurred during that period.

10. Subject to the provisions of this part of these Regulations every medical practitioner, on first becoming aware that a woman upon whom he is in professional attendance is suffering from puerperal pyrexia, shall forthwith make and sign a notification of the case in the form contained in the Second Schedule to these Regulations, and shall transmit the notification to the medical officer of health of the district within which [he is attending such woman] (*a*) at the date of notification.

(*a*) Words in square brackets inserted in consequence of Amendment Regulations of 1928, *post*, p. 3183.

11. A notification to be transmitted to the medical officer of health in pursuance of this Part of these Regulations shall be addressed to that officer and may be transmitted by being delivered to him or by being delivered at his office or residence, or may be sent by prepaid letter post addressed to him at his office or at his residence. The notification shall either be enclosed in a sealed envelope or shall be folded in such manner that during its transmission the particulars of the notification cannot be observed.

12.—(1) The local authority shall pay to every medical practitioner a fee of two shillings and sixpence for each notification duly made, signed and transmitted by him under this part of these Regulations if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or of any institution.

(2) Every fee shall be paid as soon as practicable after the end of the quarter during which the notification was sent, and the local authority shall not require before payment an account of fees claimed under these Regulations.

(3) The said fees shall in each case be deemed to cover all expenses, including the cost of transmission.

13. The provisions of subsection (4) of section 55 of the Public Health (London) Act, 1891, shall apply to any notification received by a medical officer of health of any local authority in the Administrative County of London, in pursuance of this Part of these Regulations, in like manner as the provisions of the subsection apply to a certificate received by a medical officer of health under the said section.

SCHEDULES.

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S. R. & O., 1927, No. 1004.

THE PUBLIC HEALTH (INFECTIOUS DISEASES) REGULATIONS, 1927, DATED 19TH OCTOBER, 1927.

Whereas by the Public Health (Pneumonia, Malaria, Dysentery, etc.) Regulations, 1919, made under s. 130 of the Public Health Act, 1875, as extended to London by the Public Health (London) Act, 1891, and as amended by the Public Health Act, 1896, provision was made for the notification, prevention, and treatment of malaria, dysentery, trench fever, acute primary pneumonia, and acute influenzal pneumonia, and for the prevention and treatment of enteric fever, relapsing fever, and typhus fever:

And whereas it is expedient that the following regulations should be substituted for the provisions of the said Regulations:

Now, therefore, the Minister of Health, in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, and the Public Health Act, 1896, and of every other power enabling him in that behalf, hereby makes the following Regulations, that is to say:—

Definitions, etc.

1.—(1) In these Regulations, unless the contrary intention appears:—

"Local Authority" means, as the case may be, the mayor, aldermen, and commons of the City of London in common council assembled, the council of a metropolitan borough, the council of a municipal borough or other urban district, the council of a rural district, or a port sanitary authority;

"District" means the district of a local authority;

"Medical Officer of Health" means medical officer of health of a local authority;

"Medical Practitioner" means a person for the time being registered under the medical Acts;

"Occupier" includes a person having the charge, management, or control of a building, or of the part of a building in which the patient is, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person, and in the case of a ship, vessel, or boat, the master or other person in charge thereof;

"Dysentery" includes amœbic and bacillary dysentery;

"Enteric Fever" includes typhoid and paratyphoid fevers;

"The Act of 1891" means the Public Health (London) Act, 1891;

"The Regulations of 1919" means the Public Health (Pneumonia, Malaria, Dysentery, etc.) Regulations, 1919;

"The Minister" means the Minister of Health.

(2) The provisions of these Regulations shall apply to every ship, vessel, boat, tent, van, shed, or similar structure used for human habitation, in like manner as nearly as may be as if it were a building. A ship, vessel, or boat lying in any river, harbour, or other water not within the district of any local authority shall be deemed for the purposes of these Regulations to be within the district of such local authority as may be fixed by the Minister, and where no local authority has been fixed, then of the local authority of the district which nearest adjoins the place where such ship, vessel, or boat is lying.

(3) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Commencement of Regulations.

2. These Regulations shall come into operation on the 1st January, 1928, and shall then and thereafter apply and have effect throughout England and Wales, and shall be enforced and executed by every local authority.

Revocation of existing Regulations and application of provision of Acts and Orders.

3.—(1) The Regulations of 1919 are hereby revoked.

(2) The provisions as to notification contained in these Regulations shall have effect in place of any provisions contained in any Order made by any local authority under the Infectious Disease (Notification) Act, 1889, providing for the notification to the medical officer of health of cases of malaria or pneumonia occurring in the district of the local authority.

(3) The provisions of subsection (4) of section 55 of the Act of 1891 shall apply to any notification received by a medical officer of health of any local authority in the administrative county of London in pursuance of these Regulations, in like manner as the provisions of the subsection apply to a certificate received by a medical officer of health under the said section.

Notice of Provisions of Regulations.

4. The local authority shall forthwith cause notice to be given to all medical practitioners resident or practising within the district of the local authority of the duties imposed upon them by these Regulations and of the alterations which have been effected by these Regulations in the duties which were imposed upon them by the Regulations of 1919.

NOTIFICATION OF MALARIA, DYSENTERY, ACUTE PRIMARY PNEUMONIA, AND ACUTE INFLUENZAL PNEUMONIA.

Notification by Medical Practitioners.

5. Subject to the provisions of these Regulations, every medical practitioner, as soon as he becomes aware that a person upon whom he is in professional attendance is suffering from malaria, or dysentery, or acute primary pneumonia, or acute influenzal pneumonia, shall forthwith transmit a notification thereof to the medical officer of health of the district, in the form and containing the particulars set forth

in Schedule A or Schedule B, as the case may be, of the Public Health (Notification of Infectious Disease) Regulations, 1918:

Provided that a medical practitioner shall not be required to notify to the medical officer of health of the district a case of malaria occurring in an institution in which the infection has been induced for therapeutic purposes; but, at least four days before the discharge of the patient from the institution, the medical practitioner under whose charge he has been shall, if he is of opinion that the patient may be regarded as liable to relapses of malaria, notify the case to the medical officer of health of the district in which the patient proposes to reside, in the form and containing the particulars set forth in the Second Schedule to these Regulations.

Supply of Forms of Notification.

6. For the purposes of these Regulations every local authority shall provide and maintain a sufficient supply of printed copies of the prescribed Forms of Notification, and shall from time to time when application is made to them, furnish printed copies of the said forms to every medical practitioner practising within the district of the local authority.

Transmission of Notifications.

7. A notification to be transmitted to a medical officer of health in pursuance of these Regulations shall be enclosed in a sealed envelope addressed to that officer, and may be transmitted by being delivered to him or by being delivered at his office or residence, or may be sent by prepaid letter post addressed to him at his office or at his residence:

Provided that the requirement herein contained that a notification shall be enclosed in a sealed envelope shall be deemed to be complied with if the notification is folded in such a manner that during its transmission the particulars of the notification cannot be observed.

Fees for Notification.

8.—(1) The local authority shall pay to every medical practitioner a fee of two shillings and sixpence for each notification duly made, signed, and transmitted by him under these Regulations if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or of any institution.

(2) Every fee shall be paid as soon as practicable after the end of the quarter to which the notification was sent, and the local authority shall not require before payment an account of fees claimed under these Regulations.

(3) The said fees shall in each case be deemed to cover all expenses, including the cost of transmission.

(4) The receipt of such fees shall not disqualify the medical practitioner for serving as a member of a local authority or in any other public office.

ACTION TO BE TAKEN IN REGARD TO THE VARIOUS DISEASES TO WHICH THESE REGULATIONS RELATE.

Duties of Medical Officers of Health.

9. A medical officer of health on receipt of a notification under these Regulations in relation to a case occurring in a place which is not in his district shall, unless such notification is made under the proviso to Regulation 5 hereof, forthwith forward the notification to the medical officer of health of the district in which the place is situated.

10. Upon the receipt of a notification under these Regulations, or on becoming aware in any other way of a case or suspected case of malaria, or dysentery, or acute primary pneumonia, or acute influenzal pneumonia, in his district, the medical officer of health, or an officer of the local authority acting under the instructions of the medical officer of health, shall make such inquiries and take such steps as are necessary or desirable for investigating the source of infection, for preventing

the spread of infection, and for removing conditions favourable to infection, and if no medical practitioner is in attendance on the patient, the medical officer of health shall also take such steps as are necessary or desirable for ascertaining the nature of the case.

11. The duties of a medical officer of health on becoming aware of a case or cases in his district of (i) malaria, or (ii) typhus fever, or relapsing fever, or (iii) enteric fever or dysentery, shall, in addition to those set forth in Article 10 above, comprise the duties set forth in Parts I., II., and III. of the First Schedule to this Order respectively.

Savings.

12. Nothing in these Regulations shall be deemed to authorise a medical officer of health or other officer of any local authority to take any of the steps herein mentioned at any institution other than one belonging to the local authority, except with the consent of the managers of that institution.

13. Where a patient is an inmate of any building, ship, vessel, boat, tent, van, shed, or similar structure belonging to His Majesty the King, nothing in these Regulations shall be construed as requiring a notification to be transmitted to a medical officer of health in respect of that patient in any case not falling within the provisions of para. (*b*) of section 5 of the Local Government (Emergency Provisions) Act, 1916 (as made permanent by the Expiring Laws Act, 1925, and as applied to the Royal Air Force by the Air Force (Application of Enactments) (No. 2) Order, 1918).

Expenses of Medical Officer of Health.

14. Any expenses incurred by a medical officer of health in carrying out the duties imposed upon him by these Regulations shall be defrayed by the local authority of the district for which he is medical officer of health.

Duties of Local Authorities.

15.—(1) The local authority may provide or contract for the provision of medical assistance for any person in the district who is suffering from any of the diseases mentioned in these Regulations and is in need of such assistance.

(2) In cases of (i) malaria, (ii) typhus fever or relapsing fever, or (iii) enteric fever or dysentery, the local authority shall perform the duties imposed on it by Parts I., II., and III.. of the First Schedule to this Order respectively.

Duties of recipients of Notices under the First Schedule.

16. A person to whom a notice is given by the local authority under the provisions contained in the First Schedule hereto shall observe and perform any instructions lawfully given in such notice.

Compensation.

17. The provisions of section 308 of the Public Health Act, 1875 (which relates to compensation for damages sustained by reason of the exercise of the powers of the Act) shall apply to any person who sustains any damage by reason of the exercise of any of the powers of these Regulations in relation to any matter as to which he is not himself in default.

Short Title.

18. These Regulations may be cited as "The Public Health (Infectious Diseases) Regulations, 1927."

Appendix II.

SCHEDULES.

FIRST SCHEDULE.

PART I.

Malaria.

1. In every case of malaria occurring in his district of which the medical officer of health becomes aware, and in which he considers that action is necessary to prevent the spread of infection, he shall take all necessary and practicable steps to ensure that the person suffering from malaria :—

(1) is supplied with efficient mosquito netting,
(2) receives necessary quinine treatment,
(3) receives proper advice as to the continuation of quinine treatment in order to prevent relapses, and
(4) receives proper advice as to the precautions to be taken to prevent the spread of infection.

2. On the occurrence within a district of two or more cases in which the infection has, in the opinion of the medical officer of health, been contracted within the district, the local authority may, and if required by the Minister shall, appoint and pay a medical practitioner approved by him who shall—

(1) make systematic visits to houses where malaria has occurred or where risk of malaria infection arises, and shall offer to examine persons therein who are suspected of being infected with malaria and shall endeavour to obtain material for microscopic examination in order to determine whether malarial infection is present, and
(2) secure that effective measures are taken to prevent the spread of infection by the administration of quinine, by the use of mosquito netting, and by the destruction of mosquitoes, and otherwise.

3. In every case occurring in his district of which the medical officer of health becomes aware and in which he has reason to believe that the infection was contracted in England or Wales (including every case in which the notification relates to a patient in whom the malaria has been induced for therapeutic purposes), the medical officer of health shall immediately send the name and address of the patient to the Minister, and, unless the district is a county borough, to the medical officer of health of the county in which the district is situate.

PART II.

Typhus Fever and Relapsing Fever.

1. In any case of typhus fever or relapsing fever occurring in his district of which the medical officer of health becomes aware.

(i) he shall immediately send the name and address of the patient to the Minister, and, unless the district is a county borough, to the medical officer of health of the county in which the district is situated ;
(ii) if he is satisfied that it is necessary, he shall report accordingly to the local authority who may, by notice in writing, require—
  (*a*) that such measures as may be specified in the notice shall be immediately taken to the satisfaction of the medical officer of health to obtain the complete destruction of lice on the person and clothing of every occupant of the building, and to secure the destruction of lice or their products in the building ;
  (*b*) the temporary segregation, for a period to be specified in the notice, of other inmates of the building or of other persons recently in contact with the patient until their persons and clothing have been completely freed from lice.
(iii) The notice may be addressed to the head of the family to which the patient belongs, or to any person in charge of or in attendance on the patient, or any other person in the building of which the patient is an inmate, or the occupier of the building, and also to a person with whom the patient has recently been in contact.

PART III.

A.—*Enteric Fever and Dysentery.*

1.—(i) In any case of enteric fever or dysentery occurring in his district of which the medical officer of health becomes aware, and in connection with which he is of opinion after inquiry that such a course is necessary to prevent the spread of infection, he shall report accordingly to the local authority who may by notice in writing require that, until a further notice in writing is given by them revoking the first mentioned notice on the ground that the risk of infection is removed—

(*a*) the person specified in the notice shall discontinue any occupation connected with the preparation or handling of food or drink for human consumption,

(*b*) suitable measures to be specified in the notice shall be taken with respect to cleansing, disinfection, disposal of excreta, destruction of flies, and prevention of contamination of articles of food or drink for human consumption.

(ii) The notice may be addressed to the head of the family to which the patient belongs, or to any person in charge of or in attendance on the patient, or to any other person in the building or place of which the patient is an inmate, or to the occupier of the building or place.

2.—(i) If a medical officer of health has grounds for suspecting that any person in the district who is employed in any trade or business concerned with the preparation or handling of food or drink for human consumption is a carrier of enteric fever or dysentery infection, he shall report accordingly to the local authority, who may give notice in writing to the responsible manager of the trade or business concerned certifying that for the purpose of preventing the spread of the disease they consider it necessary for their medical officer of health or a medical officer acting on his behalf to make a medical examination of such suspected person, and the responsible manager and all other persons concerned shall give to the medical officer of health all reasonable assistance in the matter.

(ii) If from the result of any such examination, or from bacteriological or protozoological examination of material obtained at any such examination, or from any other evidence which he may deem sufficient for the purpose, the medical officer of health is of opinion that the specified person is a carrier of enteric fever or dysentery infection, the medical officer of health shall report to the local authority who may give a notice in writing to that effect to the responsible manager and to the suspected person with a view to preventing, during a period to be specified in such notice, the employment of the person to whom the notice relates in the conduct of the trade or business, or in any other trade or business concerned with the preparation or handling of food or drink for human consumption.

SECOND SCHEDULE.

Notification of Malaria (induced for therapeutic purposes).

To the medical officer of health for the of .

In accordance with the requirements of Article 5 of the Public Health (Infectious Diseases) Regulations, 1927, I hereby certify and declare that * who proposes to reside at † at present an inmate of ‡ and due for discharge on has suffered from malaria induced for therapeutic purposes, and, in my opinion, may be regarded as liable to be attacked by relapses of this disease.

Particulars :

Age of patient Sex
Date of induction of the disease
Observations §

(Signed) ....
Medical Practitioner.

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* Name in full of person who has suffered from the disease.

† No, or name of house, and name of the street or road, and parish or place, in which the person proposes to reside. In the case of a ship, boat, tent, van, shed, or other similar structure, the name or description of the dwelling and the name of the place where it is situate should be given. The particulars given should be sufficient to enable the address to be promptly found.

‡ Name and address of institution.

§ Notes on the clinical course of the disease and the form of treatment (quinine, etc.) employed.

CIRCULAR 820.

TO SANITARY AUTHORITIES, ETC.

MINISTRY OF HEALTH,
24th October, 1927.

PUBLIC HEALTH (INFECTIOUS DISEASES) REGULATIONS, 1927.

SIR,—I am directed by the Minister of Health to state that he has had under review the Public Health (Pneumonia, Malaria, Dysentery, etc.) Regulations, 1919, which provide for the notification and treatment of certain infectious diseases, and contain provisions for the prevention and treatment of other infectious diseases which are notifiable under the general law. After careful consideration it has been decided to issue new Regulations dealing with these diseases, and to revoke the Regulations of 1919 as from the 1st January next.

Copies of the new Regulations are enclosed, and I am to draw attention to Article 4 which requires the local authority to cause notice to be given forthwith to all medical practitioners resident or practising within the district of the local authority of the duties imposed upon them by the new Regulations, and of the alterations which have been made in the duties which were imposed on them by the Regulations of 1919.

The following is a statement of the principal alterations which are effected by the new Regulations:—

(1) It has been decided that there is no longer any necessity to require cases of trench fever to be notified to the medical officer of health.

(2) As regards malaria and dysentery, Article 5 of the Regulations provides for the notification of every case of those diseases by any medical practitioner who becomes aware that a person upon whom he is in professional attendance is suffering from either disease, except in those cases of malaria for which provision is made in the proviso to that Article. It has not been considered desirable to continue the exemption from notification, contained in Article V. of the Regulations of 1919, of a case which has already been notified within six months of the date on which a medical practitioner first becomes aware of the disease in that case.

(3) The proviso to Article 5 of the new Regulations exempts from notification a case of malaria in which the disease has been induced in an institution for therapeutic purposes. But if the medical practitioner under whose charge the patient has been is of opinion that the patient may be regarded as liable to relapses of malaria, he is required, at least four days before the discharge of the patient from the institution, to notify the case, in the form set out in the Second Schedule to the Regulations, to the medical officer of health of the district in which the patient proposes to reside.

(4) Article 8 provides for the payment by the local authority of a fee of 2*s*. 6*d*. to the notifying practitioner for each notification made under the Regulations if the case occurs in his private practice, and of 1*s*. if the case occurs in his practice as medical officer of any public body or institution.

(5) Article 17 provides that section 308 of the Public Health Act, 1875, shall apply to any person who sustains any damage by reason of the exercise of any of the powers of the Regulations in relation to any matter in which he is not himself in default. This provision has been included more particularly with reference to the powers conferred in Part III. of the First Schedule to the Regulations.

I am to add that it has not been thought desirable to include in the present Regulations any provision similar to Article XIX. (2) of the Regulations of 1919. I am, however, to draw attention to the provisions contained in section 124 of the Public Health Act, 1875, and section 66 of the Public Health (London) Act, 1891, as to the removal to hospital of persons suffering from dangerous infectious disease.

Copies of this Circular and of the enclosed Regulations have been forwarded to the medical officer of health, and further copies may be obtained from the addresses shown below.

I am, etc.

Appendix II.

S. R. & O., 1928, No. 419.

PUBLIC HEALTH, ENGLAND.

PREVENTION OF EPIDEMIC, ENDEMIC OR INFECTIOUS DISEASES.

THE PUBLIC HEALTH (OPHTHALMIA NEONATORUM) AMENDMENT REGULATIONS, 1928, DATED MAY 25, 1928, MADE BY THE MINISTER OF HEALTH.

1. These Regulations may be cited as the Public Health (Ophthalmia Neonatorum) Amendment Regulations, 1928, and these Regulations and the Public Health (Ophthalmia Neonatorum) Regulations, 1926 (hereinafter called "the principal Regulations") shall be construed together and may be cited as the Public Health (Ophthalmia Neonatorum) Regulations, 1926 and 1928.

2. These Regulations shall come into operation on the first day of July, 1928.

3. Article 5 of the principal Regulations shall be altered as follows:—

(i) The words "within which he is attending such child" shall be substituted for the words "within which the place of residence of the parent or other person, if any, having charge of the child is situate" in paragraph (1).

(ii) The words "at the time of notification" shall be inserted in paragraphs (1) and (2) immediately after the words "name and address."

4. Any notification under the principal Regulations of a case of ophthalmia neonatorum in a hospital within the administrative county of London shall be sent to the medical officer of health of the district comprising the place from which the child or the mother of the child was brought to the hospital.

Given under the official seal of the Minister of Health this twenty-fifth day of May, one thousand nine hundred and twenty-eight.

(L.S.) A. B. MACLACHLAN,

Assistant Secretary, Ministry of Health.

S. R. & O., 1928, No. 420.

PUBLIC HEALTH, ENGLAND.

PREVENTION OF EPIDEMIC, ENDEMIC OR INFECTIOUS DISEASES.

THE PUBLIC HEALTH (NOTIFICATION OF PUERPERAL FEVER AND PUERPERAL PYREXIA) AMENDMENT REGULATIONS, 1928, DATED MAY 25, 1928, MADE BY THE MINISTER OF HEALTH.

1. These Regulations may be cited as the Public Health (Notification of Puerperal Fever and Puerperal Pyrexia) Amendment Regulations, 1928, and these Regulations and the Public Health (Notification of Puerperal Fever and Puerperal Pyrexia) Regulations, 1926 (hereinafter called "the principal Regulations"), shall be construed together and may be cited together as the Public Health (Notification of Puerperal Fever and Puerperal Pyrexia) Regulations, 1926 and 1928.

2. These Regulations shall come into operation on the first day of July, 1928.

3. The words "within which he is attending such woman" shall be substituted for the words "within which the place of residence of the patient is situate" in Article 10 of the principal Regulations.

4. Any notification under the principal Regulations of a case of puerperal pyrexia in a hospital within the administrative county of London shall specify, either on the form of notification or on a separate sheet attached to the form, the place from which and the date at which the patient was brought to the hospital, and shall be sent to the medical officer of health of the district in which the said place is situate.

Given under the official seal of the Minister of Health this twenty-fifth day of May, one thousand nine hundred and twenty-eight.

(L.S.) A. B. MACLACHLAN,
Assistant Secretary, Ministry of Health.

ELECTIONS.

ELECTION PETITIONS.

GENERAL RULES.

The following is the text of the general rules for the effectual execution of Part IV. of the Municipal Corporations Act, 1882, made by Sir Charles Edward Pollock, Knight; Sir Henry Manisty, Knight; and Sir Henry Charles Lopes, Knight, the judges for the time being on the rota for the trial of parliamentary election petitions:

1. The presentation of a Municipal Election Petition shall be made by leaving it at the office of the Master for the time being nominated as prescribed officer, under the Parliamentary Elections Act, 1868, and such Master or his clerk shall (if required) give a receipt which may be in the following form:

Received on the day of at the Master's office a petition touching the election of *A. B.*, alderman, councillor [etc., *as the case may be*], for the borough of , purporting to be signed by [*insert the name of petitioners*].

C. D., Master's Clerk.

With the petition shall also be left a copy thereof for the Master to send to the town clerk, pursuant to section 88, sub-section (3) of the Act.

2. A municipal election petition shall contain the following statements:

(1) It shall state the right of the petitioner or petitioners to petition within section 88, sub-section (1), of the Act.

(2) It shall state the holding and result of the election, and shall briefly state the facts and grounds relied on to sustain the prayer.

3. The petition shall be divided into paragraphs, each of which, as nearly as may be, shall be confined to a distinct portion of the subject, and every paragraph shall be numbered consecutively, and no costs shall be allowed of drawing or copying any petition not substantially in compliance with this rule, unless otherwise ordered by the High Court or a judge thereof.

4. The petition shall conclude with a prayer, as for instance, that some specified person should be declared duly returned or elected, or that the election should be declared void, or that a return may be enforced, (as the case may be,) and shall be signed by all the petitioners.

5. The following form, or one to the like effect, shall be sufficient:

In the High Court of Justice,

The Municipal Corporations Act, 1882.

Election for [*state the place and office for which election held*] holden on the day of A.D.

The petition of *A.* of [*or* of *A.* of , and *B.* of , *as the case may be*] whose names are subscribed.

1. Your petitioner *A.* is a person who voted [*or* had a right to vote, *as the case may be*,] at the above election [*or* was a candidate at the above election]; and your petitioner *B.* [*here state in like manner the right of each petitioner*].

2. And your petitioners state that the election was holden on the day of A.D. , when *A. B.*, *C. D.*, and *E. F.* were candidates, and that *A. B.* and *C. D.* have been in the usual manner declared to be duly elected.

3. And your petitioners say that [*here state the facts and grounds on which the petitioners rely*].

Wherefore your petitioners pray that it may be determined that the said *A. B.* was not duly elected, and that the election was void [*or* that the said *E. F.* was duly elected, and ought to have been returned, *or as the case may be*].

(Signed)
A.
B.

6. Evidence need not be stated in the petition, but the High Court or a judge thereof may order such particulars (*a*) as may be necessary to prevent surprise and unnecessary expense, and to insure a fair and effectual trial in the same way as in ordinary proceedings in the said High Court, and upon such terms as to costs and otherwise as may be ordered.

7. When a petitioner claims the office for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of or defending the election shall, six days before the day appointed for trial, deliver to the Master and also at the address, if any given by the petitioners and respondent, as the case may be, a list of the votes intended to be objected to, and the heads of objection to each such vote, and the Master shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the High Court or a judge thereof, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered (*b*).

8. When the respondent in a petition under the Act complaining of an undue election and claiming the office for some person, intends to give evidence to prove that the election of such party was undue, pursuant to the 93rd section of the Act, subsection (10), such respondent shall, six days before the day appointed for trial, deliver to the Master, and also at the address, if any, given by the petitioner, a list of the objectoins to the election upon which he intends to rely, and the Master shall allow inspection and office copies of such list to all parties concerned; and no evidence shall

(*a*) An order for particulars of the corrupt practices alleged in a municipal election petition was made at chambers in the following form: That the petitioners do within a week deliver to the respondents particulars of all the persons alleged to have been bribed or treated, by whom, and when and where; and of all persons alleged to have been retained or employed as canvassers and by whom, and when and where; and of all persons to whom money was paid or agreed to be paid on account of the conveyance of voters to the poll, and by whom, and when and where such moneys were paid or agreed to be paid (*Maude* v. *Lowley* (1874), L. R. 9 C. P. 165; 38 J. P. 280). Where a judge in chambers ordered a petitioner to furnish particulars of his charges against the respondent ten clear days before the hearing of the petition, the Divisional Court refused to interfere with the order (*Barrow-in-Furness Election Petition* (1885), 2 T. L. R. 356). The ordinary time for delivery of particulars is seven days before the trial (*Lenham* v. *Barber* (1884), 10 Q. B. D. 293; 48 J. P. 23). See also *Clarke* v. *Wallond* (1884), 52 L. J. Q. B. 321. But this is not a hard and fast rule, and in determining whether there are special circumstances upon which it will act in extending the time the court will take into consideration the size and nature of the constituency, the population and the number of voters, and also the number of witnesses whom it is proposed to call (*Rushmere* v. *Isaacson*, [1893] 1 Q. B. 118; 57 J. P. 790). The respondent to a petition in which the seat is claimed upon a scrutiny is not entitled to obtain particulars under this rule, but r. 7 applies exclusively to such a case (*Munro* v. *Balfour*, [1893] 1 Q. B. 113; 57 J. P. 789; *Furness* v. *Beresford*, [1898] 1 Q. B. 495).

(*b*) The trial of a municipal election petition was appointed for January 20th. A list of objections was tendered at the Rule Office of the Common Pleas on January 13th, and refused on the ground that it was too late, and it was taken away by the person tendering it. On the 14th a list of objections was left at the Rule Office, and one was also delivered to the respondent:—*Held*, that the list was not delivered in due time according to the rule, and that the court had no jurisdiction to order delivery *nunc pro tunc* under the last clause of the rule (*Nield* v. *Batty* (1874), L. R. 9 C. P. 104; 38 J. P. 264).

be given by a respondent of any objection to the election not specified in the list, except by leave of the High Court or a judge thereof, upon such terms as to amendment of the list, postponement of the inquiry, and payment of costs, as may be ordered.

9. With the petition the petitioner or petitioners shall leave at the office of the Master a writing, signed by him or them or on his or their behalf, giving the name of some person entitled to practise as a solicitor in the High Court of Justice, whom he or they authorise to act as his or their agent, or stating that he or they act for himself or themselves, as the case may be, and in either case giving an address, within three miles of the General Post Office, at which notices addressed to him or them may be left; and if no such writing be left or address given, then notice of objection to the recognizances, and all other notices and proceedings may be given by sticking up the same at the Master's office.

10. Any person elected to any municipal office may at any time after he is elected send to or leave at the office of the Master a writing signed by him or on his behalf, appointing a person entitled to practise as a solicitor in the High Court of Justice, to act as his agent in case there should be a petition against him, or stating that he intends to act for himself, and in either case giving an address within three miles from the General Post Office at which notices may be left, and in default of such writing being left in a week after service of the petition, notices and proceedings may be given and served respectively by sticking up the same at the Master's office.

11. The Master shall keep a book or books at his office in which he shall enter all addresses and the names of agents given under either of the preceding rules, which book shall be open to inspection by any person during office hours.

12. The Master shall upon the presentation of the petition, forthwith send a copy of the petition to the town clerk, pursuant to section 88 of the Act, sub-section (3), and shall therewith send the name of the petitioner's agent, if any, and the address, if any, given as prescribed, and also the name of the respondent's agent, and the address, if any, given as prescribed, and the town clerk shall forthwith publish those particulars along with the petition.

The cost of publication of this and any other matter required to be published by the town clerk shall be paid by the petitioner or person moving in the matter, and shall form part of the general costs of the petition.

13. The time for giving notice of the presentation of a petition and of the nature of the proposed security shall be five days, exclusive of the day of presentation.

14. When the respondent has named an agent or given an address, the service of a municipal election petition may be by delivery of it to the agent, or by posting it in a registered letter to the address given at such time that, in the ordinary course of post, it would be delivered within the prescribed time.

In other cases the service must be personal on the respondent, unless a judge of the High Court, on an application made to him not later than five days after the petition is presented on affidavit, showing what has been done, shall be satisfied that all reasonable effort has been made to effect personal service and cause the matter to come to the knowledge of the respondent, in which case the judge may order that what has been done shall be considered sufficient service, subject to such conditions as he may think reasonable. An agent employed for the petitioner or respondent shall forthwith leave written notice at the office of the Master of his appointment to act as such agent, and service of notices and proceedings upon such agent shall be sufficient for all purposes.

15. In case of evasion of service the sticking up a notice in the office of the Master of the petition having been presented, stating the petitioner, the prayer, and the nature of the proposed security, shall be deemed equivalent to personal service if so ordered by a judge.

16. The deposit of money by way of security for payment of costs, charges, and expenses payable by the petitioner, shall be made by payment into the Bank of England to an account to be opened there by the description of "The Municipal Corporations Act, 1882, Security Fund," which shall be vested in and drawn upon from time to time by the Lord Chief Justice of England for the time being, for the purposes for which security is required by the said Act, and a bank receipt or certificate for the same shall be forthwith left at the Master's office.

17. The Master shall file such receipt or certificate, and keep a book open to inspection of all parties concerned, in which shall be entered from time to time the amount and the petition to which it is applicable.

18. All claims at law or in equity to money so deposited or to be deposited in the Bank of England shall be disposed of by the High Court of Justice or a judge thereof.

19. Money so deposited shall, if, and when the same is no longer needed for securing payment of such costs, charges, and expenses, be returned or otherwise disposed of as justice may require, by rule of the High Court, or order of a judge thereof.

20. Such rule or order may be made after such notice of intention to apply, and proof that all just claims have been satisfied or otherwise sufficiently provided for, as the court or judge may require.

21. The rule or order may direct payment either to the party in whose name the same is deposited, or to any person entitled to receive the same.

22. Upon such rule or order being made, the amount may be drawn for by the Lord Chief Justice of England for the time being.

23. The draft of the Lord Chief Justice of England for the time being shall in all cases be a sufficient warrant to the Bank of England for all payments made thereunder.

24. The recognizance as security for costs may be acknowledged before a judge of the High Court or the Master in town, or a justice of the peace in the country.

There may be one recognizance acknowledged by all the sureties, or separate recognizances by one or more, as may be convenient.

25. The recognizance shall contain the name and usual place of abode of each surety, with such sufficient description as shall enable him to be found or ascertained and may be as follows:

Be it remembered that on the day of , in the year of our Lord, 18 , before me [*name and description*] came *A. B.*, of [*name and description as above prescribed*] and acknowledged himself [*or* severally acknowledged themselves] to owe to our Sovereign Lady the Queen the sum of five hundred pounds [*or* the following sums], (that is to say) the said *C. D.* the sum of £ , the said *E. F.* the sum of £ , the said *G. H.* the sum of £ , and the said *J. K.* the sum of , to be levied on his [*or* their respective goods and chattels, lands and tenements, to the use of our said Sovereign Lady the Queen, her heirs and successors.

The condition of this recognizance is that if [*here insert the names of all the petitioners, and if more than one, add* or any of them] shall well and truly pay all costs, charges, and expenses in respect of the election petition signed by him [*or* them] relating to the [*here insert the name of the borough*] which shall become payable by the petitioner [*or* petitioners, or any of them] under the Municipal Corporations Act, 1882, to any person or persons, then this recognizance to be void, otherwise to stand in full force.

Signed,

[*Signatures of sureties.*]

Taken and acknowledged by the above-named [*names of sureties*] on the at before me,

C. D.

A justice of the peace [*or as the case may be*].

26. The recognizance or recognizances shall be left at the Master's office, by or on behalf of the petitioner, in like manner as before prescribed for the leaving of a petition forthwith after being acknowledged.

The security may (unless the High Court or a judge thereof shall otherwise order on summons) be given to any amount not less than £300; but the High Court or a judge thereof may, on summons taken out within five days from the service of the notice of the nature and amount of the security, order that the same shall be increased within a time to be fixed in the order by further security to be given in the manner directed by the Act, for a further amount, not exceeding with the amount for which security shall have been already given £500. And in default of compliance with such order, no further proceedings shall be had on the petition.

27. The time for giving notice of any objection to a recognizance under the 89th section of the Act, sub-section (4), shall be within five days from the date of service of the notice of the petition and of the nature of the security, exclusive of the day of service, or in case of further security within five days after service of notice of the nature thereof, exclusive of the day of such service.

28. An objection to the recognizance must state the ground or grounds thereof, as that the sureties, or any and which of them, are insufficient, or that a surety is dead, or that he cannot be found, or that a person named in the recognizance has not duly acknowledged the same.

29. An objection made to the security shall be heard and decided by the Master, subject to appeal within five days to a judge, upon summons taken out by either party to declare the security sufficient or insufficient.

30. Such hearing and decision may be either upon affidavit or personal examination of witnesses, or both, as the Master or judge may think fit.

31. If an objection be allowed and the security be declared insufficient, the Master or judge shall in his order state what amount he deems requisite to make the security sufficient, and the further prescribed time to remove the objection by deposit shall be within five days from the date of the order, not including the day of the date, and such deposit shall be made in the manner already prescribed.

32. The costs of hearing and deciding the objections made to the security given shall be paid as ordered by the Master or judge, and in default of such order shall form part of the general costs of the petition.

33. The costs of hearing and deciding an objection upon the ground of insufficiency of a surety or sureties, shall be paid by the petitioner, and a clause to that effect shall be inserted in the order declaring its sufficiency or insufficiency, unless at the time of leaving the recognizance with the Master there be also left with the Master an affidavit of the sufficiency of the surety or sureties sworn by each surety before a justice of the peace, which affidavit any justice of the peace is hereby authorised to take, or before some person authorised to take affidavits in the High Court of Justice that he is seised or possessed of real or personal estate, or both, above what will satisfy his debts, of the clear value of the sum for which he is bound by his recognizance, which affidavit may be as follows:

In the High Court of Justice.
Municipal Corporations Act, 1882.

I, *A. B.*, of [*as in recognizance*] make oath and say that I am seised or possessed of real [*or* personal] estate above what will satisfy my debts, of the clear value of £ .

Sworn, *etc.*

34. The order of the Master for payment of costs shall have the same force as an order made by a judge, and may be enforced in like manner as a judge's order in an ordinary proceeding in the High Court of Justice.

35. A copy of every order (other than an order giving further time for delivering particulars, or for costs only), or, if the Master shall so direct, the order itself or a duplicate thereof, also a copy of every particular delivered, shall be forthwith filed with the Master, and the same shall be produced at the trial by the registrar, stamped with the official seal. Such order shall be filed by the party obtaining the same, and such particular by the party delivering the same.

36. The petitioner or his agent shall, immediately after notice of the presentation of a petition and of the nature of the proposed security shall have been served, file with the Master an affidavit of the time and manner of service thereof (*a*).

37. The days mentioned in Rules 7 and 8, and in any rule of court or judge's order, whereby particulars are ordered to be delivered, or any act is directed to be done, so many days before the day appointed for trial, shall be reckoned exclusively of the day of delivery, or of doing the act ordered and the day appointed for trial, and exclusively also of Sunday, Christmas Day, Good Friday, and any day set apart for a public fast or public thanksgiving.

38. When the last day for presenting petitions, or filing lists of votes or objections, under Rules 7 and 8, or recognizances, or any other matter required to be filed within

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(*a*) See *Williams* v. *Tenby Corporation*, *ante*, p. 2421.

a given time, shall happen to fall on a holiday, the petition or other matter shall be deemed duly filed if put into the letter box at the Master's office at any time during such day; but an affidavit, stating with reasonable precision the time when such delivery was made, shall be filed on the first day after the expiration of the holidays.

39. The Master shall make out the municipal election list. In it he shall insert the names of the agents of the petitioners and respondents, and the addresses to which notices may be sent, if any. The list may be inspected at the Master's office at any time during office hours, and shall be put up for that purpose upon a notice board appropriated to proceedings under the said Act, and headed "Municipal Election List.'

40. The time of the trial of each municipal election petition shall be fixed by the election judges on the rota or any one of them, who shall signify the same to the Master, and notice thereof shall be given in writing by the Master by sticking notice up in his office, sending one copy by post to the address given by the petitioner, another to the address given by the respondent, if any, and a copy by the post to the town clerk of the borough to which the petition relates, fifteen days before the day appointed for the trial.

The town clerk shall forthwith publish the same in the borough.

41. The sticking up of the notice of trial at the office of the Master shall be deemed and taken to be notice in the prescribed manner within the meaning of the Act, and such notice shall not be vitiated by any miscarriage of or relating to the copy or copies thereof to be sent as already directed.

42. The notice of trial may be in the following form:

Municipal Corporations Act, 1882.
Election petition of .
Borough of .

Take notice that the above petition [*or* petitions] will be tried at on the day of , and on such other subsequent days as may be needful.

Dated the .

Signed, by order,
A. B.,
The Master appointed under the above Act.

43. A judge may from time to time, by order made upon the application of a party to the petition, or by notice in such form as the judge may direct to be sent to the town clerk, postpone the beginning of the trial to such day as he may name, and such notice when received shall be forthwith made public by the town clerk.

44. In the event of the barrister to whom the trial of the petition is assigned not having arrived at the time appointed for the trial, or to which the trial is postponed, the commencement of the trial shall *ipso facto* stand adjourned to the ensuing day, and so from day to day.

45. No formal adjournment of the court for the trial of a municipal election petition shall be necessary, but the trial is to be deemed adjourned, and may be continued from day to day until the inquiry is concluded.

46. After receiving notice of the petitioner's intention to apply for leave to withdraw, or of the respondent's intention not to oppose, or of the abatement of the petition by death, or of the happening of any of the events mentioned in the 97th section of the Act, if such notice be received after notice of trial shall have been given, and before the trial has commenced, the Master shall forthwith countermand the notice of trial. The countermand shall be given in the same manner, as near as may be, as the notice of trial.

47. If all the respondents shall give notice of their intention not to oppose the petition, and no other person shall be admitted as a respondent, the High Court of Justice, or a judge, may either declare the election void or direct the trial to proceed (*a*). Notice of such order shall be forthwith given by the Master to the town clerk, and if the election be declared void the office shall be deemed to be vacant from the first day (not being a *dies non*) after the date of such order.

The court or judge may also make such order as to costs as may be just.

(*a*) See *Re Linthwaite School Board Election, Lockwood* v. *Whittell* (1899), 43 Sol. J. 532, where the election was declared void.

48. The application to state a special case may be made by motion in the High Court of Justice, or by a summons before a judge thereof.

49. The title of the court held for the trial of a municipal election petition, may be as follows:

"Court for the trial of a municipal election petition for the borough of [*or* *as may be*] between the petitioner and respondent,"

and it shall be sufficient so to entitle all proceedings in that court.

50. An officer shall be appointed for each court for the trial of a municipal election petition by the election judges, at the time that they resign the petition to the barrister; such officer shall attend at the trial in like manner as the clerks of assize and of arraigns attend at the assizes.

Such officer may be called the registrar of that court. He, by himself, or in case of need, his sufficient deputy, shall perform all the functions incident to the officer of a court of record, and also such duties as may be prescribed to him.

51. The Commissioner may appoint a proper person to act as crier and officer of the court.

52. The shorthand writer to attend at the trial of a petition shall be the shorthand writer to the House of Commons for the time being or his deputy, and the Master shall send a copy of the notice of trial to the said shorthand writer to the House of Commons.

53. The amount to be paid to any witness whose expenses shall be allowed by the Commissioner trying the petition shall be ascertained and certified by the registrar; or in the event of his becoming incapacitated from giving such certificate, by the Commissioner.

54. The order of the court to compel the attendance of a person as a witness may be in the following form:

Court for the trial of a municipal election petition for [*complete the title of the court*] the day of .

To *A. B.* [*describe the person*]. You are hereby required to attend before the court above at [*place*] on day of , at the hour of [*or* forthwith, *as the case may be*], to be examined as a witness in the matter of the said petition, and to attend the said court until your examination shall have been completed.

As witness my hand, *A. B.*,
The Commissioner to whom the trial of the said petition is assigned.

55. In the event of its being necessary to commit any person for contempt, the warrant may be as follows:

At a court holden on at for the trial of a municipal election petition for the borough of before *A. B.*, one of the barristers appointed for the trial of municipal election petitions, pursuant to the Municipal Corporations Act, 1882.

Whereas *C. D.* has this day been guilty, and is by the said court adjudged to be guilty, of a contempt thereof. The said court does therefore sentence the said *C. D.* for his said contempt to be imprisoned in the gaol for calendar months [*or as may be*], and to pay to our Lady the Queen a fine of £ , and to be further imprisoned in the said gaol until the said fine be paid, and the court further orders that the sheriff of the borough [*if any, or as the case may be*], and all constables and officers of the peace of any county, borough, or place where the said *C. D.* may be found, shall take the said *C. D.* into custody and convey him to the said gaol, and there deliver him into the custody of the gaoler thereof, to undergo his said sentence; and the court further orders the said gaoler to receive the said *C. D.* into his custody, and that he shall be retained in the said gaol in pursuance of the said sentence

A. B.

Signed the day of .

A. B.

56. Such warrant may be made out and directed to the sheriff or other person having the execution of process of the High Court as the case may be, and to all constables and officers of the peace of the county, borough, or place where the person adjudged guilty of contempt may be found, and such warrant may be sufficient without further particularity, and shall and may be executed by the person to whom it is directed or any or either of them.

57. All interlocutory questions and matters, except as to the sufficiency of the security, shall be heard and disposed of before a judge, who shall have the same control over the proceedings under the Municipal Corporations Act, 1882, as a judge in the ordinary proceedings of the High Court, and such questions and matters shall be heard and disposed of by any judge of the High Court.

58. Notice of an application for leave to withdraw a petition shall be in writing and signed by the petitioners or their agent.

It shall state the ground on which the application is intended to be supported.

The following form shall be sufficient :

Municipal Corporations Act, 1882.

Borough of Petition of [*state petitioners*] presented day of .

The petitioner proposes to apply to withdraw his petition upon the following ground [*here state the ground*], and prays that a day may be appointed for hearing his application.

Dated this day of .

(Signed)

59. The notice of application for leave to withdraw shall be left at the Master's office.

60. A copy of such notice of the intention of the petitioner to apply for leave to withdraw his petition shall be given by the petitioner to the respondent, and to the town clerk, who shall cause the same to be published in the borough to which it relates.

The following may be the form of such notice :

Municipal Corporations Act, 1882.

In the election petition for in which is petitioner and respondent.

Notice is hereby given, that the above petitioner has on the day of lodged at the Master's office notice of an application to withdraw the petition, of which notice the following is a copy [*set it out*].

And take notice, that by the rule made by the judges, any person who might have been a petitioner in respect of the said election may, within five days after publication by the town clerk of this notice, give notice in writing of his intention on the hearing to apply for leave to be substituted as a petitioner.

(Signed)

61. Any person who might have been a petitioner in respect of the election to which the petition relates, may, within five days after such notice is published by the returning officer give notice in writing, signed by him or on his behalf, to the Master of his intention to apply at the hearing to be substituted for the petitioner, but the want of such notice shall not defeat such application if in fact made at the hearing.

62. The time and place for hearing the application shall be fixed by a judge, and whether before the High Court, or before a judge, as he may deem advisable, but shall not be less than a week after the notice of the intention to apply has been given to the Master as hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice to the Master of an intention to apply to be substituted as petitioners, and otherwise in such manner and at such time as the court or judge directs.

63. Notice of abatement of a petition, by death of the petitioner or surviving petitioner, under section 96, sub-section (1) of the said Act, shall be given by the party or person interested in the same manner as a notice of an application to withdraw a petition, and the time within which application may be made to the High Court, or a judge thereof, by motion or summons at chambers, to be substituted as a petitioner, shall be one calendar month, or such further time as upon consideration of any special circumstances the High Court or a judge thereof may allow.

64. If the respondent dies, any person entitled to be a petitioner under the Act in respect of the election to which the petition relates, may give notice of the fact in the borough by causing such notice to be published in at least one newspaper circulating therein, if any, and by leaving a copy of such notice signed by him or on his behalf with the town clerk, and a like copy with the Master.

65. The manner of the respondent's giving notice that he does not intend to oppose the petition shall be by leaving notice thereof in writing at the office of the Master signed by the respondent.

66. Upon such notice being left at the Master's office, the Master shall forthwith send a copy thereof by the post to the petitioner or his agent, and to the town clerk, who shall cause the same to be published in the borough.

67. The time for applying to be admitted as a respondent in either of the events mentioned in the 97th section of the Act shall be within ten days after such notice is given as hereinbefore directed, or such further time as the High Court or a judge thereof may allow.

68. Costs shall be taxed by the Master, or at his request by any Master of the superior court upon the rule of court or judge's order by which the costs are payable, and costs when taxed may be recovered in like manner as if payable under a rule of court, judgment, or order of a judge in the ordinary proceedings in the High Court of Justice, or in case there be money in the bank available for the purpose, then to the extent of such money by order of the Lord Chief Justice of England for the time being.

The office fees payable for inspection, office copies, enrolment, and other proceedings under the Act and these rules, shall be the same as those payable, if any, for like proceedings according to the present practice of the High Court of Justice.

69. No proceedings under the Municipal Corporations Act, 1882, shall be defeated by any formal objection.

70. Any rule made or to be made in pursuance of the Act shall be published by a copy thereof being put up at the Master's office.

Dated the 17th day of April, 1883.

C. E. POLLOCK,
H. MANISTY,
HENRY C. LOPES,

The judges for the time being on the rota for the trial of parliamentary election petitions.

GENERAL ORDER.—SCALE OF EXPENSES.—ELECTIONS UNDER LOCAL GOVERNMENT ACT, 1894.

(November 20th, 1894.)

* * * * * *

WHEREAS [*recites section* 48 (7) (8), *and section* 75 (2) *of the L. G. A.*, 1894].

NOW THEREFORE, we, the Local Government Board, in pursuance of the powers given to us in that behalf, do, by this our Order, declare that the scale of expenses in the schedule hereto shall, for the purposes of any election under the Local Government Act, 1894, and of any poll consequent on any parish meeting, be fixed for each county and county borough in England and Wales in which, on the date hereof, no scale framed under section 48 of the said Act is in force, and for the purposes of any election under the said Act in any such county or county borough, and of any poll consequent on any parish meeting in any such county, to which election or poll any such scale in force in the county or county borough does not extend.

SCHEDULE.

SCALE OF EXPENSES.

I.—DISBURSEMENTS.

PAYMENTS MADE FOR—	
1. Use of room or building, including lighting and firing	Actual and necessary cost, not exceeding for each polling station 10*s.*
2. Fitting up rooms required for poll, or, when necessary, hiring or constructing a polling station with its fittings and compartments	Actual and necessary cost.
3. Each ballot box required to be purchased	Actual and necessary cost.
4. Use of each ballot box, when hired	Actual and necessary cost, not exceeding 2*s.* 6*d.*
5. Printing and providing ballot papers	Actual and necessary cost, not exceeding for the first 500, £1; and for every 100, or fraction of 100, an addition of 1*s.*
6. Stationery at each polling station	Actual and necessary cost, not exceeding 2*s.* 6*d.*
7. Each stamping instrument, purchase, or hire, or alteration	Actual and necessary cost, not exceeding 10*s.*
8. Copies of the register of parochial electors	Actual and necessary cost.
9. Printing and providing notices, nomination forms, and other documents required in and about the election or poll and costs of publishing same	Actual and necessary cost.
10. Returning officers' travelling expenses, where necessary, to make arrangements for poll	By rail, 3rd class; by road, where necessary actual cost, not exceeding 9*d.* a mile each way.
11. Conveyance of ballot boxes, papers, etc., from office to polling place	Actual and necessary cost (by railway or parcel post where practicable).
12. Conveyance of ballot boxes from the polling stations to the place where the ballot papers are counted	By rail, actual fare, 3rd class; by road, actual cost, not exceeding 1*s.* a mile.
13. For the services of police where required	The sum actually charged.

	When the poll is open for 12 hours or upwards.	less than 12 hours but not less than 8 hours.	less than 8 hours but not less than 6 hours.	less than 6 hours.
	£ *s.* *d.*	£ *s.* *d.*	£ *s.* *d.*	£ *s.* *d.*
14. For each presiding officer, to include all duties as deputy returning officer and all expenses, not exceeding	3 0 0	2 0 0	1 10 0	1 0 0
15. For the clerk at a polling station, to include all expenses, not exceeding	1 0 0	0 15 0	0 12 6	0 10 0

16. For each person employed in counting votes, to include all expenses, not exceeding:—

	£ *s.* *d.*
In urban parishes	0 10 0
In rural parishes	0 5 0

Sums in addition to the maximum amount specified in 1 and 5 may be allowed to the returning officer by the local authority, if they are satisfied that there were exceptional circumstances which rendered necessary the incurring of an expense in excess of the amount specified.

Under 14 and 15 an additional allowance of 10*s.* shall be given for each night necessarily spent away from home.

In determining under 14 the charge of any presiding officer, regard should be had as to whether he acted as deputy returning officer in the counting of the votes, and whether the poll has been taken with respect to one election or to more than one.

The employment of a second clerk at a polling station with the remuneration specified in 15 may be authorised by the local authority, if the services of such clerk are considered by them to be requisite.

The above-mentioned allowances are to include the remuneration for all elections held on the same day.

In a rural parish where there is only one contested election and the number of parochial electors does not exceed 200, the returning officer or his deputy will be allowed one counting clerk, and for every 200 additional parochial electors an additional counting clerk. Where there are contests for both district and parish councillors, additional counting clerks may be employed, provided that in no case shall the number exceed 4.

In an urban parish, the number of counting clerks charged for shall in no case exceed 1 for each 500 electors.

II.—FOR SERVICES AND OTHER EXPENSES OF RETURNING OFFICERS.

Fee for conducting the election, giving the prescribed notices, preparing and supplying nomination papers and distributing, verifying, and adjudicating upon same, appointing deputy returning officers, arranging for or conducting the poll, counting the votes, declaring result and making return of same and generally performing all the duties which a returning officer is required to perform under the Local Government Act, 1894, or the rules of the Local Government Board made thereunder, and including all disbursements and expenses other than those for which special provision has been hereinbefore made, as follows :—

RURAL DISTRICT COUNCILLORS AND PARISH COUNCILLORS.

CONTESTED ELECTIONS.	Where 10 parishes or under. For each.	Where between 10 and 20. For each beyond 10.	Where between 20 and 30, For each beyond 20.	Where 30 and upwards. For each beyond 30.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
For every parish for which an election is held—				
(*a*) Where the election is for either a rural district councillor or councillors only *or* for parish councillors only, not exceeding . .	2 0 0	1 10 0	1 0 0	0 10 0
(*b*) Where the elections are for a rural district councillor or councillors *and* parish councillors on the same day, not exceeding .	3 0 0	2 5 0	1 10 0	0 15 0

Additional Payments where a Parish is divided into Wards—

	£ s. d.
In case (*a*), for each ward	0 10 0
In case (*b*), for each ward	0 15 0

UNCONTESTED ELECTIONS.	For each parish up to 10.	For each additional parish.
	£ s. d.	£ s. d.
For every parish for which an election is held—		
(*a*) For a rural district councillor or councillors	0 10 0	0 5 0
(*b*) For parish councillors . . .	0 5 0	0 5 0

GUARDIANS.

A.—MUNICIPAL BOROUGHS.

CONTESTED ELECTIONS.

	£	s.	d.
In a parish within a borough, for each 750 parochial electors within the parish or ward for which the election is held, or fractional part of 750 .	2	0	0

UNCONTESTED ELECTIONS.

	£	s.	d.
In a parish within a borough not divided into wards	1	0	0
In a parish within a borough which is divided into wards, for each ward .	0	10	0

B.—URBAN DISTRICTS OTHER THAN BOROUGHS.

CONTESTED ELECTIONS.

	£	s.	d.
In a parish within an urban district, for each 750 parochial electors within the parish or ward for which the election is held, or fractional part of 750	2	0	0

Where a deputy returning officer acts under Article 13 of "The Guardians (Outside London) Election Order, 1894," he shall, in addition to the fee allowed him as presiding officer, be entitled to be paid, as remuneration for his services as deputy returning officer, one-third of the amount allowed to the returning officer in respect of that district, to be paid by such returning officer out of his fee.

UNCONTESTED ELECTIONS.

	£	s.	d.
In a parish within an urban district not divided into wards	1	0	0
In a parish within an urban district divided into wards, for each ward .	0	10	0

URBAN DISTRICT COUNCILLORS.

CONTESTED ELECTIONS.

	£	s.	d.
In a parish within an urban district other than a borough, for each 750 parochial electors within the parish or ward for which the election is held, or fractional part of 750	2	0	0

UNCONTESTED ELECTIONS.

	£	s.	d.
In a parish within an urban district other than a borough not divided into wards	1	0	0
In a parish within an urban district other than a borough divided into wards, for each ward	0	10	0

POLLS CONSEQUENT ON PARISH MEETINGS.

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Appendix II.

URBAN DISTRICT COUNCILLORS—GENERAL ORDER(a).
RULES AS TO NOMINATION AND ELECTION.

(January 1st, 1898.)

* * * * * *

WHEREAS [*recites sections* 23, 48 *of the L. G. A.*, 1894].

And whereas by the Urban District Councillors (Additional Councillors and New Districts) Election Order, 1895, and the Urban District Councillors Casual Vacancies Election Order, 1895, we prescribed rules for the first election of any additional urban district councillors in any urban district other than a borough in England and Wales, and the first election of urban district councillors in any such urban district which might thereafter be constituted, and for every election to be held to fill a casual vacancy in the office of urban district councillor in any such urban district:

Now therefore, we, the Local Government Board, in pursuance of the powers given to us in that behalf, do hereby rescind the said Urban District Councillors (Additional Councillors and New Districts) Election Order, 1895, and the said Urban District Councillors Casual Vacancies Election Order, 1895, except as regards any election the proceedings in respect of which have been already commenced;

And we do hereby order that, subject to any directions which may be given by us, and until we otherwise order, the following rules shall apply to, and shall be observed in connexion with, elections of urban district councillors as hereinafter set forth; that is to say,—

(*a*) The election held in any year to fill any ordinary vacancies in the urban district councillors for any urban district in England and Wales;

(*b*) the first election of any additional urban district councillors for any urban district in England and Wales, and the first election of urban district councillors in any such urban district which may hereafter be constituted; and

(*c*) every election which may be held to fill a casual vacancy in the office of urban district councillor in any such urban district.

Returning officer.

1.—(1) The clerk to the urban district council shall be the returning officer.

(2) If the clerk is unwilling to act as returning officer, or if the office of clerk is vacant at the time when any duty relative to the election has to be performed by the returning officer, or if the clerk from illness or other sufficient cause is unable to perform such duty, the urban district council shall appoint some other person to act as returning officer or to perform such of the duties of the returning officer as then remain to be performed, as the case may be.

(3) In any case which does not come within either paragraph (1) or paragraph (2) of this rule, the returning officer shall be a person appointed by the county council.

(4) The returning officer shall appoint an office for the purpose of the election.

(5) The returning officer may, in writing, appoint a fit person to be his deputy for all or any of the purposes relating to the election of urban district councillors. A deputy returning officer shall have all the powers, duties, and liabilities of the returning officer in relation to the matters in respect of which he is appointed as deputy.

Day of election.

2.—(1) The day of the election of urban district councillors shall be that prescribed or defined for the purpose by the First Schedule to this Order.

(2) Provided that in any urban district the day of the election of urban district councillors and guardians shall be the same.

Notice of election.

3. Not later than the day prescribed for that purpose by the First Schedule to this Order, the returning officer shall prepare and sign a notice of the election, and shall cause public notice to be given of the same in the district in accordance with rule 30 of this Order. The notice shall be in the Form No. 1 in the Second Schedule to this Order, or in a form to the like effect (*b*).

(*a*) This Order has been amended by Orders of 1925 and 1928, *post*, pp. 3232, 3239.

(*b*) As to the effect of defects in a notice of election, see *Howes* v. *Turner* (1876), 1 C. P. D. 670; 40 J. P. 680.

Nomination of candidates.

4.—(1) Each candidate for election as an urban district councillor shall be nominated in writing.

(2) The nomination paper shall state the name of the district or ward (*a*) for which the candidate is nominated, the surname and other name or names in full of the candidate (*b*), and his place of abode (*c*) and description (*d*), and whether he is qualified as a parochial elector of some parish within the district, or by having during the whole of the twelve months preceding the election resided [*or by being the owner of property held by freehold, copyhold, leasehold, or any other tenure within the district* (*e*)] in the district. It shall be signed (*f*) by two parochial electors (*g*) of the district, or, if the district is divided into wards, of the ward, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be [Form No. 2] (*e*) in the Second Schedule to this Order, or in a form to the like effect.

(3) The name of more than one candidate shall not be inserted in any one nomination paper.

(4) A parochial elector shall not sign more nomination papers than there are urban district councillors to be elected for the district or ward for which the election is to be held. He shall not sign a nomination paper for the district, or for any ward, unless he is registered as a parochial elector in respect of a qualification therein. Neither shall he sign nomination papers for more than one ward in the urban district (*h*).

(5) If any parochial elector shall sign nomination papers for more than one ward in the urban district, or shall sign a number of nomination papers larger than the number of urban district councillors to be elected for the district or ward, such of the nomination papers signed by him as relate to the first ward for which a nomination paper signed by him is received by the returning officer shall alone be valid, and of the nomination papers signed by him which relate to the district or to such ward, such as are first received by the returning officer up to the number of urban district councillors to be so elected shall alone be valid (*i*). Provided that, for the purposes of this paragraph, nomination papers not properly filled up and signed shall be excluded (*k*).

Nomination papers to be provided.

5. The returning officer shall provide nomination papers. Any parochial elector may obtain nomination papers from him free of charge.

Time for sending in nomination papers.

6. Every nomination paper shall be sent (*l*) to the returning officer so that it shall be received at his office within the time prescribed for that purpose by the First Schedule to this Order. A nomination paper received after that time shall not be valid (*m*). The returning officer shall note on each nomination paper whether it was received before or after that time.

Dealing with nomination by returning officer.

7.—(1) The returning officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate.

(*a*) See *Marton* v. *Gorrill* (1889), 23 Q. B. D. 139; 54 J. P. 181.

(*b*) See *Mather* v. *Brown* (1876), 1 C. P. D. 596; *Henry* v. *Armitage* (1883), 12 Q. B. D. 257; 48 J. P. 424; *Miller* v. *Everton* (1895), 64 L. J. Q. B. 692; 59 J. P. 358; *R.* v. *Casey*, [1914] 2 I. R. 243.

(*c*) See *R.* v. *Coward* (1851), 16 Q. B. 819; *R.* v. *Hammond* (1852), 17 Q. B. 772.

(*d*) See *R.* v. *Tugwell* (1868), L. R. 3 Q. B. 704; 33 J. P. 101.

(*e*) See amending Order of 1925, *post*, p. 3232.

(*f*) See *Moorhouse* v. *Linney* (1885), 15 Q. B. D. 273; 49 J. P. 471; *Bowden* v. *Besley* (1888), 21 Q. B. D. 309; 52 J. P. 536; *Gledhill* v. *Crowther* (1889), 23 Q. B. D. 136; 53 J. P. 677; *Harding* v. *Cornwell* (1889), 60 L. T. 959. A nomination paper may be signed by the proposer and seconder before the name of the candidate is filled in (*Cox* v. *Davies*, [1898] 2 Q. B. 202).

(*g*) See *Harman* v. *Park* (1881), 7 Q. B. D. 369; 45 J. P. 714.

(*h*) See *Knill* v. *Towse* (1890), 24 Q. B. D. 697; 54 J. P. 789.

(*i*) See *Burgoyne* v. *Collins* (1882), 8 Q. B. D. 450; 46 J. P. 390.

(*k*) See *Northcote* v. *Pulsford* (1875), L. R. 10 C. P. 476; 39 J. P. 487.

(*l*) Personal delivery by the candidate himself, or his nominator, is not required.

(*m*) See *Cutting* v. *Windsor* (1924), 22 L. G. R. 345.

(2) The returning officer shall, as soon as practicable after the receipt of any nomination paper, examine the same and decide whether it has or has not been properly filled up and signed by two parochial electors of the district or ward, and whether it is or is not invalid under rule 4 (5) or rule 6 (*a*). His decision that a nomination paper has been so filled up and signed, and is not invalid as aforesaid, shall be final, and shall not be questioned in any proceeding whatever.

(3) If the returning officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note (*b*).

(4) After deciding that the nomination of any candidate is valid, or (except where nomination of the candidate has been decided to be valid) that a nomination paper for any candidate is invalid, the returning officer shall, not later than the day prescribed for that purpose by the First Schedule to this Order, send, by post or otherwise, notice of his decision to the candidate.

Statement as to persons nominated.

8 (*c*). [Not later than the day prescribed for that purpose by the First Schedule to this Order, the Returning Officer shall make out a statement in the Form No. 3 in the Second Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as Urban District Councillors for the District or for the several Wards thereof, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be affixed on or near to the principal external gate or door of the Offices of the Urban District Council. If there are no such Offices he shall cause such notice to be posted in some conspicuous place or places within the District.]

Withdrawal of candidates.

9. Any candidate may withdraw his candidature by delivering or causing to be delivered at the office of the returning officer, within the time prescribed for that purpose by the First Schedule to this Order, a notice in writing of such withdrawal, signed by him (*d*).

Relation of nomination to election.

10. Section 56 of the Municipal Corporations Act, 1882, shall be altered and adapted in its application to the election of urban district councillors in the district, so as to provide as follows:

(1) If the number of candidates who receive valid (*e*) nominations and who do not withdraw their candidature under rule 9 exceeds that of the persons to be elected as urban district councillors, the councillors shall be elected from amongst the persons nominated (*f*).

(2) (*g*) [If the number of valid nominations does not exceed the number of urban district councillors to be elected, or if, by the withdrawal of any candidate as provided by rule 9, the number of candidates for the district is reduced to a number not exceeding the number to be elected, or if the number of

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(*a*) He has no power to decide as to the qualifications of the candidates (*Pritchard* v. *Mayor, etc. of Bangor* (1888), 13 App. Cas. 241; 52 J. P. 564; *Harford* v. *Lynskey*, [1899] 1 Q. B. 852; 63 J. P. 263). But the only remedy is by petition, not *mandamus* (*Ex parte Thompson*, Times, March 5th, 1892). As to how soon a petition based on a rejection of a nomination may be presented, see *In re Grangemellon Election Petition*, [1909] 2 I. R. 90.

(*b*) An erroneous decision given *boná fide* is not misconduct so as to render him liable to be made respondent to an election petition (*Harmon* v. *Park* (1880), 6 Q. B. D. 323; 45 J. P. 436).

(*c*) Words in brackets substituted by Amending Order of 1925, *post*, p. 3232.

(*d*) A withdrawal is irrevocable.

(*e*) That is, one to which no objection has been made before the returning officer, or to which any objection made has been disallowed by him, not nominations absolutely valid for all purposes. See *per* Lords WATSON and HERSCHELL in *Pritchard* v. *Mayor, etc. of Bangor*, *supra*. There may be a valid nomination within the meaning of s. 56 of the Municipal Corporations Act, 1882, notwithstanding that the candidate is disqualified under s. 12 (*Hobbs* v. *Morey*, [1904] 1 K. B. 74; 68 J. P. 132).

(*f*) As to the effect of inserting in the ballot paper the name of a candidate who has validly withdrawn his candidature, see *Wilson* v. *Ingham* (1895), 64 L. J. Q. B. 775; 59 J. P. 614.

(*g*) Paras. (2), (3), (4) and (5) of this Art. were repealed by the Amending Order of 1925, *post*, p. 3232, and the paras. (2) and (3) in square brackets set out here were substituted.

candidates is otherwise (*a*) so reduced, the returning officer shall, as early as practicable, give notice to each of the candidates, or of the remaining candidates, as the case may be, that no poll will be taken and that he will be declared to be elected; and also, in the case of the ordinary election, if the number of such candidates is less than the number of urban district councillors to be elected, or if there is no valid nomination, he shall as early as practicable, give notice to such of any retiring councillors for the district as were highest on the poll at their election, or, if the poll was equal or there was no poll, as shall have been selected for that purpose by the returning officer by lot to make up the required number, that they will be declared to be deemed to be re-elected.]

(3) [Such notice shall be in the Form No. 4 in the Second Schedule to this Order, or in a form to the like effect.]

Days and hours of poll.

11.—(1) The poll, if any, shall be held on the day of election as prescribed or defined by the First Schedule to this Order, and the hours during which the poll shall be open shall be such as shall be fixed by the county council by any general or special order, or if no such order is in force in the district then such hours as were applicable at the last ordinary election of urban district councillors or guardians, so, however, that the poll shall always be open between the hours of six and eight in the evening (*b*).

(2) Provided that in any urban district the hours during which any poll shall be open for the election of urban district councillors and guardians shall be the same.

When polls to be taken together.

12.—(1) If the urban district or any ward or wards of the district is or are co-extensive with a parish or united parishes for which an election of guardians is to be held, or with any wards or ward of such a parish, or if the district is not divided into wards such district, or if it is divided into wards any one ward of the district, includes the whole of such parish, united parishes, or ward of a parish, the poll for the election of urban district councillors for the district, and any poll for the election of guardians for the parish, united parishes, or ward shall be taken together.

(2) If the county council shall be of opinion, in any other case, that the polls for the election of urban district councillors and for the election of guardians can conveniently be taken together, they may give directions accordingly to the returning officers for the two elections, and the polls for such elections shall thereupon be taken together.

(3) The returning officer for the election of urban district councillors shall act as the deputy returning officer at any poll for the election of guardians, if the polls for the two elections are to be taken together.

Polling districts

13.—(1) (*a*) Any parish, or, where a parish is united with another parish for the election of guardians, the united parishes, shall, if wholly comprised in the urban district, be a polling district, or be subdivided into polling districts for the election of urban district councillors, if a poll for the said elections and a poll for the election of guardians are to be taken together.

(*b*) If any parish is divided into wards for the election of guardians, paragraph (*a*) of this rule shall apply with the substitution of "ward" for "parish."

(*c*) Provided that if any parish, united parishes, or ward of a parish for the election of guardians is or are divided into polling districts for the election of county councillors, the whole of each polling district being comprised in the parish, united

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(*a*) As for instance, by death. See *R.* (or *Westacott*) v. *Stewart*, [1898] 1 Q. B. 552; 62 J. P. 229; and compare *Urquhart* v. *Air*, [1910] S. C. 54.

(*b*) The door of a polling station may be closed before the time if there are sufficient voters inside to occupy the remainder of the time in voting, and papers issued before the hour of closing may be placed in the box, though the hour has struck (*Worcester* (1880), 3 O'M. & H. 184). But no papers should be issued after the hour, though to persons already in the station when the doors are closed (*Gribbin* v. *Kiker* (1873), Ir. Rep. 7 C. L. 30; *Ex parte Elliott*, Times, June 3rd and Oct. 27th, 1891; *Midhurst* v. *Lough* (1901), 17 T. L. R. 210).

parishes, or ward and the lists of parochial electors are made out in separate parts for such polling districts, each district shall, if a poll for the election of urban district councillors and a poll for the election of guardians are to be taken together, be a polling district for the election of urban district councillors.

(*d*) Subject as aforesaid, the returning officer may, if he thinks fit, divide the district into polling districts for the election of urban district councillors, but each district shall consist of an area for which a [*separate part of the local government register*] (*a*) will be available.

(*e*) The polling districts for the election of urban district councillors, and of any guardians, when the polls for the two elections are to be taken together, shall be the same.

(2) If the district is divided into polling districts, each parochial elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in one only) of the polling districts in which it is situate.

Polling places and stations.

14. The returning officer shall determine the number and situation of the polling places and polling stations.

Provided as follows:

(*a*) No premises licensed for the sale of intoxicating liquor shall be used for a polling station;

(*b*) The polling stations for the election of urban district councillors and of any guardians, when the polls for the two elections are taken together, shall be the same;

(*c*) Where the number of parochial electors in the urban district, or (if the district is divided into polling districts) in any polling district is not more than five hundred, only one polling station shall, unless the county council otherwise direct, be provided for the urban district or polling district; and so on for each additional five hundred parochial electors, or for any less number of parochial electors over and above the last five hundred.

Notice of poll.

15.—(1) If a poll has been taken, the returning officer shall, within the time prescribed for that purpose by the First Schedule to this Order, give public notice thereof in accordance with rule 30 of this Order. The notice shall specify—

(*a*) the day and hours fixed for the poll;

(*b*) the number of urban district councillors to be elected for the district;

(*c*) the names, place of abode, and description of each candidate for the district whom he has decided to have been nominated by a valid nomination paper, and who has not withdrawn his candidature;

(*d*) the names of the proposer and seconder who signed the nomination paper of each candidate;

(*e*) a description of the polling districts, if any; and

(*f*) the situation and allotment of the polling places and polling stations (*b*) and the description of the persons entitled to vote thereat.

(2) The notice shall be in the Form No. 5 in the Second Schedule to this Order, or in a form to the like effect.

(3) If polls are to be taken together in the district as to the election of both urban district councillors and guardians, the returning officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 6 in the Second Schedule to this Order, or in a form to the like effect.

Presiding officer.

16. The returning officer, or some person appointed by him for the purpose, shall preside at each polling station. The person presiding at any polling station shall be called the presiding officer. Provided that at any polling station the same person shall act as presiding officer for the election of urban district councillors and guardians, the polls for which are to be taken together.

(*a*) Words substituted by amending Order of 1925, *post*, p. 3232.

(*b*) In *Pembroke Election Petition*, [1908] 2 I. R. 158, 433, two polling stations were announced: in fact there were ten polling tables at the two places indicated: held immaterial.

17. The returning officer shall furnish every polling station with a sufficient number of compartments in which the voters can mark their votes screened from observation, and shall furnish each presiding officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

Compartments of polling stations. Ballot papers.

18. If there are only two candidates, each of them may, in writing, appoint a polling agent for each polling station, who may be paid or unpaid. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each polling station, who may be paid or unpaid. Any such appointment shall be delivered at the office of the returning officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election (*a*).

Polling agents.

19.—(1) The presiding officer may, and if required by any parochial elector of the district, or any polling agent appointed under rule 18, shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them, and no other:

Questions to elector.

(*a*) Are you the person entered in the parochial register for the parish of [*or* for the ward] as follows [*read the whole entry from the register*] ?

(*b*) Have you already voted at the present election of urban district councillors for the urban district of [in this or any other ward] ?

(2) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it (*b*).

20.—(1) If the returning officer appoints a person to act as deputy returning officer for the district as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate, and of the election of the candidate or candidates to whom the largest number of votes has been given, the person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the matters aforesaid, and to the decision of any question as to any ballot paper and otherwise as to the ballot papers (*c*).

Counting the votes.

(2) If polls for the election both of urban district councillors and guardians are taken together, the same person shall discharge the duties referred to in paragraph (1) of this rule in relation to both elections.

(3) The votes shall be counted in the district or in some place near thereto as soon as practicable after the close of the poll.

21. If an equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer who counts the votes may, if a parochial elector of the district, give such additional vote in writing, but shall not otherwise be entitled to vote at the election (*d*). If in such a case the returning officer, or deputy returning officer, as the case may be, is not a parochial elector of the district, or is unwilling to vote,

Equality of votes.

(*a*) A candidate has a right to be present in a polling station if he does not interfere with the polling or misconduct himself, although he does not act as his own polling agent (*Clementson* v. *Mason* (1875), L. R. 10 C. P. 209). The appointment of too many polling agents will not necessarily avoid an election (*Pembroke Election Petition, ante*, p. 3200).

(*b*) The first question may be truthfully answered even if the name be erroneously spelled in the register (*R.* v. *Thwaites* (1853), 1 E. & B. 704), or even if it be a totally different name from the real name of the voter provided it was intended to designate him and no other person (*R.* v. *Fox* (1887), 16 Cox, C. C. 166). In either case the vote would be good on a scrutiny (*Oldham case* (1869) 1 O'M. & H. 153). No oath can be administered to a voter.

(*c*) A ballot paper is validly marked if the voter has so placed his mark as to make it clear for which particular candidate he intended to vote, although the mark as placed is outside the ruled space or parallelogram printed on the paper for its reception (*Pontardawe R. D. C. Election*, [1907] 2 K. B. 313; 71 J. P. 371. See also *Woodward* v. *Sarsons* (1875), L. R. 10 C. P. 733; 39 J. P. 776; *Stepney* (1886), 4 O'M. & H. 37; *Buckrose* (1886), 4 O'M. & H. 110; *Berwick-on-Tweed* (1880), 44 L. T. 289; *Oldham Petition: Cooper* v. *Ogden* (1908), 72 J. P. 115; 24 T. L. R. 242).

As to the right of a candidate to be present at the counting, see *Clementson* v. *Mason*, *supra*.

(*d*) If he votes when there is no tie, a petition will lie (*Brittain* v. *Ritchie* (1889), 43 Sol. J. 532), and the returning officer will be liable to an action for penalties (*Brittain* v. *Whitehorn*, Times, March 30th, 1900).

he shall determine by lot which of the candidates whose votes are equal shall be elected (*a*).

Who shall be deemed to fill casual vacancies at ordinary election

22. In the event of one or more casual vacancies being filled up at the ordinary election, where there is a poll, the persons elected by the fewest votes shall be deemed elected to fill such vacancies. Should there be an equality of votes between such persons the urban district council shall determine by ballot which of such persons shall be deemed elected to fill the casual vacancy. If the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the fewest votes, or if the votes are equal the person selected by the urban district council by ballot from the persons so elected shall hold office for the shorter period. Where there is no poll the person or persons to be deemed to be elected to fill the casual vacancy or vacancies shall be determined by the urban district council by ballot.

Declaration of result of poll.

23.—(1) The declaration of the result of the poll shall be in the Form No. 7 in the Second Schedule to this Order, or in a form to the like effect.

(2) The returning officer, or deputy returning officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a deputy returning officer, he shall forthwith send it to the returning officer.

Publication of result of election.

24.—(1) The returning officer shall prepare and sign a notice (*b*) of the result of the election in the district, or in all the wards of the district, as the case may be, and shall by such notice declare to be elected or to be deemed to be re-elected the persons who, under rule 10, are to be declared to be elected or to be deemed to be re-elected without a poll being taken. The notice shall be in the Form No. 8 in the Second Schedule to this Order, or in a form to the like effect.

(2) The returning officer shall cause . . . (*c*) public notice thereof to be given in accordance with rule 30 of this Order. The returning officer shall also send copies of the notice to the persons elected or deemed to be re-elected.

Application and adaptation of Ballot Act, 1872.

25. The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the Third Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election of urban district councillors in like manner as in the case of a municipal election.

Provided as follows:

(*a*) Such application shall be subject to the provisions of this Order.

(*b*) If polls are taken together for the election of urban district councillors and guardians, one ballot box may, if the returning officer think fit, be used for the two elections; but if separate ballot boxes are used for the two elections respectively, no vote for any urban district councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for guardians.

(*c*) The ballot papers used at the election of urban district councillors shall be of a different colour from that of any ballot papers used in the election of any guardians in the district when the polls for both elections are taken together.

Adaptation of Municipal Corporations Act, 1882.

26.—(1) The provisions of sections 74 and 75 of the Municipal Corporations Act, 1882, which, with adaptations and alterations, are set out in the Fourth Schedule to this Order, and such of the provisions of that Act as relate to the acceptance of office, resignation, re-eligibility of holders of office, and filling of casual vacancies, and are, with adaptations and alterations, set out in the Fifth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the election of urban district councillors and to the persons elected or deemed to be re-elected thereat.

(*a*) This avoids the difficulty which arose in *Crone* v. *Waugh*, Local Government Chronicle, 1892, p. 599.

(*b*) The notice is entirely distinct from the declaration of the result of the poll, and cannot alter the effect of a numerical majority of the votes given for any candidate. See *Pritchard* v. *Mayor of Bangor*, *ante*, p. 3198.

(*c*) Certain words repealed by amending Order of 1925, *post*, p. 3232.

(2) In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to corrupt practices and election petitions) (*a*), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (*b*), the following adaptations and alterations shall have effect:

(*a*) Such application shall be subject to the provisions of this Order.

(*b*) References to the election of urban district councillors shall be substituted for references to a municipal election or to an election to a corporate office. "Urban district" shall be substituted for "borough," "rate applicable to the general expenses of the urban district council" shall be substituted for "borough fund or borough rate," "returning officer" shall be substituted for "town clerk," and "voter" shall mean "a parochial elector or a person who votes or claims to vote at an election of urban district councillors."

(*c*) In the application of the sub-section (2) of section 89 such sub-section shall be adapted and altered so as to read as follows:

"(2) The security shall be to the amount of fifty pounds unless in any case the High Court or a judge thereof, on summons, order that the same shall be to a lesser amount, or to a larger amount not exceeding three hundred pounds, and shall be given in the prescribed manner either by a deposit of money or by recognisance entered into by not more than four sureties, or partly in one way and partly in the other."

Adaptation of Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

27. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act (*b*), the following adaptations and alterations shall have effect:

(1) Such application shall be subject to the provisions of this Order.

(2) The expressions "urban district or ward of an urban district," "returning officer of urban district councillors," and "rate applicable to the general expenses of the urban district council" shall be deemed to be substituted in the Act for "borough or ward," "town clerk," and "borough fund or rate," respectively.

(3) The expression "corporate office" in the Act shall mean "the office of urban district councillor" and "municipal election" shall mean "an election of one or more urban district councillors"; and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.

(4) So much of section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by rule 18 of this Order.

(5) An election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election.

(6) In section 34 of the Act "burgess roll" shall mean "register of parochial electors."

(7) Section 37 of the Act shall be read as if a reference to an election of urban district councillors was substituted for a reference to any of the elections mentioned in the First Schedule to the Act.

Expenses.

28.—(1) Any sum which may be payable to the returning officer in respect of his services in the conduct of the election of urban district councillors, or in respect of expenses incurred in relation to the election, shall be defrayed by the urban district council out of the fund or rate applicable to their general expenses under the Public Health Act, 1875.

(2) If polls for the election of urban district councillors and guardians are taken together, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of urban district councillors, and shall be defrayed accordingly.

Wards.

29.—(1) If the district is divided into wards for the election of urban district councillors the rules in this Order shall apply to each of such wards as if it were the district.

(*a*) *Ante*, p. 2417.

(*b*) *Ante*, p. 2460.

Provided as follows:

(*a*) If the district is so divided, an elector shall not be permitted to vote in more than one ward.

(*b*) Any sum which in pursuance of this Rule and of Rule 28 would be charged to any ward shall be charged to the district.

Publication of notices.

30. Any public notice required by this Order shall be given by posting the same on or near the principal door of each church and chapel in the district, and in some conspicuous place or places within the district.

Mark instead of signature. Misnomer.

31. In place of any signature required by this Order, it shall be sufficient for the signatory to affix his mark, if the same is witnessed by two parochial electors.

Inaccurate description.

32. No misnomer or inaccurate description of any person or place named in any notice or nomination paper under this Order shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Definition of "urban district" and "ordinary election."

33. In this Order the expression "urban district" means an urban district other than a borough, and the expression "ordinary election" means the election held in any year to fill any ordinary vacancies in the urban district councillors for the district, and includes any first election of additional urban district councillors for the district or election to fill a casual vacancy in the office of urban district councillor for the district which can be held at the time of the election to fill such ordinary vacancies, and any first election of urban district councillors for a newly constituted district which can be held at the time appointed for ordinary elections.

Adaptation of forms to elections other than the ordinary election.

34. If the election is not the ordinary election, such modifications as may be necessary shall be made in the forms contained in the Second Schedule to this Order.

This Order may be cited as the "Urban District Councillors Election Order, 1898."

SCHEDULES.

FIRST SCHEDULE.

a.—TIMES FOR THE PROCEEDINGS AT THE ORDINARY ELECTION OF URBAN DISTRICT COUNCILLORS IN ANY YEAR.

Proceeding.	Time.
1. Notice of election	Not later than the second Friday in March, or, if the first Monday in April is Easter Monday, the first Friday in March.
2. Receipt of nomination papers . .	Not later than twelve o'clock at noon on the following Thursday.
3. Sending notice of decision as to validity of nomination papers.	Not later than the following Friday.
4. Making out statement as to persons nominated.	Not later than the following Saturday.
5. Withdrawal of candidates . . .	Not later than twelve o'clock at noon on the following Tuesday.
6. Notice of poll	Five clear days at least before day of election.
7. Day of election	The first Monday in April, or, if that is Easter Monday, the last Monday in March; or, in either case, such other day not being earlier than the preceding Saturday, or later than the following Wednesday, as may for special reasons be fixed by the county council.

b.—TIMES FOR THE PROCEEDINGS AT FIRST ELECTIONS OF URBAN DISTRICT COUNCILLORS OR AT ELECTIONS TO FILL CASUAL VACANCIES, IF NOT HELD AT THE TIME OF THE ORDINARY ELECTIONS.

Proceeding.	Time.
1. Notice of election	Not later than fourteen days before the day of election.
2. Receipt of nomination papers . .	Not later than twelve o'clock at noon on the fourth day after the day on which the notice of election was given.
3. Sending notice of decision as to validity of nomination papers . . . 4. Making out statement as to persons nominated	Not later than the day after the last day for the receipt of nomination papers.
5 Withdrawal of candidates . . .	Not later than twelve o'clock at noon on the fourth day after the last day for the receipt of nomination papers.
6. Notice of poll	Five clear days at least before day of election.
7. Day of election	In the case of first elections: Such day as may be fixed by the returning officer, but so that, subject to any special provision in the Order assigning any additional councillors or constituting the new urban district, as the case may be, it shall not be later than six weeks from the date when such Order comes into operation. In the case of elections to fill casual vacancies: Such day as may be fixed by the clerk to the district council, in pursuance of section 66 of the Municipal Corporations Act, 1882, as altered and adapted by the Fifth Schedule to this Order.

SECOND SCHEDULE.

NOTE.—*If the election is not the ordinary election, such modifications as may be necessary should be made in the Forms in the Schedule* (*Rule* 34).

FORM No. 1.

[*See form substituted by amending Order of* 1925 *at p.* 3233, *post.*]

FORM No. [3] (*a*).

STATEMENT AS TO PERSONS NOMINATED.

URBAN DISTRICT OF .

The following is a statement as to the persons nominated for election as urban district councillors for the above-named district [*or* for the several wards in the above-named district].

District (*or* Wards).	Persons nominated.			Decision of Returning Officer that Candidate has not been nominated by a valid Nomination Paper.
	Names (Surname first).	Place of Abode.	Description.	
1.	2.	3.	4.	5.

(*a*) The number of this form was altered by the amending Order of 1925, *post*, p. 3235. (See Form No. 2, prescribed by amending Order of 1925 at p. 3234, *post.*)

Appendix II.

The candidates opposite whose names no entry is made in column 5 have been validly nominated.

Dated this day of , 19 .

Returning Officer.

Office for purpose of election.

FORM No. 3.

(*Repealed by amending Order of* 1925.)

FORM No. 4.

(*See substituted Form in amending Order of* 1925 *at p.* 3235, *post.*)

FORM No. 5.

NOTICE OF POLL.

[This form is for use where a poll is taken for the election of urban district councillors only.]

URBAN DISTRICT OF .

ELECTION OF URBAN DISTRICT COUNCILLORS for the above district [*or* for the Ward of the above district] in the year 19

NOTICE IS HEREBY GIVEN—

1. That a poll for the election of urban district councillors for the above-named district [*or* ward] will be held on the day of , 19 , between the hours of and .
2. That the number of urban district councillors to be elected for the district [*or* ward] is .
3. That the names in alphabetical order, places of abode, and descriptions of the candidates for election, and the names of their respective proposers and seconders are as follows :

Names of Candidates (Surname first).*	Place of Abode.	Description.	Names of Proposer (Surname first).	Name of Seconder (Surname first).

* Insert particulars as to each candidate for the district or ward whose nomination is valid, and who has not withdrawn his candidature.

4.†—(1) That each elector must vote in the polling district in which the property in respect of which he votes is situate, and if it is situate in more than one polling district he may vote in any one (but in one only) of such polling districts.

(2) The polling districts are as follows :

5.‡ The situation and allotment of the polling places and polling stations and the description of the persons entitled to vote thereat are as follows :

6. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election will be [*insert colour*].

Dated this day of , 19 .

, Returning Officer.

Office for purpose of election.

† If the district or ward is not divided into polling districts for the purposes of the election, paragraph 4 should be omitted.

‡ If only one polling place or station, adapt form accordingly.

FORM No. 6.

NOTICE OF POLL.

[This form may be used where polls are taken together for the election of urban district councillors and guardians.]

ELECTION OF URBAN DISTRICT COUNCILLORS AND GUARDIANS for the Urban District of [*or* for the Ward of the Urban District of], and for the Parish of [*or* for the Ward of the Parish of , *or* for the United Parishes of] in the year 19 .

NOTICE IS HEREBY GIVEN—

1. That polls for the election of urban district councillors and of guardians for the above-named district [*or* ward] and parish [*or* ward *or* united parishes] will be held on , the day of , 19 , between the hours of and .
2. That the number of urban district councillors to be elected for the district [*or* ward] is .
3. That the number of guardians to be elected for the parish [*or* ward] is .
4. That the names in alphabetical order, places of abode, and descriptions of the candidates for election, and the names of their respective proposers and seconders are as follows :

AS URBAN DISTRICT COUNCILLORS.

Names of Candidates (Surname first).	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Seconder (Surname first).

AS GUARDIANS.

Names of Candidates (Surname first).	Place of Abode.	Description.	Names of Proposer (Surname first).	Names of Seconder (Surname first).

5.*—(1) That each elector must vote in the polling district in which the property in respect of which he votes is situate, and if it is situate in more than one polling district he may vote in any one (but in one only) of such polling districts.

(2) The polling districts are as follows :

6.† The situation and allotment of the polling places and polling stations and the description of the persons entitled to vote thereat are as follows :

7. The poll will be taken by ballot, and the colour of the ordinary ballot paper used in the election of urban district councillors will be [*insert colour*], and in the election of guardians will be [*insert colour*].

Dated this day of , 19 .

Office for purpose of election.

, Returning Officer
for the election of urban district councillors and
deputy returning officer for the election of guardians.

* If the district, parish, or ward, or united parishes, is not divided into polling districts for the purposes of the election, paragraph 5 should be omitted.

† If only one polling place or station adapt form accordingly.

Appendix II.

FORM No. 7.

DECLARATION OF RESULT OF POLL.

URBAN DISTRICT OF .

ELECTION OF URBAN DISTRICT COUNCILLORS for the above district [*or* for the Ward of the above district] in the year 19 .

I, the undersigned, being the returning officer [*or* deputy returning officer duly authorised in that behalf] at the poll for the election of urban district councillors for the said district [*or* ward] held on the day of , 19 , do hereby give notice that the number of votes recorded for each candidate at the election is as follows :

Names of Candidates.		Places of Abode.	Number of Votes recorded.
Surnames.	Other Names.		

And I do hereby declare that the said are duly elected urban district councillors for the said district [*or* ward].

Dated this day of , 19 .

Returning Officer
[*or* Deputy Returning Officer].

FORM No. 8.

NOTICE OF RESULT OF ELECTIONS.

URBAN DISTRICT OF .

ELECTION OF URBAN DISTRICT COUNCILLORS for the above district in the year 19 .

I, the undersigned, being the returning officer at the election of urban district councillors for the said district, do hereby give notice that the candidates at the election whose names are entered in column 6 of the statement hereunder opposite to the numbers entered in column 5 have been declared duly elected urban district councillors *; and I hereby declare that the persons whose names are entered in the said column 6 [*or* in column 7],† and opposite to whose names no numbers are entered in column 5, where no polls have been taken, were duly elected [*or* are to be deemed to be re-elected]† urban district councillors for the district [*or* for the wards opposite to the names of which in column 1 the names of such candidates are entered].

* If there were no candidates to be declared elected write "No candidates" across columns 2 and 3 (*)

† If the election is a first election, or is to fill a casual vacancy, omit these words and column 7.

District and Wards.	Names of Candidates.		Places of Abode.	Number of Votes recorded.	Names of Candidates elected.	Names of retiring Councillors deemed to be re-elected.
	Surnames.	Other names.				
1.	2.	3.	4.	5.	6.	7.

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* This side-note was added by the amending Order of 1925, *post* p. 3235.

THIRD SCHEDULE.

PROVISIONS OF THE BALLOT ACT, 1872, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF URBAN DISTRICT COUNCILLORS IN ANY DISTRICT OTHER THAN A BOROUGH.

PROCEDURE AT ELECTIONS OF URBAN DISTRICT COUNCILLORS.

Poll at elections.

2. The ballot of each voter shall consist of a paper (in this Act called a ballot paper) showing the names and description of the candidates. Each ballot paper shall have a number printed on the back, and shall have attached a counterfoil with the same number printed on the face. At the time of voting, the ballot paper shall be marked on both sides with an official mark, and delivered to the voter within the polling station, and the number of such voter on the register of voters shall be marked on the counterfoil, and the voter having secretly marked his vote on the paper, and folded it up so as to conceal his vote, shall place it in a closed box in the presence of the officer presiding at the polling station (in this Act called "the presiding officer") after having shown to him the official mark at the back.

If in the register of parochial electors for a parish, the same number is placed opposite to the name of more than one parochial elector, the returning officer shall put a distinguishing mark on each part of the register which contains numbers used in other parts of the register, and when the number of any voter on any part of the register is entered on the counterfoil of a ballot paper, the mark on that part shall also be entered thereon.

Any ballot paper which has not on its back the official mark, or on which votes are given to more candidates than the voter is entitled to vote for, or on which anything, except the said number on the back, is written or marked by which the voter can be identified, shall be void and not counted.

After the close of the poll the ballot boxes shall be sealed up, so as to prevent the introduction of additional ballot papers, and shall be taken charge of by the returning officer, and that officer shall, in the presence of such agents, if any, of the candidates as may be in attendance, open the ballot boxes, and ascertain the result of the poll by counting the votes given to each candidate, and shall forthwith declare to be elected the candidates or candidate to whom the majority of votes have been given. The decision of the returning officer as to any question arising in respect of any ballot paper shall be final, subject to reversal on petition questioning the election or return.

OFFENCES.

Offences in respect of ballot papers and ballot boxes.

3. Every person who—

(1) *Forges and counterfeits or* (*a*) fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper; or

(2) Without due authority supplies any ballot paper to any person; or

(3) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorised by law to put in; or

(4) Fraudulently takes out of the polling station any ballot paper; or

(5) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election (*b*);

shall be guilty of a misdemeanour, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years, with or without hard labour, and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

Infringement of secrecy.

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorised by law, before the poll is closed, to any person any information as to the name or number on the register of parochial electors of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark, and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station

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(*a*) Words in italics repealed by amending Order of 1925, see note (*a*) at *post*, p. 3217.

(*b*) For a conviction under this clause for trying to destroy by a liquid papers already in the box, see *R.* v. *Chapin* (1910), 74 J. P. 71.

is about to vote or has voted, or communicate at any time any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote, or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, agent, and person in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour (*a*).

USE OF SCHOOL AND PUBLIC ROOM FOR POLL.

6. The returning officer at an election of urban district councillors may use free of charge, for the purpose of taking the poll or for counting the votes at such election, any room in a school receiving a grant out of moneys provided by Parliament, and any room the expense of maintaining which is payable out of any local rate, but he shall make good any damage done to such room, and defray any expense incurred by the person or body of persons, corporate or unincorporate, having control over the same on account of it being used for the purpose of taking the poll or for counting the votes as aforesaid.

The use of any room in an unoccupied house for taking the poll shall not render any person liable to be rated or to pay any rate for such house.

DUTIES OF RETURNING AND ELECTION OFFICERS.

General powers and duties of returning officer.

8. Subject to the provisions of this Act, every returning officer shall provide such nomination papers, polling stations, ballot boxes, ballot papers, stamping instruments, copies of register of parochial electors, and other things, appoint and pay such officers, and do such other acts and things as may be necessary for effectually conducting the election.

Every deputy returning officer shall, in so far as he acts as returning officer, be deemed to be included in the term returning officer.

Keeping of order in station.

9. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorised in writing by the returning officer to remove him; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day.

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace.

Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station (*b*).

Powers of presiding officer and administration of oaths, etc

10. For the purpose of the adjournment of the poll, a presiding officer shall have the power by law belonging to a deputy returning officer in a parliamentary election; and any presiding officer and any clerk appointed by the returning officer to attend at a polling station shall have the power of asking the questions and administering the oath authorised by law to be asked of and administered to voters, and any justice of the peace and any returning officer may take and receive any declaration authorised by this Act to be taken before him.

Liability of officers for misconduct.

11. Every returning officer, presiding clerk, and clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission a penal sum not exceeding one hundred pounds (*c*).

No returning officer or officer appointed by him in connection with the election of urban

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(*a*) See *Stannanought* v. *Hazeldine* (1879), 4 C. P. D. 191; 43 J. P. 352.

(*b*) Should confusion arise from a rush being made into the polling station the presiding officer is justified in having it cleared and order restored before proceeding with the poll (*Worcester* (1880), 3 O'M. & H. 184).

(*c*) A person who has lost the election by reason of such misfeasance, act, or omission on the part of the officer or clerk is a person aggrieved within the meaning of this provision. And an action will lie to recover the penalty without any allegation of malice or want of reasonable care (*Pickering* v. *James* (1873), L. R. 8 C. P. 489; 37 J. P. 679).

district councillors for any urban district, nor any partner or clerk of any such officer, shall act as agent for any candidate in the management or conduct of his election as an urban district councillor. If any returning officer or officer appointed by him, or the partner or clerk of any such officer, shall so act he shall be guilty of a misdemeanour.

MISCELLANEOUS.

Prohibition of disclosure of vote.

12. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required to state for whom he has voted.

Non-compliance with rules.

13. No election shall be declared invalid by reason of a defect in the title or appointment of the returning officer or deputy returning officer of or a non-compliance with the rules contained in the First Schedule to this Act or in the Urban District Councillors Election Order, 1898, or any mistake in the use of the forms in the Second Schedule to this Act or in the said Order, if it appears to the tribunal having cognisance of the question that the election was conducted in accordance with the principles laid down in the body of this Act and of the Local Government Act, 1894, and that such non-compliance or mistake did not affect the result of the election (*a*).

PERSONATION.

Definition and punishment of personation.

24. The following enactments shall be made with respect to personation at an election of urban district councillors:

It shall be the duty of the returning officer to institute a prosecution (*b*) against any person whom he may believe to have been guilty of personation (*b*), or of aiding, abetting, counselling, or procuring the commission (*c*) of the offence of personation of any person, at the election for which he is returning officer, and the costs and expenses of the prosecutor and the witnesses in such case, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which courts are empowered to allow the same in cases of felony.

Sections 86 to 89, both inclusive, of the Parliamentary Voters Registration Act, 1843 (*d*), shall apply to personation at an election of urban district councillors in the same manner

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(*a*) The result of the election does not necessarily mean the result as to another candidate being elected at the poll. The result would be affected if the majority was substantially reduced (*per* GROVE, J., *Hackney* (1874), 2 O'M. & H. 84). For an instance of non-compliance with rules not avoiding the election, see *Pembroke Petition*, [1908] 2 I. R. 158, 433.

(*b*) It is not necessary either to charge in the indictment, or to prove, that the presiding officer at the polling station where the offence is alleged to have been committed was duly appointed (*R.* v. *Garvey* (1887), 16 Cox, C. C. 252).

(*c*) See definition, *ante*, p. 2481.

(*d*) This offence is complete though the vote is not got in. "Procuring" is complete if the person procured actually applies for a ballot paper, though he never gets it; and "counselling" is complete though the person counselled never even applies for a ballot paper. See *Hague* v. *Brown*, *ante*, p. 2481.

(*e*) The effect of these sections as applied is as follows:

If at the time any person applies for a ballot paper after he has voted and before he leaves the polling station, any parochial elector or polling agent, of whose appointment proper notice has been given, declares to the presiding officer that he verily believes and undertakes to prove that the person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, the presiding officer must immediately after such person has voted, by word of mouth order any constable to arrest him, and the order is sufficient warrant for the constable to do so. But the presiding officer must, nevertheless, not refuse a ballot paper to any one answering in the affirmative the questions permitted by law and taking the oath authorised and required of him, nor may the presiding officer refuse to allow the ballot paper of any such person to be put into the ballot box.

The constable must take the accused at the earliest convenient time before two justices for the place within which the voting has taken place. If two justices cannot be found, within three hours of the close of the poll, the constable must take him before one justice who must release him on bail to appear before two justices. If not even one justice can be found within four hours of the close of the poll, the prisoner must be discharged; but he may in such case be subsequently re-arrested and the charge inquired into.

If on the hearing before two justices they are satisfied on the oath of two credible witnesses that the prisoner is guilty, they must commit him for trial. But if, on the contrary, they think the charge unfounded, they must make a written order on the elector or agent, at whose instance the prisoner was arrested, to pay him compensation, if he will accept it, to the amount of not more than £10 nor less than £5. The compensation so awarded may be levied by warrant of distress on the goods of the elector or agent, or of the candidate by whom the agent was employed. Acceptance of the compensation bars all further actions.

as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person as mentioned in the said Act, but with the substitution of the words "any parochial elector or any agent appointed under the Urban District Councillors Election Order, 1898," for "any such agent so appointed as aforesaid" or for any reference to any such agent, and of "the presiding officer" for "the returning officer or his respective deputy."

EFFECT OF SCHEDULES.

28. The schedules to this Act, and the notes thereto, and directions therein shall be construed and have effect as part of this Act.

SCHEDULES TO ACT.

FIRST SCHEDULE TO ACT.

RULES FOR ELECTIONS OF URBAN DISTRICT COUNCILLORS.

The poll.

15. At every polling place the returning officer shall, subject to the provisions of the Urban District Councillors Election Order, 1898, provide a sufficient number of polling stations for the accommodation of the electors entitled to vote at such polling place, and shall distribute the polling stations amongst those electors in such manner as he thinks most convenient.

17. A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth.

18. No person shall be admitted to vote at any polling station except the one allotted to him.

20. The returning officer shall provide each polling station with materials for voters to mark the ballot papers, with instruments for stamping thereon the official mark, and with copies of the register of voters, or such part thereof as contains the names of the voters allotted to vote at such station. He shall keep the official mark secret.

21. The presiding officer appointed to preside at each station shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

22. Every ballot paper shall contain a list of the candidates described as in their respective nomination papers (*a*), and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names; it shall be in the form set forth in the Second Schedule to this Act or as near thereto as circumstances admit and shall be capable of being folded up.

23. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, just before the commencement of the poll (*b*), shall show the ballot box empty to such persons, if any, as may be present in such station, so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

24. Immediately before a ballot paper is delivered to an elector, it shall be marked on both sides with the official mark, either stamped or perforated, and the number, name, and description of the elector as stated in the copy of the register shall be called out, and the number of such elector, together with the distinguishing mark, if any, of the part of the register in which the number occurs, shall, as required by section 2 of this Act, as adapted, be marked on the counterfoil, and a mark shall be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received.

25. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there mark (*c*) his paper, and fold it up so as to conceal his vote, and shall then put his ballot paper, so folded up, into the ballot box (*d*); he shall vote without any undue delay and shall quit the polling station at soon as he has put his ballot paper into the ballot box.

(*a*) If a candidate has been more than once validly nominated by different descriptions, his name should be entered only once in the nomination paper with both or all the descriptions as alternatives (*Northcote* v. *Pulsford* (1875), L. R. 10 C. P. 476; 39 J. P. 487).

(*b*) A spare box was only exhibited empty and sealed when it was required for use: held immaterial (*Pembroke Petition, ante*, p. 3211).

(*c*) Secretly. See s. 2, *ante*, p. 3209, and *Woodward* v. *Sarsons* (1875), L. R. 10 C. P. 733; 39 J. P. 776.

(*d*) This must be done in the presence of the presiding officer, after having shown him the official mark on the back. See s. 2, *ante*, p. 3209, and HAWKINS, J., in *Ackers* v. *Howard* (1886), 16 Q. B. D. 739 at p. 752; 50 J. P. 519.

26. The presiding officer, on the application of any voter who is incapacitated by blindness or other physical cause from voting in manner prescribed by this Act, or (if the poll be taken on Saturday) of any voter who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in manner prescribed by this Act, or of any voter who makes such a declaration as hereinafter mentioned that he is unable to read, shall, in the presence of the agents of the candidates, cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and the ballot paper to be placed in the ballot box, and the name and number on the register of voters of every voter whose vote is marked in pursuance of this rule, and the reason why it is so marked shall be entered on a list, in this Act called "the list of votes marked by the presiding officer."

The said declaration, in this Act referred to as "the declaration of inability to read," shall be made by the voter at the time of polling, before the presiding officer, who shall attest it in the form hereinafter mentioned, and no fee, stamp, or other payment shall be charged in respect of such declaration, and the said declaration shall be given to the presiding officer at the time of voting (*a*).

27. If a person, representing himself to be a particular elector named on the register applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions permitted by the Urban District Councillors Election Order, 1898, to be asked of voters at the time of polling, and upon taking an oath in the form hereinafter set out, which the presiding officer shall administer, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (in this Act called a tendered ballot paper) shall be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of voters, and set aside in a separate packet, and shall not be counted by the returning officer (*b*). And the name of the voter and his number on the register shall be entered on a list, in this Act called "the tendered votes list."

The oath shall be administered in the following form:

> "You do swear that you are the same person whose name appears as *A. B.* on the register of parochial electors for the parish of in this district [*or* on such part of the register of parochial electors for the parish of as relates to this ward], and that you have not already voted at the present election for this district [*add, in case of an election for a ward,* in this or any other ward].
>
> "SO HELP YOU GOD."

Provided that any person entitled to affirm in lieu of taking an oath may affirm in the following form:

> "I, *A. B.*, do solemnly, sincerely, and truly declare and affirm that I am the same person whose name appears as *A. B.* on the register of parochial electors for the parish of in this district [*or* on such part of the register of parochial electors for the parish of as relates to this ward], and that I have not already voted at the present election for this district [*add, in case of an election for a ward,* in this or any other ward]."

28. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper, may, on delivering to the presiding officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the presiding officer, obtain another ballot paper in the place of the ballot paper so delivered up (in this Act called a spoilt ballot paper), and the spoilt ballot paper shall be immediately cancelled.

29. The presiding officer of each station, as soon as practicable after the close of the poll, shall make up into separate packets sealed with his seal,

(1) Each ballot box in use at his station, unopened but with the key attached; and
(2) The unused and spoilt ballot papers, placed together; and
(3) The tendered ballot papers; and
(4) The marked copies of the register of parochial electors, and the counterfoils of the ballot papers (*c*); and

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(*a*) The presiding officer must not put these declarations wrapped up with the ballot papers into the box, but he must put them aside and afterwards make them up together with the tendered votes list and the lists of votes marked by him in a sealed packet for the returning officer. See *Woodward* v. *Sarsons, ante*, p. 3212.

(*b*) The tendered vote will be added on a scrutiny, if it be proved that the person tendering it was entitled to vote (*Oldham* (1869), 1 O'M. & H. 152; *St. Andrews* (1886), 4 O'M. & H. 32), even though the presiding officer has omitted to endorse on it the name of the voter (*Stepney* (1886), 4 O'M. & H. 43), but it would not be counted if the person tendering the vote, instead of returning the ballot paper to the presiding officer to be endorsed, puts it into the ballot box (*Buckrose* (1886), 4 O'M. & H. 115).

(*c*) Having regard to the difference in the provisions for the inspection of the marked register and of the counterfoils, it is better to seal them up in separate packets (*Stowe* v. *Jolliffe* (1874), L. R. 9 C. P. 446; 38 J. P. 617).

(5) The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of voters whose votes are so marked by the presiding officer under the heads "physical incapacity," "Jews," and "unable to read," and the declarations of inability to read;

and shall deliver such packets to the returning officer, or deputy returning officer by whom the votes are to be counted, unless he is himself such officer.

30. The packets shall be accompanied by a statement made by such presiding officer showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, which statement is in this Act referred to as the ballot paper account.

Counting votes.

31. Each candidate may appoint an agent to attend the counting of the votes.

32. The returning officer shall make arrangements for counting the votes in the presence of the agents of the candidates as soon as practicable after the close of the poll, and shall give to the agents of the candidates appointed to attend at the counting of the votes notice in writing of the time and place at which he will begin to count the same.

33. The returning officer, his assistants and clerks, the agents of the candidates, and any person to whom Rule 51 of this Schedule applies, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes (*a*).

34. If a poll has been taken as to the election of urban district councillors only, before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open each ballot box, and taking out the papers therein, shall count and record the number thereof, and then mix (*b*) together the whole of the ballot papers contained in the ballot boxes. If polls have been taken at the same date for the election both of urban district councillors and of guardians, before the returning officer proceeds to count the votes, he shall, in the presence of the agents of the candidates, open one of the ballot boxes and taking out the papers therein shall separate those relating to the election of urban district councillors from any relating to the election of guardians, and shall count and record the number of ballot papers relating to each election. He shall then secure the ballot papers relating to each election by placing them in separate packets under his own seal, and the seals of such of the agents of the candidates as desire to affix their seals, and shall proceed in like manner with any other ballot boxes and the papers therein. When all the ballot boxes and the papers therein have been so dealt with, he shall open all the packets of ballot papers relating to one election, and shall mix all such papers together, and shall proceed to count the votes, keeping the papers relating to any other election sealed up until he has completed such counting. He shall afterwards deal in manner aforesaid with the packets and papers relating to the other election or elections.

The returning officer, while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the backs of such papers.

35. The returning officer shall, so far as practicable, proceed continuously with counting the votes, allowing only time for refreshment, and excluding, if and so far as he thinks it necessary, the hours between the close of the poll and nine o'clock on the succeeding morning. During the excluded time the returning officer shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the agents of the candidates as desire to affix their seals, and shall otherwise take proper precautions for the security of such papers and documents.

36. The returning officer shall endorse "rejected" on any ballot paper which he may reject as invalid, and shall add to the endorsement "rejection objected to," if an objection be in fact made by any agent to his decision (*c*). The returning officer shall draw up a statement showing the number of ballot papers rejected and not counted by him under the several heads of—

1. Want of official mark;
2. Voting for more candidates than entitled to;

(*a*) Even the alteration of the wording of Rule 31 does not seem to oust the general right of a candidate to be present although he may have appointed an agent, and that agent is also present. See *Clementson* v. *Mason* (1875), L. R. 10 C. P. 209; 39 J. P. 360. The returning officer may order any person interrupting the proceedings by making a great noise or disturbance to be taken into custody and brought before a justice to give security for good behaviour (*Spilsbury* v. *Micklethwaite* (1808), 1 Taunt. 146).

(*b*) Failure to so mix them will not necessarily avoid the election (*Pembroke Petition*, *ante*, p. 3211).

(*c*) Where the returning officer omitted to endorse rejected ballot papers, but merely put them aside, and after he had finished counting placed all the rejected ballot papers in one parcel and sealed it up and endorsed it "Rejected ballot papers," this was held not to avoid the election (*Woodward* v. *Sarsons*, *ante*, p. 3212).

3. Writing or mark by which voter could be identified;
4. Unmarked or void for uncertainty (*a*);

and shall on request allow any agents of the candidates to copy such statement. If the votes are counted by a deputy returning officer he shall, with the declaration of the result of the poll, report to the returning officer the number of ballot papers rejected and not counted by him, under the above heads, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it.

37. Upon the completion of the counting, the returning officer shall seal up in separate packets the counted and rejected ballot papers. He shall not open the sealed packet of tendered ballot papers or marked copy of the register of voters and counterfoils, but shall proceed, in the presence of the agents of the candidates, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him as aforesaid, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall re-seal each sealed packet after examination. The returning officer shall draw up a statement as to the result of such verification, and shall, on request, allow all agents of the candidates to copy it.

If the votes are counted by a deputy returning officer, he shall report to the returning officer the result of the verification, and no such statement as aforesaid shall be drawn up by the returning officer. The deputy returning officer shall, on request, allow any agents of the candidates, before such report is sent in, to copy it. He shall with his report send to the returning officer the sealed packets of counted and rejected ballot papers, and the unopened sealed packets which he has received from any presiding officer.

38. Lastly, the returning officer shall carefully preserve for the period hereinafter mentioned all the packets of ballot papers in his possession, together with the said reports, the ballot paper accounts, tendered votes lists, lists of votes marked by the presiding officer, statements relating thereto, declarations of inability to read, and packets of counterfoils, and marked copies of registers, endorsing on each packet a description of its contents and the date of the election to which they relate, and the name of the district for which such election was held.

39. The returning officer shall retain for six months all documents relating to an election of urban district councillors, and then, unless otherwise directed by an order of the county court having jurisdiction in the parish or in any part thereof, or of any tribunal in which the election is questioned, shall cause them to be destroyed.

40. No person shall be allowed to inspect any rejected ballot papers in the custody of the returning officer, except under the order of the county court or tribunal aforesaid, to be granted by such court or tribunal on being satisfied by evidence on oath that the inspection or production of such ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and any such order for the inspection or production of ballot papers may be made subject to such conditions as to persons, time, place, and mode of inspection or production as the court or tribunal making the same may think expedient, and shall be obeyed by the returning officer (*b*).

41. No person shall, except by order of the county court having jurisdiction in the district or any part thereof, or of any tribunal having cognizance of any question relating to the election (*c*), open the sealed packet of counterfoils after the same has been once sealed up, or be allowed to inspect any counted ballot papers in the custody of the returning officer. Such order may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the court or tribunal making the order may think expedient: Provided that on making and carrying into effect any such order, care should be taken that the mode in which any particular elector has voted shall not be discovered until he has been proved to have voted, and his vote has been declared by a competent court to be invalid (*d*).

42. All documents in the custody of a returning officer in pursuance of this Act, other than ballot papers and counterfoils, shall be open to public inspection at such time and under such regulations as may have been or may hereafter be prescribed by the council of the county in which the district is situate, and the returning officer shall supply copies of or extracts from the said documents to any person demanding the same, on payment of such fees and subject to such regulations as may have been or may hereafter be prescribed by the county council.

43. Where an order is made for the production by the returning officer of any document

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(*a*) See *Pontardawe R. D. C. Election, ante*, p. 3201.

(*b*) See *R.* v. *Beardsall* (1876), 1 Q. B. D. 452; 40 J. P. 583; *Macartney* v. *Corry* (1873), Ir. R. 7 C. L. 190.

(*c*) As to opening various packets under order of a court in connection with a charge of personation, see *R.* v. *Quinlan*, [1908] 2 I. R. 155.

(*d*) See *Stowe* v. *Jolliffe, ante*, p. 3213; *James* v. *Henderson* (1874), 43 L. J. C. P. 238.

in his possession relating to any specified election of urban district councillors the production by such officer or his agent of the document ordered, in such manner as may be directed by such order, or by an order of the court having power to make such first-mentioned order, shall be conclusive evidence that such document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by such returning officer or his agent shall be evidence of such papers being what they are stated to be by the endorsement. The production from proper custody of a ballot paper purporting to have been used at any election, and of counterfoil marked with the same printed number and having a number marked thereon in writing, shall be *primâ facie* evidence that the person who voted by such ballot paper was the person who at the time of such election had affixed to his name in the register of voters at such election the same number as the number written on such counterfoil.

43A. There shall be an appeal from any order of the county court under these rules in like manner as in other cases in such court (*a*).

General provisions.

47. If the returning officer presides at any polling station, the provisions of this Act relating to a presiding officer shall apply to such returning officer with the necessary modifications as to things to be done by the returning officer to the presiding officer, or the presiding officer to the returning officer.

48. The returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes.

49. No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorised to do by this Act at a polling station, except ordering the arrest, exclusion, or rejection from the polling station of any person.

51. A candidate may himself undertake the duties which any agent of his, if appointed under Rule 31 of this Schedule, might have undertaken, and may, if he does not appoint such an agent (*b*), be present at the counting of the votes, or may himself take the place of such agent: Provided that any persons acting under this rule may, at any time before so acting, make the statutory declaration as to secrecy required by Rule 54 of this Schedule, but he shall not so act until he has made such declaration.

52. The name and address of every agent of a candidate appointed to attend the counting of the votes shall be transmitted to the returning officer one clear day at the least before the opening of the poll; and the returning officer may refuse to admit to the place where the votes are counted any agent whose name and address has not been so transmitted, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to an agent by the returning officer may be delivered at or sent by post to such address.

53. If any person appointed an agent for the purposes of attending a polling station, or at the counting of the votes dies, or becomes incapable of acting during the time of the election, another agent may be appointed in his place, and notice shall forthwith be given to the returning officer in writing of the name and address of any agent so appointed.

54. Every returning officer, and every officer, clerk, or agent authorised to attend at a polling station, and also every officer, clerk, or agent authorised to attend at the counting of the votes, shall, before the opening of the poll, make a statutory declaration of secrecy, in the presence, if he is the returning officer, of a justice of the peace, and if he is any other officer or agent, of a justice of the peace or of the returning officer: but no such returning officer, officer, clerk, or agent as aforesaid shall, save as aforesaid, be required, as such, to make any declaration or take any oath on the occasion of any election.

55. Where in this Act any expressions are used requiring or authorising or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may be authorised to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of any agents or agent at such time and place shall not, if such act or thing be otherwise duly done, in any wise invalidate the act or thing done.

SECOND SCHEDULE TO ACT.

NOTE.—The forms contained in this Schedule, or forms as nearly resembling the same as circumstances will admit, shall be used in all cases to which they refer and are applicable, and when so used shall be sufficient in law.

FORM OF BALLOT PAPER.

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(*a*) See County Courts Act, 1888, ss. 120—124, and Rules, Order 31.

(*b*) See *Clementson* v. *Mason*, *ante*, p. 3214.

DIRECTIONS AS TO PRINTING BALLOT PAPER.

Nothing is to be printed on the ballot paper except in accordance with this schedule.

The surname of each candidate, and if there are two or more candidates of the same surname, also the other names of such candidates, shall be printed in large characters, and the names, places of abode, and descriptions and the number on the back of the paper, shall be printed in small characters.

FORM OF DIRECTIONS FOR THE GUIDANCE OF THE VOTER IN VOTING, WHICH SHALL BE PRINTED IN CONSPICUOUS CHARACTERS, AND PLACARDED OUTSIDE EVERY POLLING STATION AND IN EVERY COMPARTMENT OF EVERY POLLING STATION.

The voter may vote for candidates as urban district councillors.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of each candidate for whom he votes, thus X.

The voter will then fold up the ballot paper so as to show the official mark on the back, and leaving the compartment will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot box and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will if satisfied of such inadvertence, give him another paper.

If the voter votes for more than candidates, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot box any other paper than the one given him by the officer, he will be guilty of a misdemeanor and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

NOTE.—These directions shall be illustrated by examples of the ballot paper.

FORM OF STATUTORY DECLARATION OF SECRECY.

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FORM OF DECLARATION OF INABILITY TO READ.

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FOURTH SCHEDULE.

SECTIONS 74 AND 75 OF THE MUNICIPAL CORPORATIONS ACT, 1882, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF URBAN DISTRICT COUNCILLORS IN A DISTRICT OTHER THAN A BOROUGH.

Offences in relation to nomination papers.

74.—(1) (a) If any person *forges or* fraudulently defaces or fraudulently destroys any nomination paper, *or delivers to the returning officer any forged nomination paper, knowing it to be forged,* he shall be guilty of a misdemeanor, and shall be liable to imprisonment for any term not exceeding six months, with or without hard labour.

(2) An attempt to commit any such offence shall be punishable as the offence is punishable.

Neglect of duty by returning officer or deputy returning officer.

75.—(1) If a person who has undertaken to act as returning officer, or deputy returning officer, at an election of urban district councillors, neglects or refuses to conduct or declare the election in manner provided by the Local Government Act, 1894, and the Urban District Councillors Election Order, 1898, he shall for every such offence be liable to a fine not exceeding one hundred pounds, recoverable by action.

(2) An action under this section shall not lie after three months from the neglect or refusal.

(a) Words in italics repealed by amending Order of 1925, *post*, p. 3239. These words had been previously held to be impliedly repealed by s. 20 and Sch. to Forgery Act, 1913 (*R.* v. *Taylor* (1924), 88 J. P. 152; 40 T. L. R. 836).

FIFTH SCHEDULE.

PROVISIONS OF THE MUNICIPAL CORPORATIONS ACT, 1882, WITH RESPECT TO THE ACCEPTANCE OF OFFICE, RESIGNATION, RE-ELIGIBILITY OF HOLDERS OF OFFICE, AND FILLING OF CASUAL VACANCIES, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF URBAN DISTRICT COUNCILLORS IN ANY DISTRICT OTHER THAN A BOROUGH.

Obligation to accept office or pay fine.

34.—(1) Every qualified person elected or deemed to be re-elected to the office of urban district councillor, unless exempt under this section or otherwise by law, either shall accept the office by making and subscribing the declaration required by this Act within one month after notice of being elected or deemed to be re-elected, or shall, in lieu thereof (*a*), be liable to pay to the district council a fine of such amount, not exceeding fifty pounds, as the district council by regulations determine.

(2) If there are no regulations determining fines, the fine shall be twenty pounds.

(3) The persons exempt under this section are—

Any person disabled by lunacy or imbecility of mind, or by deafness, blindness, or other permanent infirmity of body, and any person who, having within five years before the day of election served the office of urban district councillor for the district or ward, claims exemption within ten days after notice of election or of being declared to be deemed to be re-elected.

(4) A fine payable under this section shall be recoverable summarily (*b*).

(5) If a person is either elected or deemed to be re-elected district councillor in more than one ward in the urban district for which the election is held, he shall not accept office in respect of more than one of such areas, and if he accepts office or pays the fine for non-acceptance of office in respect of one of such areas, he shall not be liable to a fine for non-acceptance of office in respect of any other such areas.

(6) Any person who has been nominated and elected without his consent to his nomination being previously obtained shall not be liable to a fine under this section.

Declaration on acceptance of office.

35. A person elected or deemed to be re-elected to the office of urban district councillor shall not, until he has made and subscribed before two members of the district council or the clerk to the district council, or, if he is absent from the United Kingdom, before a British consul, a declaration in the following form, or in a form to the like effect, act in the office except in administering that declaration :

Form of Declaration on Acceptance of Office.

I, *A. B.*, having been elected [*or* being deemed to be re-elected] urban district councillor for the urban district of [in respect of the ward of the district], hereby declare that I take the said office upon myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability.

Dated this day of , 19 .

This declaration was made and subscribed before us.*

Members of the district council { ———
of the above-named district. { ———

* If the declaration is made and subscribed before the clerk or a consul, adopt term accordingly.

Power to receive declaration.

239.—(1) Members of the district council or the clerk, or a British consul, shall have authority to receive the declaration required to be made by an urban district councillor without any commission or authority other than this Act.

(2) The declaration, if made before a British consul, shall be forthwith sent to the clerk to the district council.

Penalty on acting in office without making declaration.

41. If any person acts in the office of urban district councillor without having made the declaration by this Act required, he shall for each offence be liable to a fine not exceeding twenty pounds, recoverable by action (*c*).

Resignation of office.

36.—(1) A person elected as urban district councillor may at any time, by writing signed by him and delivered to the clerk to the urban district council, resign the office. on payment of the fine provided for non-acceptance thereof.

(2) In any such case the council shall forthwith declare the office to be vacant, and signify the same by notice in writing, signed by three members of the district council, and countersigned by the clerk, and fixed on the principal external gate or door of the offices of the district council, and the office shall thereupon become vacant (*d*).

Re-eligibility of office holders.

37. A person ceasing to hold the office of urban district councillor shall, unless disqualified to hold the office, be re-eligible.

Filling of casual vacancies.

40.—(1) On a casual vacancy in the office of urban district councillor, an election shall be held in accordance with the Urban District Councillors Election Order, 1898 ; and the

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(*a*) Thus relieving himself from the obligation to serve (*R.* v. *Bower* (1822), 1 B. & C. 585).

(*b*) See 42 & 43 Vict. c. 49, ss. 20, 51.

(*c*) By the Crown only (*Bradlaugh* v. *Clarke* (1883), 8 App. Cas. 354 ; 47 J. P. 405).

(*d*) See *Pease* v. *Lowden*, [1899] 1 Q. B. 386.

person elected shall hold the office until the time when the person in whose place he is elected would regularly have gone out of office, and he shall then go out of office.

(2) In case of more than one casual vacancy in the office of urban district councillor being filled at the same election, not being the ordinary election, the councillor elected by the smallest number of votes shall be deemed to be elected in the place of him who would regularly have first gone out of office, and the councillor elected by the next smallest number of votes shall be deemed to be elected in the place of him who would regularly have next gone out of office, and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of rotation shall be determined by the district council.

(3) Non-acceptance of office by a person elected or deemed to be re-elected creates a casual vacancy.

Time for filling casual vacancies.

66.—(1) On a casual vacancy in the office of urban district councillor, the election shall be held within one month after notice in writing of the vacancy has been given to the chairman of the district council or to the clerk by two councillors [or, in the case of a vacancy by resignation, disqualification, or absence, within one month of the office becoming vacant] (*a*).

(3) The day of election shall be fixed by the clerk to the district council.

(4) Nothing in this Act shall authorise or require a returning officer to hold an election to fill a casual vacancy which occurs within six months before the ordinary day of retirement from the office in which the vacancy occurs, and the vacancy shall be filled at the next ordinary election (*b*).

RURAL DISTRICT COUNCILLORS—GENERAL ORDER.

RULES AS TO NOMINATION AND ELECTION.

(January 1st, 1898.)

* * * * * *

WHEREAS [*recites sections* 20, 24, 48, *of the L. G. A.*, 1894].

And whereas by the Rural District Councillors (Additional Councillors) Election Order, 1895, and the Rural District Councillors Casual Vacancies Election Order, 1895, we prescribed rules for the first election of any additional rural district councillors for any rural parish in England and Wales, and the first election of a rural district councillor or councillors to be appointed for any rural parish which might thereafter be constituted, and for every election to be held to fill a casual vacancy in the office of rural district councillor in any rural parish in England and Wales:

Now therefore, we, the Local Government Board, in pursuance of the powers given to us in that behalf, do hereby rescind the said Rural District Councillors (Additional Councillors) Election Order, 1895, and the said Rural District Councillors Casual Vacancies Election Order, 1895, except as regards any election the proceedings in respect of which have been already commenced;

And we do hereby order that, subject to any directions which may be given by us, and until we otherwise order, the following rules shall apply to, and shall be observed in connexion with, elections of rural district councillors as hereinafter set forth; that is to say,—

(*a*) the election held in any year to fill any ordinary vacancies in the rural district councillors for any rural parish in England and Wales;

(*b*) the first election of any additional rural district councillors for any rural parish or parishes in England and Wales, and the first election of a rural district councillor or councillors to be elected for any such rural parish which may hereafter be constituted; and

(*c*) every election which may be held to fill a casual vacancy in the office of rural district councillor in any rural parish in England and Wales.

Returning officer.

1.—(1) The clerk to the rural district council of the rural district in which the parish is situate or with which it is co-extensive shall be the returning officer, or if there is more than one such clerk, then the person who acts as such clerk for the purpose of the Public Health Act, 1875 (*c*).

(*a*) Words in brackets added by amending Order of 1928, *post*, p. 3239.

(*b*) In 1896 the law officers advised that s. 48 (4) (b) of the L. G. A., 1894 (here reproduced), applies only where the person whose retirement, death, etc., has caused the casual vacancy would himself have gone out of office in the ordinary course of events within six months (60 J. P. 800).

(*c*) See s. 190 of that Act, *ante*, p. 478.

Appendix II.

(2) If the clerk is unwilling to act as returning officer, or if the office of clerk is vacant at the time when any duty relative to the election has to be performed by the returning officer, or if the clerk from illness or other sufficient cause is unable to perform such duty, the rural district council shall appoint some other person to act as returning officer or to perform such other duties of the returning officer as then remain to be performed as the case may be, but the same person shall in all cases be the returning officer at the election of the rural district councillors and of any parish councillors to be elected at the same date in the parish.

(3) The returning officer shall appoint some place within the union or rural district in which the parish is situate as an office for the purpose of the election.

(4) The returning officer may, in writing, appoint a fit person to be his deputy for all or any of the purposes relating to the election of rural district councillors, and shall appoint such a deputy in the case and for the purposes mentioned in Rule 19 of this Order. A deputy returning officer shall have all the powers, duties, and liabilities of the returning officer in relation to the matters in respect of which he is appointed as deputy.

(5) The same person shall act as deputy returning officer in respect of the election both of rural councillors and of any parish councillors to be elected at the same date in the parish.

Day of election.

2.—(1) The day of the election of rural district councillors in the parish shal be that prescribed or defined for the purpose by the First Schedule to this Order.

(2) Provided that the day of election of rural district councillors in the parish and the day of the poll for the election of any parish councillors to be elected at the same date in the parish shall be the same.

Notice of election.

3. Not later than the day prescribed for that purpose by the First Schedule to this Order, the returning officer shall prepare and sign a notice of the election of rural district councillors in the parish or parishes in which the election is to be held, and shall cause notice to be given of the same in accordance with Rule 31 of this Order in each such parish. The notice shall be in the Form No. 1 in the Second Schedule to this Order, or in a form to the like effect (*a*).

Nomination of candidates.

4.—(1) Each candidate for election as a rural district councillor shall be nominated in writing.

(2) The nomination paper shall state the name of the parish or other area (*b*) for which the candidate is nominated, the surname and other name or names in full of the candidate (*c*), and his place of abode (*d*), and description (*e*), and whether he is qualified as a parochial elector of some parish within the poor law union in which the rural district or the part of the rural district containing the parish or other area is comprised, or by having during the whole of the twelve months preceding the election resided in the union, or by being qualified to be a councillor for a borough wholly or partly situate within the union [*or being the owner of property held by freehold, copyhold, leasehold, or any other tenure within the rural district* (*f*)]. It shall be signed (*g*) by two parochial electors of the parish or other area, as proposer and seconder, and no more, and shall state their respective places of abode. It shall be [the Form No. 2) (*f*) in the Second Schedule to this Order, or in a form to the like effect.

(3) The name of more than one candidate shall not be inserted in any one nomination paper.

(4) A parochial elector shall not sign more nomination papers than there are rural district councillors to be elected for the parish or other area in the rural district for which the election is to be held. He shall not sign a nomination paper for any parish or other area unless he is registered as a parochial elector in respect of a qualification therein. Neither shall he sign nomination papers for more than one parish or other area in the rural district (*h*).

(5) If any parochial elector shall sign nomination papers for more than one parish or other area in the rural district or shall sign a larger number of nomination papers

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(*a*) See note (*b*), *ante*, p. 3196.
(*b*) See note (*a*), *ante*, p. 3197.
(*c*) See note (*b*), *ante*, p. 3197.
(*d*) See note (*c*), *ante*, p. 3197.
(*e*) See note (*d*), *ante*, p. 3197.
(*f*) Words added by amending Order of 1925, *post.*
(*g*) See note (*f*), *ante*, p. 3197.
(*h*) See note (*h*), *ante*, p. 3197.

than the number of rural district councillors to be elected for the parish or other area, such of the nomination papers signed by him as relate to the first parish or other area for which a nomination paper signed by him is received by the returning officer shall alone be valid, and of the nomination papers signed by him which relate to that parish or other area such as are first received by the returning officer up to the number of rural district councillors to be so elected shall alone be valid (*a*). Provided that for the purposes of this paragraph nomination papers not properly filled up and signed shall be excluded (*b*).

Nomination papers to be provided.

5. The returning officer shall provide nomination papers, and shall furnish the overseers of the parish with a supply thereof. Any parochial elector may obtain nomination papers from either the returning officer or the overseers free of charge.

Time for sending in nomination papers.

6. Every nomination paper shall be sent (*c*) to the returning officer so that it shall be received at his office within the time prescribed for that purpose by the First Schedule of this Order. A nomination paper received after that time shall not be valid (*d*). The returning officer shall note on each nomination paper whether it was received before or after that time.

Dealing with nominations by the returning officer.

7.—(1) The returning officer shall number the nomination papers in the order in which they are received by him; and the first valid nomination paper received for a candidate shall be deemed to be the nomination of that candidate.

(2) The returning officer shall, as soon as practicable after the receipt of any nomination paper, examine and decide whether it has or has not been properly filled up and signed by two parochial electors of the parish or other area, and whether it is or is not invalid under Rule 4 (5) or Rule 6 (*e*). His decision that a nomination paper has been so filled up and signed, and is not invalid as aforesaid, shall be final, and shall not be questioned in any proceeding whatever.

(3) If the returning officer shall decide that a nomination paper is invalid, he shall put a note on it to this effect, stating the grounds of his decision, and he shall sign such note (*f*).

(4) After deciding that the nomination of any candidate is valid, or (except where a nomination of any candidate has been decided to be valid) that a nomination paper for the candidate is invalid, the returning officer shall, not later than the day prescribed for that purpose by the First Schedule to this Order, send, by post, or otherwise, notice of his decision to the candidate.

Statement as to persons nominated.

8. [Not later than the day prescribed for that purpose by the First Schedule to this Order, the returning officer shall make out a statement in the Form No. 3 in the Second Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as rural district councillors for the parish or the several parishes for which the election is to be held, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be affixed on or near to the principal external gate or door of the building in which the meetings of the rural district council are held] (*g*).

Withdrawal of candidate.

9. Any candidate may withdraw his candidature by delivering or causing to be delivered at the office of the returning officer, within the time prescribed for that purpose by the First Schedule to this Order, a notice in writing of such withdrawal, signed by him (*h*).

Relation of nomination to election.

10. Section 56 of the Municipal Corporations Act, 1882, shall be altered and adapted in its application to the election of rural district councillors in the parish so as to provide as follows:

(1) If the number of candidates who receive valid (*i*) nominations and who do not withdraw their candidature under Rule 9 exceeds that of the persons

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(*a*) See note (*i*), *ante*, p. 3197.
(*b*) See note (*k*), *ante*, p. 3197.
(*c*) See note (*l*), *ante*, p. 3197.
(*d*) See note (*m*), *ante*, p. 3197.
(*e*) See note (*a*), *ante*, p. 3198.
(*f*) See note (*b*), *ante*, p. 3198.
(*g*) The words in brackets were substituted by the amending Order of 1925.
(*h*) See note (*d*), *ante*, p. 3198.
(*i*) See note (*e*), *ante*, p. 3198.

to be elected as rural district councillors, the councillors shall be elected from amongst the persons nominated.

(2) (*a*) [If the number of valid nominations does not exceed the number of rural district councillors to be elected, or if, by the withdrawal of any candidate as provided by Rule 9, the number of candidates for the parish is reduced to a number not exceeding the number to be elected, or if the number of candidates is otherwise (*b*) so reduced, the returning officer shall, as early as practicable, give notice to each of the candidates, or of the remaining candidates, as the case may be, that no poll will be taken and that he will be declared to be elected ; and also, in the case of the ordinary election, if the number of such candidates is less than the number of rural district councillors to be elected, or if there is no valid nomination, he shall, as early as practicable, give notice to such of any retiring councillors for the parish as were highest on the poll at their election, or, if the poll was equal or there was no poll, as shall have been selected for that purpose by the returning officer by lot to make up the required number, they then will be declared to be deemed to be re-elected.

(3) Such notice shall be in the Form No. 4, in the Second Schedule to this Order, or in a form to the like effect.]

Day and hours of poll.

11.—(1) The poll, if any, shall be held on the day of election as prescribed or defined by the First Schedule to this Order, and the hours during which the poll shall be open shall be such as shall be fixed by the county council by any general or special order, or if no such order is in force in the parish, then such hours as were applicable at the last ordinary election of parish councillors or rural district councillors in the parish, so, however, that the poll shall always be open between the hours of six and eight in the evening.

(2) Provided that the hours during which any poll shall be open for the election of rural district councillors and of any parish councillors for the parish shall be the same.

Polling districts.

12.—(1) (*a*) If the parish is divided into polling districts for the election of county councillors or of parish councillors, the whole of each such district being comprised in the parish, and the lists of parochial electors are made out in separate parts for such districts, each district shall be a polling district for the election of rural district councillors.

(*b*) If the parish is not so divided, but is divided into wards for the election of parish councillors, each ward shall be a polling district for the election of rural district councillors.

(*c*) If neither paragraph (*a*) nor paragraph (*b*) of this rule applies to the parish the returning officer may, if he thinks fit, divide the parish into polling districts for the election of rural district councillors, but each district shall consist of an area for which a [*separate part of the Local Government register*] (*c*), will be available : Provided that the parish shall not be divided into polling districts, if the population thereof, according to the census last published, is not three hundred or upwards.

(*d*) The polling districts for the election of rural district councillors and of any parish councillors to be elected at the same date in the parish shall be the same.

(2) If the parish is divided into polling districts, each parochial elector shall give his vote in the polling district in which the property in respect of which he is entitled to vote is situate, and if it is situate in more than one polling district, he may vote in any one (but in only one) of the polling districts in which it is situate.

Polling places and stations.

13. The returning officer shall determine the number and situation of the polling places and polling stations.

Provided as follows :

(*a*) No premises licensed for the sale of intoxicating liquor shall be used for a polling station ;

(*a*) Paras. (2), (3), (4) and (5) were repealed by the amending Order of 1925, *post*, p. 3232, and the paras. (2) and (3) in square brackets substituted.

(*b*) See note (*a*), *ante*, p. 3199.

(*c*) Words substituted by Amending Order of 1925, *post*, p. 3232.

(*b*) The same polling stations shall be used for the election of rural district councillors and of any parish councillors to be elected at the same date in the parish;

(*c*) Where the number of parochial electors in the parish, or (if the parish is divided into polling districts) in any polling district, is not more than five hundred, only one polling station shall, unless the county council otherwise direct, be provided for the parish or polling district; and so on for each additional five hundred parochial electors or for any less number of parochial electors over and above the last five hundred.

Notice of poll.

14.—(1) If a poll has to be taken, the returning officer shall, within the time prescribed for that purpose by the First Schedule to this Order, give public notice thereof in accordance with Rule 31 of this Order. The notice shall specify—

(*a*) the day and hours fixed for the poll;

(*b*) the number of rural district councillors to be elected for the parish;

(*c*) the names, place of abode, and description of each candidate for the parish whom he has decided to have been nominated by a valid nomination paper, and who has not withdrawn his candidature;

(*d*) the names of the proposer and seconder who signed the nomination paper of each candidate;

(*e*) a description of the polling districts, if any; and

(*f*) the situation and allotment of the polling places and polling stations (*a*), and the description of the persons entitled to vote thereat.

(2) The notice shall be in the Form No. 5 in the Second Schedule to this Order, or in a form to the like effect.

(3) If polls are to be taken in the parish as to the election of both rural district councillors and parish councillors, the returning officer may, if he thinks fit, give one notice only for both polls, and such notice shall be in the Form No. 6 in the Second Schedule to this Order, or in a form to the like effect.

Presiding officers.

15. The returning officer, or some person appointed by him for the purpose, shall preside at each polling station. The person presiding at any polling station shall be called the presiding officer.

Provided as follows:

(*a*) At any polling station the same person shall act as presiding officer for the election of rural district councillors and of any parish councillors to be elected at the same date in the parish.

(*b*) In making appointments under this rule the returning officer shall, as far as practicable, secure the services of suitable persons resident in the parish, so as to diminish expense.

Compartments of polling stations. Ballot papers.

16. The returning officer shall furnish every polling station with a sufficient number of compartments in which the voters can mark their votes screened from observation, and shall furnish each presiding officer with such number of ballot papers as may be necessary for effectually taking the poll at the election.

Polling agents.

17. If there are only two candidates, each of them may, in writing, appoint a polling agent for each polling station, who may be paid or unpaid. If there are more than two candidates, any number of them, being not less than one-third of the whole number of candidates, may, in writing, appoint one polling agent for each polling station, who may be paid or unpaid. Any such appointment shall be delivered at the office of the returning officer not less than two clear days before the day of the poll. Except as aforesaid, no polling agent, whether paid or unpaid, shall be appointed for the purposes of the election.

Prohibition of voting in more than one parish. Questions to elector.

18.—(1) An elector shall not vote in more than one parish in the district.

(2) The presiding officer may, and if required by any parochial elector of the parish, or any polling agent appointed under Rule 17, shall, put to any elector at the time of his applying for a ballot paper, but not afterwards, the following questions, or one of them and no other:

(*a*) Are you the person entered in the parochial register for this parish [*or* ward] as follows [*read the whole entry from the register*]?

(*a*) See note (*b*), *ante*, p. 3200.

(*b*) Have you already voted at the present election of rural district councillors in this or any other parish or ward in the rural district of ?

(3) A person required to answer either of these questions shall not receive a ballot paper or be permitted to vote until he has answered it (*a*).

Counting the votes.

19.—(1) The returning officer, when he does not act as presiding officer at any polling station for the parish, shall appoint the presiding officer or some one of the presiding officers to act as deputy returning officer for the parish, as regards the custody and opening of the ballot boxes, the counting and recording of the votes, and the declaration of the number of votes given for each candidate and of the election of the candidate or candidates to whom the largest number of votes has been given. The person so appointed shall, in addition to his other powers and duties, have all the powers and duties of the returning officer in relation to the decision of any question as to any ballot paper and otherwise as to the ballot papers. Provided that, if the parish is divided into wards for the election either of rural district councillors or of parish councillors, but not for both elections, or, if the parish is so divided for both elections, and the wards are not the same for both elections, one deputy returning officer shall act under this rule for the whole of the parish.

(2) The same person shall act as deputy returning officer in respect of the election both of rural district councillors and of any parish councillors to be elected at the same date for the parish.

(3) The votes shall be counted in the parish or in some place near thereto as soon as practicable after the close of the poll.

Equality of votes.

20. If any equality of votes is found to exist between any candidates, and the addition of a vote would entitle any of such candidates to be declared elected, the returning officer or deputy returning officer, as the case may be, may, if a parochial elector of the parish, give such additional vote in writing, but shall not otherwise be entitled to vote at the election (*b*). If in such a case the returning officer or deputy returning officer, as the case may be, is not a parochial elector of the parish or is unwilling to vote, he shall determine by lot which of the candidates whose votes are equal shall be elected (*c*).

Who to be deemed to fill casual vacancies at ordinary election.

21. In the event of one or more casual vacancies being filled at an ordinary election, where there is a poll, the person elected by the fewest votes shall be deemed elected to fill such vacancies. Should there be an equality of votes between such persons, the rural district council shall determine by ballot which of such persons shall be deemed elected to fill the casual vacancy. If the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the fewest votes, or if the votes were equal the person selected by the rural district council by ballot from the persons so elected shall hold office for the shorter period. Where there is no poll the person or persons to be deemed to be elected to fill the casual vacancy or vacancies shall be determined by the rural district council by ballot.

Declaration of result of poll.

22.—(1) The declaration of the result of the poll shall be in the form No. 7 in the Second Schedule to this Order, or in a form to the like effect.

(2) The returning officer or deputy returning officer, as the case may be, making the declaration shall forthwith cause a copy of it to be affixed on the front of the building in which the votes have been counted. If the declaration is made by a deputy returning officer, he shall forthwith send it to the returning officer.

Publication of result of elections.

23.—(1) The returning officer shall prepare and sign in duplicate a notice (*d*) of the result of the elections in all the parishes in the district for which elections are held, and shall by such notice declare to be elected or to be deemed to be re-elected the persons who, under Rule 10, are to be declared to be elected or to be deemed to be re-elected without a poll being taken. The notice shall be in the form No. 8 in the Second Schedule to this Order, or in a form to the like effect.

(2) One of these notices shall be sent by the returning officer, as early as practicable, to the clerk of the rural district council, and the other to the clerk to the guardians of the union comprising the rural district or the part of the rural district; and

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(*a*) See note (*b*), *ante*, p. 3201.

(*b*) See note (*d*), *ante*, p. 3201.

(*c*) See note (*a*), *ante*, p. 3202.

(*d*) See note (*b*), *ante*, p. 3202.

copies of the notice shall be sent by the returning officer to the persons elected or deemed to be re-elected.

(3) The returning officer shall also send a sufficient number of copies of the notice to the overseers of all the parishes in the rural district for which elections are held, and the overseers of every such parish shall cause public notice to be given thereof in accordance with Rule 31 of this Order.

Application and adaptation of Ballot Act, 1872.

24. The provisions of the Ballot Act, 1872, which, with adaptations and alterations, are set out in the Third Schedule to this Order, and only such provisions of that Act, shall, subject to such adaptations and alterations, apply to the election of rural district councillors in like manner as in the case of a municipal election.

Provided as follows:

(*a*) Such application shall be subject to the provisions of this Order.

(*b*) If an election of rural district councillors and of any parish councillors is held in the parish at the same date, one ballot box may, if the returning officer thinks fit, be used for the two elections; but, if separate ballot boxes are used for the two elections respectively, no vote for any rural district councillor shall be rendered invalid by the ballot paper being placed in the box intended for the reception of ballot papers for parish councillors.

(*c*) The ballot papers used at the election of rural district councillors for the parish shall be of a different colour from that of any ballot papers used in the election of parish councillors held in the parish at the same date.

Adaptation of Municipal Corporations Act, 1882.

25.—(1) The provisions of sections 74 and 75 of the Municipal Corporations Act, 1882, which, with adaptations and alterations, are set out in the Fourth Schedule to this Order, and such of the provisions of that Act as relate to the acceptance of office, re-eligibility of holders of office, and filling of casual vacancies, and are, with adaptations and alterations, set out in the Fifth Schedule to this Order, shall, subject to such adaptations and alterations, apply to the election of rural district councillors and to the persons elected or deemed to be re-elected thereat.

(2) In the application of Part IV. of the Municipal Corporations Act, 1882 (relating to corrupt practices and election petitions) (*a*), as amended by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (*b*), the following adaptations and alterations shall have effect:

(*a*) Such applications shall be subject to the provisions of this Order.

(*b*) References to the election of rural district councillors shall be substituted for references to a municipal election or to an election to a corporate body. "Parish or united parishes," and in section 93 (2) "poor law union" shall be substituted for "borough," "poor rate of the parish or poor rates of the united parishes" shall be substituted for "borough fund or borough rate," the "returning officer" shall be substituted for the "town clerk," and "voter" shall mean "a parochial elector, or a person who votes or claims to vote at an election of rural district councillors."

(*c*) In the application of sub-section (2) of section 89, such sub-section shall be adapted and altered so as to read as follows:

"(2) The security shall be to the amount of fifty pounds, unless in any case the High Court or a judge thereof, on summons, order that the same shall be to a lesser amount, or to a larger amount not exceeding three hundred pounds, and shall be given in the prescribed manner either by a deposit of money or by recognisance entered into by not more than four sureties, or partly in one way and partly in the other.

Adaptation of Municipal Elections (Corrupt and Illegal Practices) Act, 1884.

26. In the application of the Municipal Elections (Corrupt and Illegal Practices) Act, 1884 (*d*), the following adaptations and alterations shall have effect:

(1) Such application shall be subject to the provisions of this Order.

(2) The expressions "parish or united parishes," "returning officer of rural district councillors," and "poor rate of the parish or poor rates of the united parishes" shall be deemed to be substituted in the Act for "borough," "town clerk," and "borough fund or rate," respectively.

(3) The expression "corporate office" in the Act shall mean "the office of rural

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(*a*) *Ante*, p. 2417. (*b*) *Ante*, p. 2460.

district councillor," and "a municipal election" shall mean "an election of one or more rural district councillors"; and the expressions "municipal election court," "municipal election list," and "municipal election petition" shall be construed accordingly.

(4) So much of section 13 of the Act as permits one polling agent to be employed in each polling station shall not apply, except so far as the employment of polling agents is permitted by Rule 17 of this Order.

(5) An election petition complaining of the election on the ground of an illegal practice may be presented at any time within six weeks after the day of election.

(6) A petition relating to the election of a rural district councillor for a parish may be tried at any place within the poor law union in which the parish is situate.

(7) Nothing in the Act shall render it unlawful to hold a meeting for the purpose of promoting or procuring the election of a candidate to the office of rural district councillor on any licensed or other premises not situate in an urban district or in the administrative county of London.

(8) In section 34 of the Act "burgess roll" shall mean "register of parochial electors."

(9) Section 37 of the Act shall be read as if a reference to an election of rural district councillors was substituted for a reference to any of the elections mentioned in the First Schedule to the Act.

Expenses.

27.—(1) Any sum which may be payable to the returning officer in respect of his services in taking a poll in the parish, or in respect of expenses incurred in relation to such poll, shall be defrayed by the rural district council of the district, and shall be charged to the parish in their accounts and shall be raised in like manner as any sums payable by the parish in respect of the general expenses of the rural district council.

(2) Any other sum which may be payable to the returning officer in respect of his services in the conduct of the election, or in respect of expenses incurred in relation to the election, shall be defrayed by the rural district council of the district, and shall be charged in their accounts as follows:

(*a*) If the election is the ordinary election, as general expenses;

(*b*) In the case of an election under this Order not held at the time of the ordinary election, to the parish; in which case any such sum shall be raised in like manner as any sums payable by the parish in respect of the general expenses of the rural district council: Provided that where any such sum shall be payable in respect of two or more parishes, the same shall be apportioned between them according to the number of parochial electors registered in such parishes respectively.

(3) If a poll for the election of rural district councillors and of any parish councillors is taken at the same date in the parish, one half of any expenses which may be payable in respect of the two polls jointly, including the remuneration of any officers employed in the conduct thereof, shall be deemed to have been incurred in relation to the poll for the election of rural district councillors, and shall be defrayed accordingly.

If parish in more than one county.

28. If the parish is situate in more than one administrative county, it shall for the purposes of this Order be deemed to be wholly situate in the county which, according to the census last published, contains the larger part of its population.

Wards.

29. If the parish is divided into wards for the election of rural district councillors, the rules in this Order shall, except as otherwise provided, apply to each of such wards as if it were a parish.

Provided as follows:

(*a*) If the parish is so divided, an elector shall not be permitted to vote in more than one ward.

(*b*) Any sum which in pursuance of this rule and of Rule 27 would be charged to any ward shall be charged to the parish in which the ward is situate and shall be raised accordingly.

United parishes.

30.—(1) If the parish is united with any other parish for the election of rural district councillors the rules in this Order shall, subject as hereinafter mentioned, apply as if such parishes formed the parish.

Appendix II.

(2) The questions which under Rule 18 the presiding officer may, and if required by any parochial elector, or any polling agent appointed under Rule 17, shall, put to any elector shall be as follows:

(*a*) Are you the person entered in the parochial register for one of the united parishes, viz., the parish of as follows [*read the whole entry from the register*]?

(*b*) Have you already voted at the present election of rural district councillors in either of the united parishes of and , or in any other parish or ward in the rural district of ?

(3) Any sum which in pursuance of this rule and of Rule 27 would be charged to the united parishes shall be divided between them in proportion to the number of parochial electors registered in such parishes respectively, and shall be raised accordingly.

Publication of notices.

31. Any public notice required by this Order shall be given by posting the same on or near the principal door of each church and chapel in the parish, and in some conspicuous place or places within the parish.

Mark instead signature.

32. In place of any signature required by this Order, it shall be sufficient for the signatory to affix his mark, if the same is witnessed by two parochial electors.

Misnomer. Inaccurate descriptions.

33. No misnomer or inaccurate description of any person or place named in any notice or nomination paper under this Order shall hinder the full operation of such notice or paper with respect to that person or place, provided the description of that person or place is such as to be commonly understood.

Definition of "rural parish and "ordinary election."

34. In this Order the expression "rural parish" means a parish situate in a rural district; and the expression "ordinary election" means the election held in any year to fill any ordinary vacancies in the rural district councillors for the district, and includes any first election of rural district councillors for the parish or election to fill a casual vacancy in the office of rural district councillor for the parish which can be held at the time of the election to fill such ordinary vacancies.

Adaptation of forms to elections other than the ordinary election.

35. If the election is not the ordinary election, such modifications as may be necessary shall be made in the forms contained in the Second Schedule to this Order.

This Order may be cited as the "Rural District Councillors Election Order, 1898."

SCHEDULES.

FIRST SCHEDULE.

a.—TIMES FOR THE PROCEEDINGS AT THE ORDINARY ELECTION OF RURAL DISTRICT COUNCILLORS IN ANY YEAR.

Proceeding.	Time.
1. Notice of election	Not later than the second Friday in March, or, if the first Monday in April is Easter Monday, the first Friday in March.
2. Receipt of nomination papers . .	Not later than twelve o'clock at noon on the following Thursday.
3. Sending notice of decision as to validity of nomination papers.	Not later than the following Friday.
4. Making out statement as to persons nominated.	Not later than the following Saturday.
5. Withdrawal of candidates . . .	Not later than twelve o'clock at noon on the following Tuesday.
6. Notice of poll	Five clear days at least before day of election.
7. Day of election	The first Monday in April, or, if that is Easter Monday, the last Monday in March; or, in either case, such other day not being earlier than the preceding Saturday, or later than the following Wednesday, as may for special reasons be fixed by the county council.

b.—TIMES FOR THE PROCEEDINGS AT FIRST ELECTIONS OF RURAL DISTRICT COUNCILLORS, OR AT ELECTIONS TO FILL CASUAL VACANCIES, IF NOT HELD AT THE TIME OF THE ORDINARY ELECTIONS.

Proceeding.	Time.
1. Notice of election	Not later than fourteen days before the day of election.
2. Receipt of nomination papers . .	Not later than twelve o'clock at noon on the fourth day after the day on which the notice of election was given.
3. Sending notice of decision as to validity of nomination papers . . .	Not later than the day after the first day for the receipt of nomination papers.
4. Making out statement as to persons nominated	
5. Withdrawal of candidates . . .	Not later than twelve o'clock at noon on the fourth day after the last day for the receipt of nomination papers.
6. Notice of poll	Five clear days at least before day of election.
7. Day of election	In the case of first elections : Such day as may be fixed by the returning officer, but so that, subject to any special provision in the Order assigning any additional councillors or constituting the new parish, as the case may be, it shall not be later than six weeks from the date when such Order comes into operation. In the case of elections to fill casual vacancies : Such day as may be fixed by the clerk to the district council, in pursuance of section 66 of the Municipal Corporations Act, 1882, as altered and adapted by the Fifth Schedule to this Order.

SECOND SCHEDULE.

NOTE.—*If the election is not the ordinary election, such modifications as may be necessary should be made in the Forms in this Schedule* (*Rule* 35).

FORM No. 1.

[See form substituted by Amending Order of 1925, *post*, p. 3236.]

FORM No. [3] (*a*).

RURAL DISTRICT OF .

The following is a statement as to the persons nominated for election as rural district councillors for the several parishes, united parishes and wards of parishes [*as the case may be*], in the above-named rural district for which an election is to be held in the year 18 .

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FORM No. 3 (*b*).

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FORM No. 4 (*b*).

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(*a*) The number of this form was altered and a fresh form No. 2 prescribed by the amending Order of 1925, *post*, p. 3237.

(*b*) These two forms were repealed and a new form No. 4 prescribed by the amending Order of 1925, *post*, p. 3238.

FORMS Nos. 5 & 6.

NOTICE OF POLL (*a*).

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FORM No. 7.

DECLARATION OF RESULT OF POLL (*a*).

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FORM No. 8.

NOTICE OF RESULT OF ELECTIONS (*a*).

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THIRD SCHEDULE.

PROVISIONS OF THE BALLOT ACT, 1872, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF RURAL DISTRICT COUNCILLORS.

PROCEDURE AT ELECTIONS OF RURAL DISTRICT COUNCILLORS.

[Provisions similar to those contained in Urban District Councillors Election Order, 1898.]

FOURTH SCHEDULE.

SECTIONS 74 AND 75 OF THE MUNICIPAL CORPORATIONS ACT, 1882, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF RURAL DISTRICT COUNCILLORS.

[Provisions similar to those contained in Urban District Councillors Election Order, 1898.]

FIFTH SCHEDULE.

PROVISIONS OF THE MUNICIPAL CORPORATIONS ACT, 1882, RELATING TO THE ACCEPTANCE OF OFFICE, RE-ELIGIBILITY OF HOLDERS OF OFFICE, AND FILLING OF CASUAL VACANCIES, AS ADAPTED AND ALTERED IN THEIR APPLICATION TO THE ELECTION OF RURAL DISTRICT COUNCILLORS.

[Provisions similar to those contained in Urban District Councillors Election Order, 1898.]

S. R. & O., 1921, No. 959.

THE MINISTRY OF HEALTH (REGISTRATION AND ELECTIONS, TRANSFER OF POWERS) ORDER, 1921. DATED MAY 27TH, 1921.

Whereas by sub-sections (3) and (4) of section 3 of the Ministry of Health Act, 1919, it is provided that His Majesty may by Order in Council transfer from the Minister of Health to any other Government Department any of the powers and duties

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(*a*) These forms are similar to those in Schedule II. to the Urban District Councillors Election Order, 1898, *ante*, pp. 3207, 3208.

Appendix II. of the Minister which appear to His Majesty not to relate to matters affecting or incidental to the health of the people, and may by Order in Council make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purposes of giving full effect to such transfer:

And whereas the Minister of Health as successor to the Local Government Board exercises and performs under divers statutes certain powers and duties relating to the registration of electors and the conduct of elections, which appear to His Majesty not to affect or be incidental to the health of the people, and it is expedient that the said powers and duties should be transferred to the Secretary of State:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Ministry of Health (Registration and Elections, Transfer of Powers) Order, 1921.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2.—(1) As from the date of this Order, the powers and duties of the Minister of Health, as successor to the Local Government Board, set out in the Schedule to this Order, shall be transferred to the Secretary of State, and the enactments specified in the first column of the said Schedule shall be read as though the Secretary of State were substituted for the Local Government Board in those enactments.

(2) For the purposes of paragraphs (*d*) and (*e*) of sub-section (1) of section 57 of the Local Government Act, 1888, of section 71 of the Local Government Act, 1894 (but only so far as regards Orders made by a county council relating to elections), and of sub-section (3) of section 31 of, and paragraph (27) of the First Schedule to the Representation of the People Act, 1918, the Secretary of State shall be substituted for the Local Government Board in those sections, sub-sections or paragraphs, as the case may be.

(3) References to the Secretary of State shall be substituted for references to the Local Government Board or to the Minister of Health, as the case may be, in the Representation of the People Order, as amended by any subsequent Order, and in any other Order, Regulations or Rules made by the Local Government Board or by the Minister of Health in pursuance of the Representation of the People Act, 1918, as amended by any subsequent Act, or of any of the powers or duties hereby transferred to the Secretary of State.

3. Any duties heretofore assigned to the Registrar-General by the Minister of Health in relation to any of the powers and duties of the Minister hereby transferred to the Secretary of State shall, as from the date of this Order, be performed by the Registrar-General under the control and direction of the Secretary of State.

SCHEDULE.

Sections and sub-sections of Statute.	Power or duty to be transferred to the Secretary of State.
Local Government Act, 1888. Section 54 (1) (*e*).	To make Orders altering the boundary of any electoral divisions of a county or of the number of county councillors and electoral divisions in a county.
Local Government Act, 1894. Section 3 (6) and section 48 (2).	To frame rules for the election of parish councillors.
Section 20 (5) and section 48 (2).	To frame rules for the election of guardians.
Section 23 (5) and section 48 (2).	To frame rules for the election of urban district councillors.
Section 24 (4) and section 48 (2).	To frame rules for the election of rural district councillors.
Section 31 (1) as amended by section 2 (5) of the London Government Act, 1899.	To frame rules for the election of metropolitan borough councillors.

Appendix II.

Sections and sub-sections of Statute.	Power or duty to be transferred to the Secretary of State.
London Government Act, 1899. Section 26 (1) and (2).	To make Orders for the alteration of the number of wards for a metropolitan borough, or of the boundaries of any ward, or of the apportionment of the members of the ward.
Representation of the People Act, 1918. Section 12 (2).	To make Orders with regard to the registration officer in cases where the registration area is not co-terminous with or wholly contained in one administrative county or municipal borough.
Section 12 (3).	To approve deputy of registration officer.
Section 13 (1).	To give general or special directions with respect to arrangements made by registration officer for carrying out his duties as to registration.
Section 15 (1)	To direct amount of contributions towards expenses of registration officer by the council of any county or borough other than the council whose clerk the registration officer is or by whom he is appointed.
Section 15 (2).	To determine any question arising whether certain expenses incurred by the registration officer have been properly incurred.
Section 18 (*d*).	To determine in certain cases questions relating to the compensation payable to existing officers.
Section 28 (4).	To designate the returning officer in certain cases.
Section 30.	To approve appointment of deputy for acting returning officer.
Section 31 (2).	To alter, or direct alteration of, division of constituency into polling districts and appointment of polling places.
Section 46 (3).	To make Orders for the removing of difficulties as to the preparation of the register or the holding of elections.
First Schedule, paragraph (18).	To render assistance required by Admiralty, Army Council, or Air Ministry, in conveying information to registration officer.
Sixth Schedule, paragraph (7).	To make adaptations in the provisions of any Act, etc., for the purpose of making those provisions conform with the provisions of the Representation of the People Act, 1918.
Ninth Schedule, paragraph (5).	To determine doubts as to the constituency in which any parish is intended by the Schedule to be included.

Appendix II.

S. R. & O., 1925, No. 30.

THE LOCAL ELECTIONS (ALTERATION OF RULES) ORDER, 1925, DATED 19TH JANUARY, 1925, MADE BY THE SECRETARY OF STATE.

Article I.—Each of the principal Orders shall, in relation to and for the purposes of any election of the persons named in column 2 of the First Schedule to this Order opposite to the short title of such principal Order, be altered so that the following provisions, so far as they are respectively applicable, shall have effect, that is to say :

1. Throughout the principal Orders—
   (*a*) Such alterations shall be made as are necessary to give effect to the provisions of the Representation of the People Act, 1918, and in particular the alterations hereafter in this Order mentioned, so far as they are respectively applicable, shall be made in each of such Orders ;
   (*b*) A reference to a local government elector shall be substituted for any reference to a parochial elector, and a reference to local government electors shall be substituted for any reference to parochial electors ;
   (*c*) A reference to the local government register shall be substituted for any reference to the register of parochial electors, or the parochial register, or lists of parochial electors.

2. The alterations set forth in the 2nd, 3rd, 4th, 5th, 6th, 7th, and 8th Schedules to this Order shall also be made in the respective principal Orders.

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Article III.—(2) Subject to any directions given by the Secretary of State, this Order shall come into force on 1st March, 1925.

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SCHEDULES.

FIRST SCHEDULE.

Short Titles of Orders. 1.	Persons whose Election is regulated. 2.	Schedule to this Order containing particular alterations to Order named in column 1. 3.
The Urban District Councillors Election Order, 1898.	The urban district councillors for any urban district in England and Wales.	The 5th Schedule.
The Rural District Councillors Election Order, 1898.	The rural district councillors for any rural district in England and Wales.	The 6th Schedule.

* * * * * *

FIFTH SCHEDULE.

The Urban District Councillors Election Order, 1898, shall be altered as follows :—

1. The paragraph numbered (2) of Rule 4 of the Order shall be altered by the insertion therein after the words " resided in the District " of the following words, that is to say—" or by being the owner of property held by freehold, copyhold, leasehold, or any other tenure within the district," and by the substitution for the words " Form set out in the notice in Form No. 1 " of the words " Form No. 2."

2. The following Rule shall be substituted for Rule 8 of the Order :—

8. Not later than the day prescribed for that purpose by the First Schedule to this Order, the Returning Officer shall make out a statement in the Form No. 3 in the Second Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as urban district

councillors for the district or for the several wards thereof, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be affixed on or near to the principal external gate or door of the offices of the urban district council. If there are no such offices he shall cause such notice to be posted in some conspicuous place or places within the district.

3. The paragraphs numbered (2), (3), (4), and (5) of Rule 10 of the Order shall be omitted and the following paragraphs (2) and (3) shall be inserted in lieu thereof :—

(2) If the number of valid nominations does not exceed the number of urban district councillors to be elected, or if, by the withdrawal of any candidate as provided by Rule 9, the number of candidates for the district is reduced to a number not exceeding the number to be elected, or if the number of candidates is otherwise so reduced, the Returning Officer shall, as early as practicable, give notice to each of the candidates, or of the remaining candidates, as the case may be, that no poll will be taken and that he will be declared to be elected ; and also, in the case of the ordinary election, if the number of such candidates is less than the number of councillors to be elected, or if there is no valid nomination, he shall, as early as practicable, give notice to such of any retiring councillors for the district as were highest on the poll at their election, or, if the poll was equal or there was no poll, as shall have been selected for that purpose by the Returning Officer by lot to make up the required number, that they will be declared to be deemed to be re-elected.

(3) Such notice shall be in the Form No. 4 in the Second Schedule to this Order, or in a form to the like effect.

4. The paragraph numbered (1) (*d*) of Rule 13 of the Order shall be altered by the substitution for the words "separate list of parochial electors" of the words "separate part of the local government register."

5. The paragraph numbered (2) of Rule 24 of the Order shall be altered by the omission of the words "a copy of the Notice to be suspended in the Board Room, if any, of the urban district council, and he shall also cause."

6. The Form No. 1 set forth herein shall be substituted for the Form No. 1 set forth in the Second Schedule to the Order, and the Form No. 2 set forth herein shall be inserted after the Form No. 1.

FORM No. 1.

Notice of Election.

URBAN DISTRICT OF
ELECTION OF URBAN DISTRICT COUNCILLORS
*[for the several wards in the above-named district]

NOTICE IS HEREBY GIVEN THAT—

1. The day of election of urban district councillors for the said district [*or* wards, *as the case may be*] will be , the day of , 19 .

2. The number of urban district councillors to be elected for the said district [*or* wards, *as the case may be*] is †

3. Each candidate for election as an urban district councillor must be nominated in writing in the form prescribed by the Urban District Councillors Election Order, 1898, or in a form to the like effect, and the nomination paper must be sent to me, so that it shall be received at (which is my office for the purpose of the election) not later than twelve o'clock at noon on , the day of , 19 .

4. A local government elector must not sign more nomination papers than there are urban district councillors to be elected for the district [*or* ward, *as the case may be*], and he must not sign a nomination paper for the district [*or* for any ward thereof], unless he is registered as a local government elector in respect of a qualification therein. [Neither must he sign nomination papers for more than one ward in the district.‡]

5. Forms of nomination paper may be obtained, free of charge, from me at the above named office.

6. Not later than , the day of , 19 , I shall cause a copy of a statement containing the names, places of abode, and descriptions of the persons nominated for the office of urban district councillor for the said district [*or* wards], and also containing a notice of my decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not, to be affixed on or near to the principal external gate or door of the offices of the urban district council.§

Appendix II.

7. Any candidate nominated for election may, not later than twelve o'clock at noon on , the day of , 19 , withdraw his candidature by delivering or causing to be delivered at my above-named office for the purpose of the election a notice in writing of such withdrawal signed by him.

8. If the number of candidates who are validly nominated for the district [*or* any ward], and whose candidature is not withdrawn, exceeds that of the persons to be elected, a poll will be taken on the day of , 19 , of which due notice will be given.

Dated this day of , 19 .

Returning Officer.

Office for purpose of the election.

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* If the urban district is not divided into wards, omit these words.

† If the district is divided into wards, insert the names of the wards, with the number of urban district councillors to be elected for each. A tabular form may be used if preferred.

‡ If the district is not divided into wards, omit these words.

§ If there are no such offices, substitute some conspicuous place or places within the district or wards.

FORM No. 2.

Form of Nomination Paper.

URBAN DISTRICT OF

ELECTION OF URBAN DISTRICT COUNCILLORS
for the above district [*or* for the ward of the above district] in the year 19 .

We, the undersigned, being respectively local government electors of the said district [*or* ward], do hereby nominate the under-mentioned person as a candidate at the said election.

Names of candidates.		Place of abode.	Description.	How qualified (specify qualification according to direction in Instruction 5).
Surname. 1.	Other names in full. 2.	3.	4.	5.

Signature of PROPOSER

Place of Abode

Signature of SECONDER

Place of Abode

*Instructions for filling up Nomination Paper.**

(1) The surname of only one candidate for election must be inserted in column 1.

(2) The other names of the candidate must be inserted in full in column 2.

(3) Insert in column 3 the place of abode of the candidate.

(4) In column 4 state the trade, profession, or calling, if any, of the candidate. If none, insert some such description as "gentleman," "retired grocer," "married woman," "spinster."

Appendix II.

(5) If the candidate is a local government elector of some parish within the district (that is, if his or her name is registered in the local government register of such parish) insert in column 5 "Local Government Elector of Parish of ." If the candidate has, during the whole of the twelve months preceding the election, resided in the district, insert in column 5 "Residence." If the candidate is the owner of property held by freehold, copyhold, leasehold, or any other tenure in the district, insert in column 5 "Ownership of Property." If the candidate has more than one of these qualifications, it will be sufficient to insert in column 5 one of his or her qualifications, but more may be inserted.

(6)—(i) The paper must be signed by two local government electors of the district [*or* ward], and no more; by one as proposer, and by the other as seconder. The places of abode of the proposer and seconder must also be inserted. Instead of signing, the proposer or seconder, may affix his or her mark, if it is witnessed by two local government electors.

(ii) A local government elector must not sign more nomination papers than there are urban district councillors to be elected for the district [*or* ward], and he or she must not sign a nomination paper for the district [*or* ward] unless he or she is registered as a local government elector in respect of a qualification therein. [Neither must he or she sign a nomination paper in more than one ward in the district.]

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7. The Form No. 2 in the Second Schedule to the Order shall be numbered "Form No. 3."

8. The Forms No. 3 and No. 4 in the Second Schedule to the Order shall be omitted and the following Form No. 4 shall be inserted:—

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* These instructions form part of the nomination paper.

FORM No. 4.

Notice to Candidate or retiring Councillor where no Poll is taken.

URBAN DISTRICT OF
[ward of the above district].
To————————

Whereas the number of the candidates duly nominated [has been reduced by withdrawals or otherwise, and the number of the candidates remaining] is [equal to *or* less than] the number of persons to be elected as urban district councillors for the said district *or* ward,

[*or* Whereas no candidate has been duly nominated for election as urban district. councillor for the said district *or* ward],

I do hereby give you notice that a poll will not be taken, and that you will be declared elected as urban district councillor for the said district *or* ward,

[*or* I do hereby give you notice that you being a retiring councillor for the said district *or* ward will be declared to be deemed to be re-elected.]

Dated this day of , 19 .

————————————
Returning Officer.

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9. The following marginal note shall for the purposes of the statement contained in the Form No. 8 in the Second Schedule to the Order be added to the form:—

> If there were no candidates to be declared elected write "No candidates" across columns 2 and 3.

10. In sub-section (1) of section 3 of the Ballot Act, 1872, as adapted and altered by the Third Schedule to the Order, the words "forges or counterfeits or" shall be omitted.

11. In sub-section (1) of section 74 of the Municipal Corporations Act, 1882, as adapted and altered by the Fourth Schedule to the Order, the words "forges or" and the words "or delivers to the Returning Officer any forged nomination paper, knowing it to be forged" shall be omitted.

SIXTH SCHEDULE.

The Rural District Councillors Election Order, 1898, shall be altered as follows:—

1. The paragraph numbered (2) of Rule 4 of the Order shall be altered by the insertion therein after the words "situate within the Union" of the following words, that is to say, "or by being the owner of property held by freehold, copyhold, leasehold, or any other tenure within the rural district," and by the substitution for the words "Form set out in the notice in the Form No. 1" of the words "Form No. 2."

Appendix II.

2. The following Rule shall be substituted for Rule 8 of the Order:—

8. Not later than the day prescribed for that purpose by the First Schedule to this Order, the Returning Officer shall make out a statement in the Form No. 3 in the Second Schedule to this Order, or in a form to the like effect, containing the names, places of abode, and descriptions of the persons nominated as rural district councillors for the parish or the several parishes for which the election is to be held, and also containing a notice of his decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not. He shall forthwith cause a copy thereof to be affixed on or near to the principal external gate or door of the building in which the meetings of the rural district council are held.

3. The paragraphs numbered (2), (3), (4), and (5) of Rule 10 of the Order shall be omitted and the following paragraphs numbered (2) and (3) shall be inserted in lieu thereof:—

(2) If the number of valid nominations does not exceed the number of rural district councillors to be elected, or if, by the withdrawal of any candidate as provided by Rule 9, the number of candidates for the parish is reduced to a number not exceeding the number to be elected, or if the number of candidates is otherwise so reduced, the Returning Officer shall, as early as practicable, give notice to each of the candidates, or of the remaining candidates, as the case may be, that no poll will be taken and that he will be declared to be elected; and also, in the case of the ordinary election, if the number of such candidates is less than the number of rural district councillors to be elected, or if there is no valid nomination, he shall, as early as practicable, give notice to such of any retiring councillors for the parish as were highest on the poll at their election, or, if the poll was equal or there was no poll, as shall have been selected for that purpose by the Returning Officer by lot to make up the required number, that they will be declared to be deemed to be re-elected.

(3) Such notice shall be in the Form No. 4 in the Second Schedule to this Order, or in a form to the like effect.

4. The paragraph numbered (1) (*c*) of Rule 12 of the Order shall be altered by the substitution for the words "separate list of parochial electors" of the words "separate part of the local government register."

5. The Form No. 1 set forth herein shall be substituted for the Form No. 1 set forth in the Second Schedule to the Order, and the Form No. 2 set forth herein shall be inserted after the Form No. 1.

FORM NO. 1.

Notice of Election.

RURAL DISTRICT OF
ELECTION OF RURAL DISTRICT COUNCILLORS
for the several parishes, united parishes, and wards of parishes [*as the case may be*]. hereinafter mentioned.

NOTICE IS HEREBY GIVEN THAT—

1.* The day of election of rural district councillors for the said parishes, united parishes, and wards of parishes [*as the case may be*], will be , the day of , 19 .

2. The number of rural district councillors to be elected for the said parishes, united parishes, and wards [*as the case may be*], is as follows †:—

3. Each candidate for election as a rural district councillor must be nominated in writing in the form prescribed by the Rural District Councillors Election Order, 1898, or in a form to the like effect, and the nomination paper must be sent to me, so that it shall be received at (which is my office for the purpose of the election) not later than twelve o'clock at noon on , the day of , 19 .

4. A local government elector must not sign more nomination papers than there are rural district councillors to be elected for the parish or united parishes or ward [*as the case may be*], and he must not sign a nomination paper for any parish or united parishes, or ward unless he is registered as a local government elector in respect of a qualification therein. Neither must he sign nomination papers for more than one parish or group of united parishes or ward in the rural district.

5. Forms of nomination paper may be obtained, free of charge, *either* from me at the above-named office, *or from the overseers of the parish or either of the united parishes for which a nomination is proposed to be made* (*a*).

(*a*) Words in italics omitted in consequence of the abolition of overseers by the R. and V. Act, 1925, s. 62, *ante*, p. 1741.

6. Not later than , the day of , 19 , I shall cause a copy of a statement containing the names, places of abode, and descriptions of the persons nominated for the office of rural district councillor for the said parishes, united parishes, and wards, and also containing a notice of my decision as regards each candidate as to whether he has been nominated by a valid nomination paper or not, to be affixed on or near to the principal external gate or door of the building in which the meetings of the rural district council are held.

7. Any candidate nominated for election may, not later than twelve o'clock at noon on , the day of , 19 , withdraw his candidature by delivering or causing to be delivered at my above-named office for the purpose of the leection a notice in writing of such withdrawal signed by him.

8.* If the number of candidates who are validly nominated for any parish, united parishes, or ward, and whose candidature is not withdrawn, exceeds that of the persons to be elected, a poll will be taken on , the day of , 19 , of which due notice will be given.

Dated this day of , 19 .

Returning Officer.

Office for purpose of the Election.

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* If the day of election is not the same for all the parishes, united parishes, and wards adapt form accordingly.

† Insert here the names of the parishes, united parishes, and wards of parishes, with the number of rural district councillors to be elected for each. A tabular form may be used if preferred.

FORM No. 2.

Form of Nomination Paper.

RURAL DISTRICT OF
ELECTION OF RURAL DISTRICT COUNCILLORS
for the parish of [*or* for the united parishes of , *or* for the ward of the parish of] in the year 19 .

We, the undersigned, being respectively local government electors of the said parish [*or* united parishes *or* ward], do hereby nominate the under-mentioned person as a candidate at the said election.

Name of candidate.		Place of Abode.	Description.	How qualified (specify qualfication according to direction in Instruction 5).
Surname.	Other names in full.			
1.	2.	3.	4.	5.

Signature of PROPOSER

Place of Abode

Signature of SECONDER

Place of Abode

*Instructions for filling up Nomination Paper.**

(1) The surname of only one candidate for election must be inserted in column 1.

(2) The other names of the candidate must be inserted in full in column 2.

(3) Insert in column 3 the place of abode of the candidate.

(4) In column 4 state the trade, profession, or calling, if any of the candidate. If none insert some such description as "gentleman," "retired grocer," "married woman," "spinster."

(5) If the candidate is a local government elector of some parish within the union in which the rural district or the part of the rural district comprising the parish is situate (that is, if his or her name is registered in the local government register of such parish) insert in column 5 "Local Government Elector of Parish of ." If the candidate has, during the whole of the twelve months preceding the election, resided in the union, insert in column 5 "Residence." If the candidate has not during the whole of the twelve months preceding the election resided in the union, but is qualified to be elected a councillor for some municipal borough wholly or partly situate in the union, insert in column 5 "Qualified to be elected Councillor of Borough of ." If the candidate is the owner of property held by freehold, copyhold, leasehold, or any other tenure within the rural district, insert in column 5 "Ownership of Property." If the candidate has more than one of these qualifications, it will be sufficient to insert in column 5 one of his or her qualifications, but more may be inserted.

(6)—(i) The paper must be signed by two local government electors of the parish [*or* united parishes *or* ward], and no more; by one as proposer, and by the other as seconder. The places of abode of the proposer and seconder must also be inserted. Instead of signing, the proposer or seconder may affix his or her mark, if it is witnessed by two local government electors.

(ii) A local government elector must not sign more nomination papers than there are rural district councillors to be elected for the parish [*or* united parishes *or* ward], and he or she must not sign a nomination paper for any parish [*or* united parishes *or* ward] unless he or she is registered as a local government elector in respect of a qualification therein. Neither must he or she sign a nomination paper in more than one parish [*or* group of united parishes *or* ward] in the rural district.

6. The Form No. 2 in the Second Schedule to the Order shall be numbered "Form No. 3."

7. The Forms No. 3 and No. 4 in the Second Schedule to the Order shall be omitted and the following Form No. 4 shall be inserted :—

FORM NO. 4.

Notice to Candidate or retiring Councillor where no Poll is taken.

RURAL DISTRICT OF
PARISH OF [*or* ward of the parish of , *or* united parishes of].
To———————

WHEREAS the number of the candidates duly nominated [has been reduced by withdrawals or otherwise and the number of the remaining candidates] is [equal to *or* less than] the number of persons to be elected as rural district councillors for the said parish *or* ward *or* united parishes.

[*or* Whereas no candidate has been duly nominated for election as rural district councillor for the said parish *or* ward *or* united parishes],

I do hereby give you notice that a poll will not be taken, and that you will be declared elected as rural district councillor for the said parish *or* ward *or* united parishes,

[*or* I do hereby give you notice that you being a retiring councillor for the said parish *or* ward *or* united parishes will be declared to be deemed to be re-elected].

Dated this day of , 19 .

———————————
Returning Officer.

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8. The following marginal note shall for the purposes of the statement contained in the Form No. 8 in the Second Schedule to the Order be added to the Form :—

> If there were no candidates to be elected write "No candidates" across columns 2 and 3.

9. In sub-section (1) of section 3 of the Ballot Act, 1872, as adapted and altered by the Third Schedule to the Order, the words "forges or counterfeits or" shall be omitted.

10. In sub-section (1) of section 74 of the Municipal Corporations Act, 1882, as adapted and altered by the Fourth Schedule to the Order, the words "forges or" and the words "or delivers to the Returning Officer any forged nomination paper, knowing it to be forged" shall be omitted.

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* These instructions form part of the nomination paper.

S. R. & O., 1928, No. 647.

LOCAL GOVERNMENT ELECTIONS, ENGLAND.

THE LOCAL ELECTIONS (DISTRICT COUNCILLORS AND GUARDIANS, ALTERATION OF RULES) ORDER, 1928, DATED AUGUST 11, 1928, MADE BY THE SECRETARY OF STATE.

Whereas the Urban District Councillors Election Order, 1898, the Rural District Councillors Election Order, 1898, the Guardians (London) Election Order, 1898, and the Guardians (Outside London) Election Order, 1898 (hereinafter referred to as "the Orders"), made under section 48 of the Local Government Act, 1894, prescribe Rules with respect to the conduct of the election of district councillors and guardians respectively;

And whereas it is expedient to amend the provisions of the Orders relating to the time for filling casual vacancies;

Now, therefore, I, the Right Honourable Sir William Joynson-Hicks, one of His Majesty's Principal Secretaries of State, in pursuance of section 48 of the Local Government Act, 1894, and section 9 of the Poor Law Act, 1927, hereby order as follows:—

Article I.—The provisions of section 66 of the Municipal Corporations Act, 1882 ("Time for filling Casual Vacancies"), as adapted and altered by the Orders in their application to the election of district councillors and guardians respectively shall be further adapted and altered as follows, that is to say:—

At the end of sub-section (1) of the said section there shall be inserted the words "or, in the case of a vacancy by resignation, disqualification or absence, within one month of the office becoming vacant."

Article II.—This Order shall come into force on the first day of October nineteen hundred and twenty-eight except as respects any casual vacancy occurring before that date.

Article III.—This Order may be cited as "The Local Elections (District Councillors and Guardians, Alteration of Rules) Order, 1928."

W. JOYNSON-HICKS,
One of His Majesty's Principal
Secretaries of State.

HOME OFFICE, WHITEHALL,
11*th August*, 1928.

ELECTRIC LIGHTING AND POWER.

BOARD OF TRADE REGULATIONS UNDER THE ELECTRIC LIGHTING ACTS, 1882 AND 1888.

(A) FOR SECURING THE SAFETY OF THE PUBLIC, AND (B) FOR ENSURING A PROPER AND SUFFICIENT SUPPLY OF ELECTRICAL ENERGY.

DEFINITIONS.

In the following regulations—

The expression "the Order" means the

The expression "the undertakers" means the undertakers for the purposes of the Order.

Appendix II.

The expression "consumer's wires" means any electric lines on the consumer's premises which are connected with the service lines of the undertakers at the consumer's terminals.

The expression "sub-station" means any premises in which energy is transformed or converted for the purpose of supply to consumers, and which are large enough to admit the entrance of a person after the transforming or converting apparatus is in position, provided that for the purpose of these regulations any place within any such premises which is used solely for some purpose other than such transformation or conversion shall not be deemed to form part of a sub-station.

The expression "overhead line" means any electric line which is placed above ground and in the open air.

The expression "pressure" means the difference of electrical potential between any two conductors through which a supply of energy is given, or betweeen any part of either conductor and the earth; and, subject to the variations allowed by No. B 3 of these regulations—

(a) Where the conditions of the supply are such that the pressure at any pair of consumer's terminals does not exceed 250 volts, the supply shall be deemed a low pressure supply;

(b) Where the conditions of the supply are such that the pressure exceeds 250 volts but does not exceed 650 volts, the supply shall be deemed a medium pressure supply;

(c) Where the conditions of the supply are such that the pressure exceeds 650 volts but does not exceed 3,000 volts, the supply shall be deemed a high pressure supply; and

(d) Where the conditions of the supply are such that the pressure exceeds 3,000 volts, the supply shall be deemed an extra high pressure supply.

The expressions "factory," "workshop," and "quarry" have the same meaning as in the Factory and Workshop Act, 1901.

The expression "mine" means a mine to which the Coal Mines Regulation Act, 1887, or the Metalliferous Mines Regulation Act, 1872, applies.

Where these regulations require any metallic body to be "efficiently connected with earth," it shall be connected with the general mass of earth in such manner as will ensure at all times an immediate and safe discharge of electrical energy.

Other expressions to which meanings are assigned in the Order or in the Electric Lighting Acts, 1882 and 1888, have the same respective meanings in these regulations.

A.—REGULATIONS FOR SECURING THE SAFETY OF THE PUBLIC.

General.

1. The pressure of a supply delivered to any consumer shall not exceed the limit of low pressure, except for special purposes, for which a medium pressure supply may be given on the consumer undertaking to comply with the following conditions:—

(a) Where the supply is for power purposes—

(1) The frame of every electric motor shall be efficiently connected with earth.

(2) The consumer's wires forming the connections to motors, or otherwise in connection with the supply, shall be, as far as practicable, completely enclosed in strong metal casing efficiently connected with earth, or they shall be fixed in such a manner that there shall be no danger of any shock.

(3) The supply to every motor shall be controlled by means of an efficient cut-off switch, placed in such a position as to be easily handled by the person in charge of the motor, and connected so that by its means all pressure can be cut off from the motor itself, and from any regulating switch, resistance or other device in connection therewith.

(4) Switches, efficient fuses or other automatic circuit-breakers shall be provided, so as to protect the circuits from excess of current, and all switches and cut-outs shall be so enclosed and protected that there shall be no danger of any shock being obtained in the ordinary handling thereof, or of any fire being caused by their normal or abnormal action.

(5) A notice shall be fixed in a conspicuous position at every motor and switch board in connection with the supply forbidding unauthorised persons to touch the motors or apparatus.

(b) Where the supply is for arc lamps in series—

(1) The consumer's wires forming the connections to the arc lamps, or otherwise in connection with the supply, shall be, as far as practicable, completely enclosed in strong metal casing efficiently connected with earth, or they shall be fixed in such a manner that there shall be no danger of any shock.

(2) The supply to every arc lamp shall be controlled by means of an efficient cut-off switch, placed in such a position as to be easily handled by the person in charge of the arc lighting, and connected so that by its means all pressure can be cut off from the arc lamp itself, and from any regulating switch, resistance or other device in connection therewith. Provided that where the arc lamps are connected in series across the outer conductors of a three-wire system, it shall be sufficient if one such switch be provided for each series of arc lamps.

(3) Switches, efficient fuses or other automatic cut-outs shall be provided, so as to protect the circuits from excess of current, and all switches and cut-outs shall be so enclosed and protected that there shall be no danger of any shock being obtained in the ordinary handling thereof, or of any fire being caused by their normal or abnormal action.

(c) Where the supply is for incandescent lamps in series—

(1) The consumer's wires forming the connections to the incandescent lamps, or otherwise in connection with the supply, shall be completely enclosed in strong metal casing, and this casing, together with the switches and lamp holders, if metallic, shall be efficiently connected with earth.

(2) Switches, efficient fuses or other automatic cut-outs shall be provided so as to protect the circuits from excess of current, and all switches and cut-outs shall be so enclosed and protected that there shall be no danger of any shock being obtained in the ordinary handling thereof, or of any fire being caused by their normal or abnormal action.

Where the supply is for any special purpose other than those above mentioned, or where the pressure of the supply exceeds the limits of medium pressure, it shall be subject to such other regulations as the Board of Trade may from time to time prescribe.

This regulation shall not apply within the premises of a factory, a workshop, a mine, or a quarry.

2. When the pressure between the outer conductors of a three-wire system exceeds 250 volts and the three wires of the system or two pairs of wires are brought into a consumer's premises, the supply shall be given to two pairs of terminals arranged in such a manner that there shall be no danger of any shock, and the wiring from these terminals shall be kept distinct.

This regulation shall not apply within the premises of a factory, a workshop, a mine, or a quarry.

3. An extra high pressure supply shall not be given to any consumer's premises other than a factory, a workshop, a mine, a quarry, or electric traction works, waterworks, sewerage or drainage works; and no such supply shall be given to electric traction works, waterworks, sewerage or drainage works, except with the consent of the Board of Trade and subject to such regulations as the Board may prescribe.

4. The sectional area of the conductor in any electric line laid or erected in any street after the date of these regulations shall not be less than that of a strand of seven wires, each of which is of No. 20 standard wire gauge, and the sectional area of every wire in a strand forming any such conductor shall not be less than that gauge.

This regulation shall not apply in the case of an electric line placed in a lamp-post.

5. Every low pressure and medium pressure main shall be tested for insulation after having been placed in position and before it is used for the purposes of supply, the testing pressure being the maximum pressure to which it is intended to be subjected in use, and in any case at least 200 volts, and the undertakers shall duly record the results of the tests of each main, or section of a main.

6. The insulation of every complete circuit used for the supply of energy, including all machinery, apparatus, and devices forming part of, or in connection with, that circuit, shall be so maintained that the leakage current shall not under any conditions exceed one-thousandth part of the maximum supply current; and suitable

Appendix II. means shall be provided for the indication and localisation of leakage. Every leakage shall be remedied without delay.

Every such circuit shall be tested for insulation at least once in every week, and the undertakers shall duly record the results of the testings.

Provided that where any part of any electric circuit is connected with earth, either in accordance with these regulations or with the approval of the Board of Trade, the provisions of this regulation shall not apply to that part of the circuit so long as the connection with earth exists.

7. A high pressure circuit shall not be brought into use unless the insulation of every part thereof has withstood the continuous application, during half an hour, in the case of every electric line of a pressure twice the maximum pressure to which it is intended to be subjected in use, and, in the case of every machine, device, or apparatus, of a pressure 50 per cent. greater than the said maximum pressure.

The undertakers shall duly record the results of each test.

8. Every high pressure main, conductor, or other apparatus shall be protected by a suitable fuse or automatic circuit-breaker.

Provided that it shall not be incumbent upon the undertakers to provide such a fuse or circuit-breaker for the outer conductor of a concentric main which is, with the approval of the Board of Trade, efficiently connected with earth.

9. In every case where a high pressure supply is transformed for the purpose of supply to one or more consumers, some suitable automatic and quick-acting means shall be provided to protect the consumer's wires from any accidental contact with or leakage from the high pressure circuit, either within or without the transforming apparatus.

This regulation shall not apply within the premises of a factory, a workshop, a mine, or a quarry, where the high pressure transformer is under the jurisdiction of the Home Office.

10. The metallic portion of every high pressure transformer, with the exception of the conductors thereof, shall be efficiently connected with earth.

This regulation shall not apply within the premises of a factory, a workshop, a mine, or a quarry, where the high pressure transformer is under the jurisdiction of the Home Office.

11. Where any portion of any electric line or any support for an electric line is exposed in such a position as to be liable to cause injury from lightning it shall be efficiently protected against such liability.

12. Where any accident by explosion or fire, or any other accident of such kind as to have caused or to be likely to have caused loss of life or personal injury has occurred at any part of any electric line or work, the undertakers shall give immediate notice thereof to the Board of Trade.

Overhead Lines.

13. Overhead lines shall not after the date of these regulations be erected or maintained except in accordance with such regulations as the Board may prescribe; provided that this regulation shall not apply to any electric lines which have been erected at the date of these regulations so long as those lines are maintained in accordance with any regulations of the Board of Trade which are in force and applicable thereto at that date and with any requirements of the Board made thereunder. (See the Regulations made under this para. at p. 3290, *post.*)

Electric Lines other than Overhead Lines.

14. All conduits, pipes, casings, and street boxes used as receptacles for electric lines shall be constructed of durable material, and where laid under carriage ways shall be of ample strength to prevent damage from heavy traffic, and reasonable means shall be taken by the undertakers to prevent accumulation of gas in such receptacles.

15. Where any electric line crosses, or is in proximity to, any metallic substance, special precautions shall be taken by the undertakers against the possibility of any electrical charging of the metallic substance from the line or from any metal conduit, pipe, or casing enclosing the line.

16. All metal conduits, pipes, or casings containing any high pressure electric

line shall be efficiently connected with earth, and shall be so jointed and connected across all street boxes and other openings as to make good electrical connection throughout their whole length.

17. Where the conductors of electric lines placed in any conduit are not continuously covered with insulating material they shall be secured in position, and no unfixed uninsulated material of a conducting nature shall be contained in the conduit. No such conductor shall be at a pressure exceeding 300 volts from earth.

Adequate precautions shall also be taken to ensure that no accumulation of water shall take place in any part of the conduit, and to prevent any dangerous access of moisture to the conductors or the insulators.

The insulators of any such electric line shall be so disposed that they can be readily inspected, but this requirement shall not apply to any such insulators which before the date of these regulations were not required by any regulation then in force to be so capable of ready inspection.

18. Every portion of any high pressure electric line placed above the surface of the ground, or in any subway not in the sole occupation of the undertakers shall be completely enclosed either in a tube of highly insulating material embedded in brickwork, masonry, or cement concrete, or in strong metal casing efficiently connected with earth.

19. Where any high pressure electric line is laid beneath the surface of the ground, efficient means shall be taken to render it impossible that the surface of the ground or any neighbouring electric line or conductor shall become charged by leakage from the high pressure electric line.

20. A high pressure electric line shall not be used for the supply of energy before it has been completely laid, properly jointed, examined, and tested, or until it is in the sole charge of the undertakers, and every such line shall during its use be in the sole charge of the undertakers.

Sub-stations and Street Boxes.

21. Sub-stations shall be established in suitable places and shall be in the sole occupation and charge of the undertakers. Sub-stations shall be erected above ground wherever possible, but where necessarily underground, due provision shall be made for ventilation and for drainage.

22. In addition to the provisions contained in regulation 14 as to the construction of receptacles for electric lines, the following conditions shall be observed with respect to street boxes :—

(a) The covers of all street boxes shall be so secured that they cannot be opened except by means of a special applicance.

(b) The covers of all street boxes containing high pressure apparatus other than cables shall be connected to strips of metal laid immediately underneath the street, and efficient means shall be taken to render it impossible that the covers or other exposed parts of these boxes, or any adjacent material forming the surface of the street, shall become electrically charged whether by reason of leakage, defect, or otherwise.

(c) Where street boxes are used as transformer chambers, reasonable means shall be taken to prevent as far as possible any influx of water, either from the adjacent soil or by means of pipes; and in the case of any such street box exceeding one cubic yard in capacity, ample provision shall be made, by ventilation or otherwise, for the immediate escape of any gas which may by accident have obtained access to the box, and for the prevention of danger from sparking.

(d) All street boxes shall be regularly inspected for the presence of gas, and if any influx or accumulation is discovered, the undertakers shall give immediate notice to the authority or company whose gas mains are laid in the neighbourhood of the street box.

(e) Where mains at different pressures pass through the same street box they shall be readily distinguishable from one another.

23. The maximum power supplied to any underground sub-station or street box shall not, without the consent of the Board of Trade, exceed 30 kilowatts in the case of a sub-station or street box containing a single transformer, or 75 kilowatts in the case of a sub-station or street box containing two or more transformers.

Consumer's Premises.

24. The undertakers shall be responsible for all electric lines, fittings, and apparatus belonging to them, or under their control, which may be upon a consumer's premises, being maintained in a safe condition and in all respects fit for supplying energy.

25. In delivering the energy to a consumer's terminals the undertakers shall exercise all due precautions so as to avoid risk of causing fire on the premises.

26. A suitable safety fuse or other automatic circuit-breaker shall be inserted in each service line within a consumer's premises as close as possible to the point of entry, and contained within a suitable locked or sealed receptacle of fireproof construction, except in cases where the service line is protected by fuses in a street box; but no fuse or automatic circuit-breaker shall be inserted in the intermediate conductor of a three-wire system.

27. All service lines and apparatus placed on a consumer's premises shall be highly insulated and thoroughly protected against injury to the insulation or access of moisture, and any metal forming part of the electric circuit shall not unless efficiently connected with earth be exposed so that it can be touched. All electric lines shall be so fixed and protected as to prevent the possibility of electrical discharge to any adjacent metallic substance.

28. Where the general supply of energy is a high pressure supply, and transforming apparatus is installed on a consumer's premises, the whole of the high pressure service lines, conductors, and apparatus, including the transforming apparatus itself, so far as they are on the consumer's premises, shall be completely enclosed in solid walls, or in strong metal casing efficiently connected with earth and securely fastened throughout.

29. The undertakers shall not connect a consumer's wires with their mains unless they are reasonably satisfied that the connection would not cause a leakage from those wires or fittings exceeding one ten-thousandth part of the maximum supply current to the premises; and where the undertakers decline to make such connection they shall serve upon the consumer a notice stating their reasons for so declining.

30. If the undertakers are reasonably satisfied, after making all proper examination by testing or otherwise, that a leakage exists at some part of a consumer's wires or fittings of such extent as to be a source of danger, any officer of the undertakers, duly authorised by them in writing, or, if the undertakers so require, an electric inspector, may, for the purpose of discovering whether the leakage exists at any part of a circuit within or upon any consumer's premises, by notice require the consumer at some reasonable time after the service of the notice to permit him to inspect and test the wires and fittings belonging to the consumer and forming part of the circuit.

In any case where the undertakers require the services of an electric inspector under this regulation they shall pay him the prescribed fee.

If on any such testing the officer or the electric inspector discovers a leakage from the consumer's wires exceeding one ten-thousandth part of the maximum supply current to the premises, or if the consumer does not give all due facilities for inspection and testing, the undertakers shall forthwith discontinue the supply of energy to the premises in question, giving immediate notice of the discontinuance to the consumer, and shall not recommence the supply until they are reasonably satisfied that the leakage has been removed. This regulation shall not affect any power contained in the order or otherwise enabling the undertakers to discontinue the supply.

31. If any consumer is dissatisfied with the action of the undertakers in refusing to give, or in discontinuing or in not recommencing the supply of energy to his premises, the wires and fittings of that consumer shall, on his application and on payment of the prescribed fee, be tested for the existence of leakage by an electric inspector.

This regulation shall be endorsed on every notice given under the provisions of either of the two last preceding regulations.

Arc Lighting.

32. Arc lamps used in any street for public lighting shall be so fixed as not to be in any part at a less height than 10 feet from the ground.

33. All arc lamps shall be so guarded as to prevent pieces of ignited carbon or broken glass falling from them, and shall not be used in situations where there is any danger of the presence of explosive dust or gas.

Connections of Circuits with Earth.

34. Where the pressure of a supply between the adjacent conductors of a three-wire system of mains exceeds 125 volts, the intermediate conductor shall be connected with earth in accordance with the following conditions:—

(a) The connection with earth of the intermediate conductor shall be made at one point only on each distinct circuit, namely, at the generating station, sub-station, or transformer, and the insulation of the circuit shall be efficiently maintained at all other parts.

(b) The current from the intermediate conductor to earth shall be continuously recorded, and if it at any time exceed one-thousandth part of the maximum supply current, steps shall be immediately taken to improve the insulation of the system.

Penalties.

35. If the undertakers make default in complying with any of the preceding regulations, they shall on conviction be liable to a penalty not exceeding £10 for every such default, and to a daily penalty not exceeding £10.

The recovery of a penalty under these regulations shall not affect the liability of the undertakers to make compensation in respect of any damage or injury which may be caused by reason of the default.

B.—REGULATIONS FOR ENSURING A PROPER AND SUFFICIENT SUPPLY OF ELECTRICAL ENERGY.

1. From the time when the undertakers commence to supply energy through any distributing main, they shall maintain a supply sufficient for the use of all the consumers for the time being entitled to be supplied from that main; and that supply shall, except so far as the Board of Trade may otherwise from time to time permit, be constantly maintained, and in the case of continuous currents, without change of polarity. Provided that, for the purposes of testing, or for any other purposes connected with the efficient working of the undertaking, the authority by whom the electric inspector is appointed may give permission to the undertakers to discontinue the supply at such intervals of time and for such periods as that authority may think expedient. When the supply is so discontinued, or the polarity is changed, notice to all persons likely to be affected shall be given of such discontinuance, or change, and of the probable duration thereof.

2. The system of distributing mains shall be separated into sections corresponding approximately to the different feeders, and these sections shall be interconnected only through suitable circuit breakers or fuses, arranged so as to be easily inspected.

3. Before commencing to give a supply of energy to any consumer, the undertakers shall declare to that consumer the constant pressure at which they propose to supply energy at his terminals. The pressure so declared shall be constantly maintained, subject to a variation not exceeding 4 per cent. above or below the declared pressure, under any conditions of supply which the consumer is entitled to receive, or such other variation as the Board of Trade may from time to time allow, and shall not be altered or departed from to an extent greater than that variation except by consent of the Board of Trade, and upon such terms and conditions as the Board of Trade may impose, and after public notice has been given during the period of one month, in such manner as the Board of Trade may require, of the intention of the undertakers to apply for consent to alter the same.

Provided that any regulations in force at the date of these regulations whereby the consent of any consumer (or in default thereof the consent of the Board of Trade) was then required to a change in the declared constant pressure to that consumer's premises shall, notwithstanding anything in these regulations, continue of full force and effect in the case of any consumer whose consent was then so required, and shall apply in that case as if it had been expressly set out in these regulations.

Appendix II.

4. Before commencing to give a supply of energy to any consumer, the undertakers shall declare to that consumer the system which they propose to adopt, whether alternating or continuous current, and, in the case of alternating current, the frequency—that is to say, the number of complete periods per second at which they propose to supply. The system and frequency so declared shall be maintained subject, as respects frequency, to a variation not exceeding $2\frac{1}{2}$ per cent. above or below the declared frequency, and shall not be altered or departed from except by consent of the Board of Trade, and upon such terms and conditions as the Board of Trade may impose, and after public notice has been given during the period of one month, in such manner as the Board of Trade may require, of the intention of the undertakers to apply for consent to alter the same.

5. If the undertakers make default in complying with any of these regulations as to supply, they shall, subject to the provisions of the Order, be liable on conviction to a penalty not exceeding £5 for every such default, and to a daily penalty not exceeding £5.

These regulations are made subject to the power of the Board of Trade to make such further or other regulations as they may think expedient; and nothing in these regulations shall be construed to authorise the undertakers to lay any electric line or work their undertaking otherwise than in accordance with the Order and the principal Act, or to supply energy otherwise than by a system for the time being approved by the Board of Trade under the Order.

These are the regulations and conditions for securing the safety of the public and for ensuring the proper and sufficient supply of electrical energy, made by the Board of Trade under the provisions of the Electric Lighting Acts, 1882 and 1888, and of the , referred to in the letter from the Board of Trade to the , of the 30th day of June, one thousand nine hundred and nine.

Except as hereinafter mentioned, the date of these regulations shall be the 1st day of July, 1909.

As to so much of any electrical station as was constructed before the 1st day of July, 1908, the date of these regulations shall be the 1st day of January, 1910.

Assistant Secretary,
Board of Trade.

ELECTRICITY (SUPPLY) ACTS, 1882 TO 1919.

MEMORANDUM OF PROCEDURE FOR THE GUIDANCE OF APPLICANTS WITH RESPECT TO THE FOLLOWING MATTERS:—

A.—*Application by Undertakers for Order of the Electricity Commissioners under Section* 6 *of the Electric Lighting Act,* 1909, *as amended by the Electricity (Supply) Act,* 1919, *permitting them to give a supply of Electricity to premises situate outside their area of supply.*

1.—The application must be made in respect of specific premises and not in respect of an addition to the area of supply of the applicants.

2. The application must be accompanied by—

(*a*) A map or plan on a scale of not less than 6 inches to the mile having marked thereon, in some distinctive colour, the route of the electric lines proposed to be placed for the purpose of giving the supply, the names of any roads in or along which the said electric lines are to be placed, the proposed method of placing the said electric lines, and the situation of the premises proposed to be supplied;

(*b*) A list of the roads and any railways or tramways proposed to be broken up for the purpose of giving the supply, showing separately those roads (if any) which are not repairable by the local authority, and an affidavit or stamped statutory declaration to the effect that the roads repairable by the local authority are so repairable;

(*c*) Proof of the consent of the local authority in whose district the premises are situate and of the undertakers (if any) authorised to supply electricity to the premises forming the subject of the application, or evidence that those consents are unreasonably withheld;

(*d*) Evidence that the occupier of the premises to which the application relates is desirous of obtaining a supply of electricity from the applicants;

(*e*) A statement of the terms and conditions on which the supply is proposed to be given; and

(*f*) An affidavit or stamped statutory declaration to the effect that the applicants are not by any Act of Parliament specifically prohibited from supplying electricity within the area in which the premises are situate.

3. The consent of the local authority, if given, should be given in pursuance of a resolution passed at a meeting of the local authority held after previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of the local authority are usually given, and the fact that such a resolution was duly passed should be proved by a certificate signed by the clerk of the local authority reciting a copy of the notice and of the resolution, and declaring that the notice was duly given and the resolution duly passed.

4. The consent of any undertakers being a company authorised to supply electricity to the premises, if given, should be proved by a certificate signed by the manager or secretary to the company.

5. In cases where for the purposes of giving the supply the applicants require to break up any road not repairable by the local authority (including any road repairable by a county council), or any railway or tramway they must (unless the authority, company, or person by whom that road, railway, or tramway is repairable consent to the breaking up thereof) apply to the Minister of Transport under section 13 of the Electric Lighting Act, 1882, as amended by the Electricity (Supply) Act, 1919, for the written consent of the Minister authorising and empowering the applicants to break up that road, railway, or tramway.

B.—*Application for consent of the Electricity Commissioners under Section* 11 *of the Electricity* (*Supply*) *Act*, 1919, *to establish a generating station.*

1. The applicants must give notice of the application, by advertisement or otherwise, as the Electricity Commissioners may direct, to the Joint Electricity Authority for the district (if any), to the local authority of the district in which the land is situate, to H.M. Office of Works, etc., Westminster, S.W.1 (*a*), and to owners and lessees of land situate within 300 yards of the land upon which the generating station is to be established.

The notices should be as nearly as possible in the Forms A and B respectively as set out in the Appendix hereto.

Provided that no such notice shall be required in any case in which the applicants have already obtained an Order authorising the acquisition or use of the said land for the purpose of a generating station.

2. The application must contain an accurate description of the land on which the station is to be established, and must be accompanied by a plan showing the site in some distinctive colour and having the 300 yards radius marked thereon, together with a plan and an elevation drawing of the generating station, a description of the machinery proposed to be installed therein, and a statement of the time within which the station is proposed to be established.

The application must be accompanied by an estimate of the capital outlay involved and particulars of the financial position of the undertaking.

3. A copy of the said plans, elevation drawing, and description of machinery must be deposited for public inspection at the office of the joint electricity authority for the district (if any) and of the local authority of the district in which the land is situate, or at such other office as the Electricity Commissioners may direct.

4. Proof that these requirements have been complied with must be made by the applicants forwarding to the Secretary, Electricity Commission, Gwydyr House, Whitehall, London, S.W.1—

(*a*) A copy of the newspaper containing the advertisement (if any), a copy of the notice served on the Joint Electricity Authority (if any) and the local authority of the district in which the land is situate, and of that served on owners and lessees; and

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(*a*) In the application of this Memorandum to Ireland, H.M. Office of Works, etc., Dublin, shall be substituted for H.M. Office of Works, etc., Westminster, S.W.1.

(*b*) An affidavit or stamped statutory declaration to the effect that the said Joint Electricity Authority, local authority, H.M. Office of Works, etc., and owners and lessees have been served with the notice referred to, with a list of the owners and lessees as an exhibit, and that a plan showing the site of the land together with a plan and an elevation drawing of the generating station and a description of the machinery proposed to be installed therein has been deposited for public inspection at the office of the Joint Electricity Authority and the local authority of the district, or in such other office as the Electricity Commissioners may have directed.

C.—*Application by a Joint Electricity Authority under Section* 14 *of the Electricity (Supply) Act*, 1919, *for an Order to exclude from the area of supply of a Power Company any part of that area which, at the time of the application, is not being supplied by the Company.*

1. The application must contain—
   - (*a*) A description of the area of supply of the Power Company;
   - (*b*) A description of the part of the area which it is proposed to exclude; and
   - (*c*) A description of the means whereby the area to be excluded could be supplied by the applicants, including a description of the electric lines to be placed for the purpose.

2. The application must be accompanied by a map on a scale of not less than one inch to a mile, showing—
   - (*a*) The area of supply of the Power Company;
   - (*b*) The area proposed to be excluded; and
   - (*c*) The route along which any electric lines are to be placed by the applicants for the purpose of giving a supply to such excluded area.

3. The applicants must give notice of the application to the Power Company and to any county council, local authority and authorised undertakers interested in the application.

The notice should contain a description of the area to which the application relates and should state that if the Power Company, county council, local authority or authorised undertakers, as the case may be, desire to object to the proposed Order, they must do so by letter sent by registered post addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, London, S.W.1, within 30 days from the date of the notice.

4. Proof that the above requirements relating to notices have been complied with must be made by the applicants forwarding to the Electricity Commissioners—
   - (*a*) A copy of the notice;
   - (*b*) An affidavit or stamped statutory declaration to the effect that all notices required to be served, as above, have been so served, with a list of the bodies on whom they were served as an exhibit.

D.—*Application by Undertakers for Approval by the Electricity Commissioners under Section* 19 *of the Electricity (Supply) Act*, 1919, *of an arrangement for mutual assistance.*

1. The application must contain—
   - (*a*) A description of the parties to the arrangement;
   - (*b*) Particulars of the arrangement proposed to be entered into;
   - (*c*) A statement of the terms and conditions agreed between the parties;
   - (*d*) A description of any roads, railways, and tramways which it is necessary to break up for the purpose of carrying the arrangement into effect.

2. Where the arrangement is one for the giving and taking of a supply of electricity the application must be accompanied by a map on the scale of one inch to the mile, showing the areas of supply of the parties, the districts (if any) of any local authorities intervening between such areas, and the route along which any mains are to be laid for the purpose.

3. Should the Electricity Commissioners decide to proceed with the application, they will require the applicants to give notice of the application to all undertakers authorised to supply electricity in bulk in the area to which the application relates, and to the local authority for any such district.

The notice should set out the nature of the application and should state that any objections to the application may be made by letter addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, London, S.W.1, within 30 days from the date of the notice, and that a copy of the objection should be sent to the applicants.

4. Where the arrangement involves the breaking up of any road not repairable by the local authority (including any road repairable by a county council) or any railway or tramway which neither of the parties to the arrangement is empowered to break up under their respective Orders or special Acts, the applicants must give notice of the application, by advertisement or otherwise, as the Electricity Commissioners may direct, to the authority, company or person by whom that road, railway or tramway is repairable. The notice in this case should be as nearly as may be in the Form C set out in the Appendix hereto.

5. Proof that the above requirements relating to notices have been complied with must be made by the applicants forwarding to the Electricity Commissioners—

(*a*) A copy of the newspaper containing the advertisement (if any);
(*b*) A copy of the notice given to undertakers authorised to supply electricity in any district to which the application relates, and a copy of the notice (if any) given to any local authority;
(*c*) An affidavit or stamped statutory declaration to the effect that all notices required to be served, as above, have been so served, with a list of the bodies on whom they were served as an exhibit.

E.—*Application by a local authority for the sanction of the Electricity Commissioners to borrow money under the Electricity (Supply) Acts or under any Special Act or Order relating to the supply of electricity.*

1. The application must be made in pursuance of a formal resolution of the local authority.

2. The application should be made on the official (*a*) form and must be accompanied by—

(*a*) A certified copy of the formal resolution;
(*b*) A statement showing the loans previously sanctioned, loans raised, and amounts outstanding at the date of application in respect of the undertaking;
(*c*) A detailed estimate of the expenditure involved;
(*d*) In the case of the purchase of land, a plan, with full information as to the interests to be acquired;
(*e*) In the case of extensions of a generating station buildings, plant or machinery, a plan showing the existing works and proposed extensions;
(*f*) Information as to the rate of growth of the undertaking and the necessity for the proposed expenditure;
(*g*) Particulars of any existing works for which the proposed works are in substitution and the amount outstanding of any loan raised in respect of the works proposed to be displaced;
(*h*) Particulars of any further expenditure of a capital nature involved by the proposed works for which sanction to the borrowing of money will be required;
(*i*) Such detailed technical particulars as may be required by the Electricity Commissioners.

NOTE.—Any costs or charges which may be incurred by the Electricity Commissioners in connection with any application must be paid by the applicants if so required by the commissioners.

Where in this memorandum provision is made for notice being given to a local authority, the London County Council shall in respect of any application relating to the county of London be deemed to be a local authority.

ELECTRICITY COMMISSION,
GWYDYR HOUSE, WHITEHALL, LONDON, S.W.1.
August, 1920.

(*a*) Forms for application for sanction to loans may be obtained from the Secretary, Electricity Commission, Gwydyr House, Whitehall, London, S.W.1.

Appendix II.

APPENDIX.

FORM A.

FORM OF NOTICE, BY ADVERTISEMENT AND TO THE JOINT ELECTRICITY AUTHORITY (IF ANY), THE LOCAL AUTHORITY, AND TO H.M. OFFICE OF WORKS, ETC., OF APPLICATION FOR CONSENT OF THE ELECTRICITY COMMISSIONERS UNDER SECTION 11 OF THE ELECTRICITY (SUPPLY) ACT, 1919, TO ESTABLISH A GENERATING STATION.

ELECTRICITY (SUPPLY) ACT, 1919.

[*Title of Order or special Act.*]

NOTICE IS HEREBY GIVEN that an application has been made to the Electricity Commissioners by the [*insert name of applicants*] for the consent of the Commissioners under section 11 of the Electricity (Supply) Act, 1919, to establish a generating station for the purposes of the [*insert title of Order or special Act*] on [*insert description of site*].

A plan showing the site of the land in question together with a plan and an elevation drawing of the generating station and a description of the machinery proposed to be installed therein, has been deposited for public inspection at [*insert address of office of the Joint Electricity Authority* (*if any*), *the local authority, or such other office as may have been directed by the Electricity Commissioners*].

If the joint electricity authority, the local authority, or any owner or lessee of property situate within three hundred yards of the proposed site desires to object to the application, they must do so by letter, sent by registered post addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, London S.W.1, within thirty days from the date hereof, and a copy of the objection must be addressed to me.

[*To be signed on behalf of the applicants.*]

Address of applicants
and date.

FORM B.

FORM OF NOTICE TO OWNERS AND LESSEES OF APPLICATION FOR CONSENT OF ELECTRICITY COMMISSIONERS UNDER SECTION 11 OF THE ELECTRICITY (SUPPLY) ACT, 1919, TO ESTABLISH A GENERATING STATION.

[*Address of applicants and date.*]

ELECTRICITY (SUPPLY) ACT, 1919.

[*Title of Order or special Act.*]

SIR,—I BEG to inform you that an application has been made to the Electricity Commissioners by the [*insert name of applicants*] for the consent of the Commissioners under section 11 of the Electricity (Supply) Act, 1919, to establish a generating station for the purposes of the [*insert title of Order or special Act*] on [*insert description of site*]. Certain land of which I understand you are the owner or lessee is situate within three hundred yards of the site above described.

A plan showing the site together with a plan and an elevation drawing of the generating station, and a description of the machinery proposed to be installed therein has been deposited for public inspection at [*insert address of office of the Joint Electricity Authority* (*if any*), *local authority, or such other office as may have been directed by the Electricity Commissioners*].

Any objection you may have to the said application must be sent by letter, sent by registered post addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, London, S.W.1, within thirty days of the date hereof, and a copy of the objection must be addressed to me.

I am, etc.,
[*To be signed on behalf of the applicants.*]

FORM C.

FORM OF NOTICE OF APPLICATION FOR ORDER OF THE ELECTRICITY COMMISSIONERS AUTHORISING THE BREAKING UP OF ROADS NOT REPAIRABLE BY THE LOCAL AUTHORITY, RAILWAYS OR TRAMWAYS FOR THE PURPOSE OF CARRYING INTO EFFECT AN ARRANGEMENT UNDER SECTION 19 OF THE ELECTRICITY (SUPPLY) ACT, 1919.

ELECTRICITY (SUPPLY) ACT, 1919.

[*Title of Order or Special Act.*]

NOTICE IS HEREBY GIVEN that an application has been made to the Electricity Commissioners by the [*insert name of applicants*] for an Order of the Commissioners authorising the breaking up of the undermentioned roads not repairable by the local authority [*railway, tramway*] [*set out description of roads, railway or tramway*] for the purpose of carrying into effect an arrangement under Section 19 of the Electricity (Supply) Act, 1919.

Any person interested and wishing to object to the application for the Order may do so by letter, sent by registered post addressed to the Secretary, Electricity Commissioners, Gwydyr House, Whitehall, London, S.W.1, within thirty days of the date hereof, and a copy of the objection must be addressed to me.

[*To be signed on behalf of Applicants.*]

Address of Applicants
and date.

S. R. & O., 1921, No. 1186.

THE ELECTRICITY (CONFIRMATION OF SPECIAL ORDERS) RULES, 1921, DATED JULY 13, 1921, MADE BY THE MINISTER OF TRANSPORT UNDER SECTIONS 34 AND 35 OF THE ELECTRICITY (SUPPLY) ACT, 1919.

The following rules are made by the Minister of Transport by virtue of the powers in that behalf conferred upon him by the above-mentioned sections of the Electricity (Supply) Act, 1919, and by the Ministry of Transport (Electricity Supply) Order, 1920, with respect to the confirmation of special Orders under section 35 of that Act, that is to say :—

1. Before the Minister of Transport confirms a special Order (hereinafter called "an Order") he will publish, in such manner as he may think best adapted for informing persons affected, notice of the proposal to confirm the Order, and of the place where copies of the Order may be obtained.

2. Any person desirous of objecting to the confirmation of an Order must do so by a memorial, addressed to the Minister of Transport, written on one side only of foolscap paper.

3. Any memorial objecting to the confirmation of an Order must be sent by registered post addressed to The Secretary, Ministry of Transport, 6, Whitehall Gardens, London, S.W.1, and posted not later than the date mentioned in that behalf in the notice, and a copy of the memorial must be sent in like manner to the parliamentary agents or solicitors for the Order.

4. Every such memorial shall be sealed or signed by the person objecting or by some responsible and duly authorised person on his behalf, and shall state :—

(*a*) the Order or portions of Order objected to ;
(*b*) the specific grounds of objection ; and
(*c*) the omissions, additions, or modifications asked for.

5. Not less than 10 clear days' previous notice in writing addressed to the parties applying for the Order or their agents or solicitors, and to the persons objecting to the confirmation of the Order or their agents, will be given of the time and place of any inquiry which the Minister of Transport may direct to be held.

6. The costs of any such inquiry shall unless otherwise so directed by the Minister of Transport be apportioned amongst and paid by such persons appearing at the inquiry as the person holding the inquiry may direct. Subject thereto the costs and expenses of the Minister of and incident to the confirmation of an Order shall be paid by the parties applying for the Order at such time and in such manner as he may direct.

Appendix II.

STATUTORY RULES AND ORDERS,

1920, No. 1461.

ELECTRICITY.

APPLICATIONS FOR SPECIAL ORDERS.

THE ELECTRICITY COMMISSIONERS' RULES, 1920, DATED AUGUST 10, 1920, MADE BY THE ELECTRICITY COMMISSIONERS IN PURSUANCE OF SECTION 34 OF THE ELECTRICITY (SUPPLY) ACT, 1919 (9 & 10 GEO. 5, c. 100), WITH RESPECT TO APPLICATIONS FOR SPECIAL ORDERS.

Mode of making application.

As to form of application.

Rule I.—Every application for a special order (hereinafter in this part of these Rules referred to as "an Order") to authorise the distribution of electricity in any area or the acquisition or use of any land for the purpose of a generating station, must be made by memorial addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, S.W.1.

Notices which must be given.

Public notices.

Rule II.—Applicants for an Order must publish notice by advertisement (hereinafter referred to as "the advertisement") of their intended application and the advertisement must contain the following particulars:—

1. The objects of the application.
2. The address and description of the applicants.
3. A description of the proposed area of supply (if any).
4. The names of the roads (if any) in which it is proposed that electric lines shall be laid down within a specified time.
5. A list of the roads not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take special powers by the Order to break up.
6. In the case of an Order to authorise the acquisition or use of any land for the purpose of a generating station, a description of such land.
7. An intimation that every local or other public authority, company or person being desirous of bringing before the Electricity Commissioners any objection respecting the application, may do so by registered letter, addressed to the Secretary of the Commission as aforesaid and despatched within thirty days from the date of the publication of the advertisement in the local newspaper, and that a copy of such objection must also be forwarded to the Parliamentary Agents or Solicitors for the Order.
8. The address of an office in London and of an office within the proposed area of Supply, or, in the case of an application for an Order for the acquisition or use of land for the purpose of a generating station, within the district of the local authority in which such land is situate, at which printed copies of the draft Order, as applied for, and of the Order, as made, can be obtained at a price of not more than two shillings each.

The advertisement must be inserted once in a local newspaper circulating in the district or districts to which the application relates and once in the London, Edinburgh or Dublin Gazette, as the case may require, as soon as possible after the publication in the local newspaper.

No part of the month of August shall be included in calculating the abovementioned period of thirty days.

Notices to owners, &c.

Rule III.—On or before the date of the publication of the advertisement the applicants for an Order to authorise the distribution of electricity must serve a notice of their intended application on the joint electricity authority (if any) and on any company or person authorised under statutory powers to distribute electricity within the area to which the draft Order relates; and in case the draft Order proposes to authorise the acquisition or use of any land for the purpose of a generating station, the applicants must on or before the same date give notice as follows:—

(i) To every owner or reputed owner, lessee or reputed lessee, and occupier of any such land, such notice being as nearly as possible in the form A set out in the Schedule hereto.

(ii) To every owner or reputed owner, lessee or reputed lessee, of any lands or houses situate within 300 yards of such land, such notice being as nearly as possible in the form B set out in the Schedule hereto; and

(iii) To the joint electricity authority (if any) and to the local authority of the district in which such land is situate, such notice being as nearly as possible in the form C set out in the Schedule hereto.

All such notices must be in writing and must be despatched by registered post on or before the date aforesaid.

Preparation of the Order.

Applicants must prepare the Order.

Rule IV.—(1) The applicants must in each case prepare a draft of the Order.

(2) The draft Order must be printed on one side of the paper only, and each schedule annexed must begin a new page.

(3) The names and addresses of the Parliamentary Agents or Solicitors for the Order must be printed on the outside of the draft Order.

(4) There must be a notice at the end of the draft Order stating that any objections must be made by letter sent by registered post addressed to the Secretary, Electricity Commission, as aforesaid, on or before a certain date (to be specified in such notice) being thirty days from the date of the publication of the advertisement, and that a copy of any such objections must at the same time be forwarded to the Parliamentary Agents or Solicitors for the Order.

(5) The draft Order must contain amongst other things:—

(i) The address and description of the applicants.

(ii) A description of the proposed area of supply and, where any land is proposed to be acquired or used for the purpose of a generating station, a description of such land.

(iii) The names of the roads (if any) in which it is proposed that electric lines shall be laid down within a specified time.

(iv) A list of the roads not repairable by a local authority and of the railways and tramways (if any) which the applicants propose to take special powers by the Order to break up.

(6) The draft Order must incorporate the provisions contained in the Schedule to the Electric Lighting (Clauses) Act, 1899, or if it relates to the Administrative County of London must contain provisions similar to those contained in that Act.

Deposits to be made.

Deposits.

Rule V.—On or before the date of the publication of the advertisement the applicants must deposit at the office of the Electricity Commission:—

1. A copy of the advertisement.
2. The memorial signed or sealed by or on behalf of the applicants.
3. Six printed copies of the draft Order.
4. A published map on a scale of not less than six inches to a mile, or if there is no published map, then the best map procurable, showing the boundaries of the area of supply, and the roads in which it is proposed that electric lines shall be laid down within a specified time.

Where it is proposed to authorise the breaking up of roads, railways and tramways outside the area of supply, a similar map showing the roads, railways and tramways proposed to be broken up.

Where it is proposed to authorise the acquisition or use of any land for the purpose of a generating station, a plan of the site of the land and a book of reference.

Appendix II.

Such last mentioned plan must be on a scale of not less than a quarter of an inch to every hundred feet and must have shown thereon any building, yard, courtyard, land within the curtilage of any building, and any ground cultivated as a garden.

The book of reference must contain the names of the owners or reputed owners, lessees or reputed lessees, and occupiers of all lands and buildings proposed to be taken and must describe such lands and buildings respectively. It must also contain the names of the owners or reputed owners, and lessees or reputed lessees, of land situate within three hundred yards of the land upon which the generating station is to be constructed.

5. A list of the local authorities in whose districts the area of supply (if any) is situated.

6. A list of the authorities, companies, or persons (if any) authorised to supply electricity under statutory powers within the area of supply.

7. In the case of an application by a local authority, the following particulars:—
   (*a*) The sum proposed to be expended in establishing the undertaking;
   (*b*) Whether it is proposed to raise a loan for the purposes of the undertaking;
   (*c*) The assessable value of the district;
   (*d*) The amounts of indebtedness and borrowing powers for all purposes;
   (*e*) The amount of the rates in the pound; and
   (*f*) A statement showing that a definite scheme (including an estimate of the cost) for the supply of electricity has been prepared and considered by the local authority, and a report by an electrical engineer on the proposed scheme.

8. In the case of an application other than by a local authority, a statement of the capital proposed to be expended in establishing the undertaking, the manner in which such capital is to be provided, and a report by an electrical engineer on the proposed scheme.

9. Where it is proposed to authorise the breaking up of roads, railways or tramways outside an area of supply for the purpose of enabling electricity to be brought into the area from a generating station situated outside the area, there must also be deposited:—
   (*a*) A list of the local authorities in whose districts such roads, railways or tramways are situate;
   (*b*) a list of such roads, railways and tramways.

10. If the applicants are a company incorporated under the provisions of the Companies' Acts, a copy of their memorandum and articles of association.

11. A fee of £35 by cheque, payable to the Secretary, Electricity Commission, to cover ordinary expenses. If in consequence of inquiries or otherwise additional expense is incurred, the amount will be charged to the applicants and must be paid by them in addition to the ordinary fee.

On or before the same date the applicants must deposit for public inspection a copy of the advertisement and of the draft Order, maps, plan and book of reference (if any) as follows:—

In England, Wales or Ireland:—

At the office of the Clerk of the Peace in England and Wales or of the Clerk of the Crown and Peace in Ireland (as the case may be) of every county, riding or division to which the application relates and also at the office of the local authority of every district to which the application relates.

In Scotland:—

At the office of the principal sheriff clerk for each county to which the application relates, and, where any county is divided into districts for sheriff court purposes, at the office of the sheriff clerk in each of such districts to which the application relates, and also at the office of the local authority of every district to which the application relates.

In the case of an Order relating to the Administrative County of London, the applicants must on or before the same date deposit a copy of the draft Order, maps, plan and book of reference (if any) at the office of the London County Council.

In the case of an Order relating to the district of a joint electricity authority, the applicants must on or before the same date deposit a copy of the draft Order, maps, plan and book of reference (if any) at the office of the joint electricity authority.

On or before the same date the applicants must deposit a sufficient number of printed copies of the draft Order at an office in London and at an office within the proposed area of supply, or, in the case of an application for an Order for the acquisition or use of land for the purpose of a generating station, within the district of the local authority in which such land is situate, and a copy must be furnished to all persons applying therefor at a price of not more than two shillings per copy.

Objections to grant of Order.

Objections to Order.

Rule VI.—Any person desirous of objecting to an Order must do so within thirty days from the date of the publication of the advertisement, or within thirty days of the date of any notice that may be served on him in pursuance of these Rules. Such objections must be sent by registered letter addressed to the Secretary, Electricity Commission, as aforesaid.

Such letter must be signed by the person objecting or by some responsible and duly authorised person on his behalf. It must state the interest of the person objecting in the subject matter of the Order and must state concisely what his objections are.

If any person desires to suggest any clauses or other amendments for insertion in the Order he must forward with his letter a copy of any such clauses or amendments. At the same time a copy of any such letter, clauses or amendments must be delivered to the Parliamentary Agents or Solicitors for the Order.

No part of the month of August shall be included in calculating the abovementioned period of thirty days.

Proof of Compliance with the Electricity (Supply) Acts and the Foregoing Rules.

Proof of compliance with Electricity (Supply) Acts and Rules.

Rule VII.—The Parliamentary Agents or Solicitors for the Order must be prepared to prove compliance with the provisions of the Acts and the foregoing rules when required by the Electricity Commissioners. Six days' notice will be given of the day and hour at which such Agents or Solicitors are to attend for the purpose at the office of the Electricity Commission, and printed forms of proof will accompany the notice. These forms must be filled up and brought with the requisite documents to the office of the Electricity Commission at the time fixed for receiving proof.

Steps to be taken after Order is granted.

Deposits and publication and proof thereof.

Rule VIII.—When an Order has been granted by the Electricity Commissioners and delivered to the applicants, they must forthwith deposit printed copies for public inspection at the offices where the draft Order was deposited, and must supply copies to all persons applying for the same, at a price of not more than two shillings each, and must further publish the same as the Electricity Commissioners may direct.

Proof of compliance with this Rule must be made within fourteen days from the grant of the Order in such manner as the Electricity Commissioners may direct.

Deposit of published map with Electricity Commission.

Rule IX.—Where in an Order granted by the Electricity Commissioners a deposited map is referred to, the promoters must within fourteen days from the confirmation of the Order deposit at the office of the Electricity Commission a published map on a scale of not less than six inches to a mile, or if there is no published map, then the best map procurable showing the area of supply or the land referred to in the Order. The map must be mounted on linen, and must be certified as correct as regards its district by the clerk or surveyor to every local authority within whose jurisdiction such area of supply, or any part thereof, or any such land is situate.

Short title.

Rule X.—These Rules may be cited as "The Electricity Commissioners Rules, 1920," and shall come into operation from the date hereof.

Signed on behalf of the Secretary, Electricity Commission,
this tenth day of August, 1920.

M. J. Collins.

Electricity Commission.

The Schedule before referred to.

FORM A.

FORM OF NOTICE TO LANDOWNERS AND OTHERS.

[*Address of applicants and date.*]

[*Insert Title of order.*]

SIR,

I beg to inform you that application is intended to be made to the Electricity Commissioners by the [*insert name of applicants*] for a Special Order under the Electricity (Supply) Acts, 1882 to 1919, under the above title, and that the property mentioned in the annexed Schedule or some part thereof, in which I understand you are interested as therein stated, will be liable to be taken for the purposes of a generating station.

I also beg to inform you that a plan of the said land with a book of reference thereto has been or will be deposited on or before the for public inspection at the office of [*specify the office (if in England or Wales) of the Clerk of the Peace (if in Ireland, of the Clerk of the Crown and Peace) of every county, riding or division and also of the local authority of the district (if in Scotland) of the sheriff clerk for the county, of the sheriff clerk for the district (if any) and of the local authority of the district*] on which plan your property is designated by the numbers in the annexed Schedule.

If there should be any error or misdescription in the annexed Schedule, I shall feel obliged by your informing me thereof at your earliest convenience in order that I may correct the same without delay.

Any objection you may have to the said application must be sent by registered post addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, S.W.1, within thirty days from the date hereof, and a copy of the objection must be furnished to me.

I am, &c.,

[*To be signed on behalf of the applicants.*]

Schedule referred to in the foregoing notice describing the property therein alluded to:—

Description of Property.	Number on Plan.	Owner.	Lessee.	Occupier.

FORM B.

FORM OF NOTICE TO OWNERS AND LESSEES OF LANDS AND HOUSES SITUATE WITHIN 300 YARDS OF LAND PROPOSED TO BE ACQUIRED OR USED FOR THE PURPOSE OF A GENERATING STATION.

[*Address of applicants and date.*]

[*Insert Title of Order.*]

SIR,

I beg to inform you that an application is intended to be made to the Electricity Commissioners by the [*insert name of applicants*] for a Special Order under the Electricity (Supply) Acts, 1882 to 1919, under the above title to authorise the acquisition [or use] of a site for the purpose of a generating station. Certain land of which I understand you are the owner or lessee is situate within 300 yards of the site.

Appendix II.

A plan showing the site with a book of reference thereto has been or will be deposited on or before the   for public inspection at the office [*specify the office (if in England or Wales) of the Clerk of the Peace (if in Ireland, of the Clerk of the Crown and Peace) of every county, riding or division and also of the local authority of the district (if in Scotland) of the sheriff clerk for the county, of the sheriff clerk for the district (if any) and of the local authority of the district*].

Any objection you may have to the said application must be sent by registered post addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, London, S.W.1, within thirty days from the date hereof, and a copy of the objection must be furnished to me.

I am, &c.

[*To be signed on behalf of the applicants.*]

FORM C.

FORM OF NOTICE TO JOINT ELECTRICITY AUTHORITY (IF ANY) AND TO LOCAL AUTHORITIES.

[*Address of applicants and date.*]

[*Insert Title of Order.*]

SIR,

I beg to inform you that application is intended to be made to the Electricity Commissioners by the [*insert name of applicants*] for a Special Order under the Electricity (Supply) Acts, 1882 to 1919, under the above title to authorise the acquisition [or use] of a site for the purpose of a generating station.

A plan of the site with a book of reference thereto has been or will be deposited on or before the   for public inspection at your office or such other office as may have been directed by the Electricity Commissioners.

If your authority desire to object to the application they must do so by letter sent by registered post addressed to the Secretary, Electricity Commission, Gwydyr House, Whitehall, S.W.1, within thirty days from the date hereof, and a copy of the objection must be furnished to me.

I am, &c.,

[*To be signed on behalf of the applicants.*]

ELECTRICITY (SUPPLY) ACTS, 1882 TO 1926.

REGULATIONS PRESCRIBED BY THE ELECTRICITY COMMISSIONERS UNDER SECTION 4 OF THE ELECTRIC LIGHTING ACT, 1888.

DEFINITIONS.

In the following Regulations :—

The expression " Energy " means electrical energy, and for the purpose of the Electric Lighting Act, 1888, and these Regulations, electrical energy shall be deemed to be an agency within the meaning of the word " electricity " as defined in the Electric Lighting Act, 1882.

The expression " Owner " means any body or person owning or using or entitled to use any electric lines or works, upon whom notice has been served by the Electricity Commissioners requiring that such electric lines or works shall be continued and used only in accordance with these Regulations.

The expression " Consumer " means any body or person supplied with energy by the owner.

The expression " sub-station " means any premises in which energy is transformed or converted for the purpose of supply to consumers, and which are large enough to admit the entrance of a person after the transforming or converting apparatus is in position, provided that for the purpose of these Regulations any place within any such premises which is used solely for some purpose other than such transformation or conversion shall not be deemed to form part of a sub-station.

The expression " Overhead line " means any electric line which is placed above ground and in the open air.

The expression " Service line " means an electric line through which energy may be supplied or intended to be supplied by the owner to any premises other than the premises where the energy is generated.

The expression " Pressure " means the difference of electrical potential between any two conductors through which a supply of energy is given, or between any part of either conductor and the earth ; and

(*a*) Where the conditions of the supply are such that the pressure at any pair of consumer's terminals does not exceed 250 volts, the supply shall be deemed a low pressure supply.

(*b*) Where the conditions of the supply are such that the pressure exceeds 250 volts but does not exceed 650 volts, the supply shall be deemed a medium pressure supply.

(*c*) Where the conditions of the supply are such that the pressure exceeds 650 volts but does not exceed 3,000 volts, the supply shall be deemed a high pressure supply ; and

(*d*) Where the conditions of the supply are such that the pressure exceeds 3,000 volts, the supply shall be deemed an extra high pressure supply.

The expression " neutral point " means that point in a generating or transforming arrangement which is placed symmetrically with respect to the terminal points of the arrangement.

The expression " neutral wire " means a wire directly connected to a neutral point.

Other expressions to which meanings are assigned in the Electricity (Supply) Acts, 1882 to 1926, have the same respective meanings in these Regulations.

I.—GENERAL.

Regulations not to imply Power to interfere with Streets.

1. Nothing in these Regulations shall be deemed to authorise the owner to break up or interfere with any street.

Pressure Exceeding 250 *Volts.*

2. Where the pressure of the supply exceeds 250 volts, all wires, switches, and metal work in connection with the supply shall be so enclosed or shall be fixed in such a manner that there shall be no risk of any shock being obtained by inadvertence or in the ordinary handling thereof.

Insulation Test.

3. The insulation of every electric circuit (whether connected with earth in accordance with these Regulations or not) including all machinery and apparatus forming part of or in connection with that circuit, shall be so maintained that the leakage current shall not exceed one-thousandth part of the maximum current ; and suitable means shall be provided for the indication and localisation of leakage. Every leakage shall be remedied without delay. Every such circuit shall be periodically tested for insulation.

Precautions against Shock or Fire.

4. In the use or delivery of energy, the owner shall exercise all due precautions so as to avoid the risk of causing electric shock or fire, and shall be responsible for, all electric lines, fittings, and apparatus belonging to him, or under his control, being maintained in a safe condition.

Protection from Lightning.

5. Any electric line or any support therefor exposed to liability to injury from lightning, shall be efficiently protected against such liability.

Protection of Mains.

6. All mains below ground shall be so laid and protected as to avoid risk of damage by accumulation of gas or leakage of electric current.

Reports of Accidents.

7. Where any accident by explosion or fire, or any other accident of such kind as to have caused or to be likely to have caused loss of life or personal injury has occurred at any part of any electric line or other works, the owner shall give immediate notice thereof to the Electricity Commissioners.

Notice to Postmaster-General.

8.—(*a*) The owner, on receipt of a request in writing by the Postmaster-General, shall serve forthwith on the Postmaster-General, a notice describing every electric line used for the supply of energy, together with a plan showing the mode and position in which such electric line is laid.

(*b*) The owner in placing and using his electric lines shall employ every reasonable means to prevent injurious affection, whether by induction or otherwise, of any telegraphs of the Postmaster-General, or the communication through such telegraphs. The Postmaster-General may at any time serve upon the owner notice requiring such alteration in the position and mode of laying or mode of use of any electric line of the owner or compliance with such other conditions as the Postmaster-General may think necessary for the due protection of his electric lines or other works, and failure on the part of the owner to comply with any such notice shall be deemed to be a non-compliance with the requirements of the Electricity Commissioners' Notice to which these Regulations are annexed.

(*c*) Any notice required to be served upon the Postmaster-General under these Regulations may be served by being addressed to the General Post Office, London, E.C.1, or by being addressed to and left at or transmitted through the post to the office of the Sectional Engineer in whose area the works specified in the notice are situated, and any notice required to be served on the owner may be served by being addressed to him and left at or transmitted through the post to his office or last known place of address.

Sub-stations and Transformers.

9. Sub-stations shall be established in suitable places and shall be in the sole occupation and charge of the owner and subject to any requirements of the Home Office. Where transformers are used in any other premises (not being sub-stations as defined for the purposes of these Regulations) they shall be so guarded and protected as to avoid the risk of causing electric shock.

II.—EXTRA HIGH PRESSURE MAINS, ETC.

Testing of Insulation.

10. An extra high pressure main shall not be brought into use unless, after it has been placed in position and before it is used for the purposes of supply, the insulation of every part thereof has withstood the continuous application, during half an hour, of pressure exceeding the maximum pressure to which it is intended to be subjected in use, that is to say, in the case of every electric line to be used for a pressure not exceeding 10,000 volts twice the said maximum pressure, and in the case of a line to be used for a pressure exceeding 10,000 volts a pressure exceeding the said maximum pressure by 10,000 volts, and the owner shall record the results of the tests of each main or section of a main.

Protection by Fuses or Circuit Breakers.

11. Every extra high pressure main shall be protected by a suitable fuse or automatic circuit-breaker, but in the case of a concentric main that fuse or circuit-breaker shall not be inserted in any external conductor thereof which is connected with earth.

Prevention of Leakage in Transformers.

12. In every case where an extra high pressure supply is transformed or converted to a reduced pressure, some suitable automatic and quick-acting means shall be provided to protect the reduced pressure circuits from any accidental contact with or leakage from the extra high pressure system, either within or without the transforming or converting apparatus.

Electrical Continuity of Metal Conduits, etc.

13. All metal conduits, pipes, or casings, containing any extra high pressure electric line shall be efficiently connected with earth, and shall be so jointed and connected across all street boxes and other openings so as to make good electrical connection throughout their whole length.

Lines above Ground or in Subways.

14. Every portion of any extra high pressure electric line placed above the surface of the ground, otherwise than in a sub-station, or in any subway not in the sole occupation of the owner shall be completely enclosed either in a tube of highly insulated material embedded in brickwork, masonry, or cement concrete, or in strong metal casing efficiently connected with earth.

Prevention of Leakage.

15. Where extra high pressure mains for three-phase supply consist of insulated conductors laid together, provision shall be made to ensure that neither the ground nor any neighbouring electric line or conductor can become charged by leakage from any such main.

Where this provision is made by a copper strip under a lead sheath, that strip shall be not less than sixteen-thousandths of an inch in thickness, and where it is made by steel wires outside a lead sheath, each of those wires shall not be less than one-tenth of an inch in diameter.

Where the mains are enclosed in a lead sheath, that sheath shall not be less than one-tenth of an inch in thickness, and shall be permanently and efficiently connected with earth.

Mains for Single Phase Supply.

16. Extra high pressure mains for single phase supply and all cables connected therewith shall consist either of two concentric conductors or of separate conductors. Where concentric conductors are used the insulation shall be maintained efficiently throughout except that the outer conductor shall be connected with earth at one point, and where separate conductors are used, provision shall be made as in the case of mains for three phase supply to ensure that neither the ground nor any neighbouring electric line or conductor can become charged by leakage.

Completion and Control.

17. An extra high pressure electric line shall not be brought into use for the supply of energy before it has been completely laid, properly jointed, examined, and tested, or until it is in the sole charge of the owner and every such line shall during its use be in the sole charge of the owner.

Street Boxes.

18. Extra high pressure mains shall not pass through the same street box with other mains, unless they are enclosed in strong metal casing; and street boxes containing extra high pressure mains shall not contain pipes for water, gas, or other service, or electric mains belonging to any other body or person, provided that any such street box may contain telephone wires belonging to the owner.

Sub-stations.

19. Sub-stations supplied at extra high pressure shall be established in suitable places and shall be in the sole occupation of the owner.

Sub-station below Streets.

20. Sub-stations constructed below the surface of any street to which an extra high pressure supply is to be given shall not contain switches or other apparatus than transformers.

Transforming Apparatus in Sub-stations.

21. The transforming apparatus at any sub-station supplied at extra high pressure shall be so arranged that there shall be no danger of any mains connected therewith being charged to any pressure beyond the limits of pressure for which these mains are intended.

Fire Risks.

22. In delivering the energy to a sub-station at extra high pressure the owner shall exercise all due precautions so as to avoid risk of causing fire on the premises.

Insulation, etc., of Electric Lines and Apparatus in Sub-stations.

23. All extra high pressure electric lines and apparatus placed in a sub-station shall be highly insulated and thoroughly protected against injury to the insulation or access of moisture, and any metal forming part of the electric circuit shall not unless efficiently connected with earth be exposed so that it can be inadvertently touched. All such lines shall be so fixed and protected as to prevent the possibility of electrical discharge to any adjacent metallic substance.

III.—OVERHEAD LINES.

[*See the Overhead Lines Regulations*, 1928, *post*, *p*. 3290.]

Danger Notices.

42. Supports shall be numbered consecutively and each support shall have a danger notice of a permanent character securely fixed to it. Adequate provisions shall also be made to prevent unauthorised climbing.

IV.—CONNECTION OF CIRCUITS WITH EARTH.

Continuous Current Circuits.

43. Where the pressure of a supply between the adjacent conductors of a three-wire continuous current system of mains exceeds 125 volts, the intermediate conductor shall be connected with earth, in accordance with the following conditions :—

(*a*) The connection with earth of the intermediate conductor shall be made at one point only on each distinct circuit, namely, at the generating station or sub-station, and the insulation of the circuit shall be efficiently maintained at all other parts.

(*b*) The current from the intermediate conductor to earth shall be continuously recorded, and if it at any time exceeds one-thousandth part of the maximum supply current, steps shall be immediately taken to improve the insulation of the system.

Alternating Current Circuits.

44. Alternating current circuits may, with the approval of the Electricity Commissioners and with the concurrence of the Postmaster-General, be connected with earth in accordance with the following conditions, etc. :—

I.—GENERAL.

(*a*) The connection with earth shall be made only where energy is delivered to each circuit, that is to say, at a generating station, a sub-station or transformer, and shall, wherever practicable, be made at a neutral point in the circuit and in such a manner as will ensure at all times an immediate and safe discharge of energy.
(*b*) The connection with earth shall be efficiently maintained, except when it is interrupted by means of a switch or link for the purpose of periodical tests for ascertaining whether any current is passing by means of the connection with earth.
(*c*) The insulation of the mains shall be efficiently maintained at all other parts.
(*d*) Tests shall be periodically made to ascertain whether any current is passing by means of the connection with earth, and if at any time the current so passing exceeds one-thousandth part of the maximum supply current of the circuit, steps shall be immediately taken to improve the insulation.

II.—SPECIAL.

Where separate or three- or four-core mains are used for alternating current and the pressure between any two conductors exceeds 125 volts, the connection with earth shall be made in the case of—
(*a*) A single phase supply, at the neutral point on the winding of the transformer ;
(*b*) A two-phase three-wire supply, by means of the third wire ;
(*c*) A two-phase four-wire supply, at the neutral point on the winding ;
(*d*) A three-phase three-wire or four-wire supply, at the neutral point on the star winding.

Concentric Mains.

45. Concentric mains used either for continuous or for alternating current shall be connected with earth by means of the external conductor in accordance with the following conditions :—
(*a*) The connection with earth shall be made by means of the external conductor.
(*b*) The connection with earth shall be made only at the point or points where energy is given to each distinct circuit, namely, at a generating station, sub-station, or transformer.
(*c*) The insulation of the external conductor shall be efficiently maintained at all other parts.
(*d*) The external conductor shall form a complete metal sheathing round the inner conductor.
(*e*) The connection with earth shall be efficiently maintained except when it is interrupted by means of a switch or link for the purpose of periodical tests for ascertaining whether any current is passing by means of the connection with earth.
(*f*) Tests shall be periodically made to ascertain whether any current is passing by means of the connection with earth, and if at any time the current passing by means of the connection with earth exceeds one-thousandth part of the maximum supply current of the circuit, steps shall be immediately taken to improve the insulation.

Nothing in these Regulations shall be deemed to be in substitution for Regulations made under the Factory and Workshop Act, 1901 ; the Coal Mines Regulation Act, 1887 ; and the Metalliferous Mines Regulation Act, 1872.

N.B.—These Regulations are prescribed subject to the power of the Electricity Commissioners to prescribe such further or other Regulations as they may think expedient.

Appendix II.

ELECTRICITY COMMISSION,
1*st May*, 1925.

ELECTRICITY (SUPPLY) ACTS, 1882 TO 1922.

For the purposes of the Electricity (Supply) Acts, 1882 to 1922, and the Orders made and issued thereunder, and all special Acts relating to the supply of electricity, the Electricity Commissioners approve of the system of supply described hereunder, subject to the Regulations made by the Electricity Commissioners for securing the safety of the public and for ensuring a proper and sufficient supply of energy.

System of Supply.

A three-phase alternating current supply at an extra high pressure of 6,600 volts (or 11,000 volts, or 33,000 volts, or 49,500 volts, or 66,000 volts, as the case may be).

(1) The supply will be given—

(*a*) for general supply at high pressure to transformers, converters or motors on the consumers' premises, or at medium or low pressure ;

(*b*) for traction purposes at medium pressure.

(2) The extra high pressure and high pressure supply will be given by alternating current, and the medium pressure and low pressure supply will be given by alternating current or by direct current.

(3) All alternating current will be at a frequency not varying from 50 complete cycles per second by more than 2½ per cent. plus or minus.

Mains.

(4) The mains will consist of insulated conductors laid together and enclosed in a lead sheath, and either

(*a*) braided, compounded, and armoured, and laid direct in the ground, and covered with—

(i) wooden planks 2 inches thick, and (except for making up pieces and at bends) 10 feet long, and treated with preservative compound to prevent decay ; or

(ii) reinforced concrete slabs, 3 feet long by 2 inches thick, and 6 inches wide, and suitably interlocked so as to prevent lateral displacement ; or

(iii) concrete, made *in situ*, 3 inches thick, of a minimum width of 9 inches, and overlapping the breadth of the mains by at least 2 inches on each side ; or

(*b*) drawn into pipes or ducts of approved design ; or

(*c*) laid in troughs filled in with composition and covered with hard burned tiles or other approved protection held in position through contact with the filling in composition.

Any joint electricity authority or authorised undertakers within the meaning of the above-mentioned Acts adopting an extra high pressure system of supply in pursuance of this General Approval must notify the Electricity Commissioners in order that the Regulations as to extra high pressure for securing the safety of the public and for ensuring a proper and sufficient supply of electrical energy may be prescribed on such authority or undertakers where necessary.

Any extra high pressure system of supply other than that described above will require special approval by the Electricity Commissioners.

Appendix II.

S. R. & O., 1926, No. 1081.

ELECTRICITY.

THE JOINT ELECTRICITY AUTHORITIES (BORROWING POWER) REGULATIONS, 1926, DATED 30TH AUGUST, 1926, MADE BY THE MINISTER OF TRANSPORT WITH THE APPROVAL OF THE TREASURY UNDER THE ELECTRICITY (SUPPLY) ACT, 1922 (12 & 13 GEO. 5, C. 46).

Whereas by Sect. 1 of the Electricity (Supply) Act, 1922, it is enacted that, for the purposes therein mentioned, a joint electricity authority may, with the consent of the Electricity Commissioners, and subject to regulations to be made by the Minister of Transport with the approval of the Treasury, borrow money, in such manner and subject to such provisions as to the repayment thereof, and with such powers as to reborrowing for the purpose of paying off a loan previously raised, as may be prescribed by the Regulations, and such Regulations may empower a joint electricity authority to borrow temporarily, to issue bonds and to make arrangements with bankers, and may apply with or without modifications any enactments relating to borrowing by local authorities, including provisions as to the enforcement of the security by the appointment of a receiver or otherwise, and further that any money borrowed as aforesaid, and the interest thereon, may be charged on the undertaking and all the revenues of the joint electricity authority, or on any specific property forming part of that undertaking, and shall be repaid within such period not exceeding sixty years as the Electricity Commissioners may determine.

Now, therefore, in exercise of the powers conferred upon him by the Electricity (Supply) Act, 1922 (hereinafter called " the Act "), and any and every other power thereunto him enabling the Minister of Transport with the approval of the Treasury hereby orders and prescribes that the exercise by joint electricity authorities of the powers of borrowing conferred by the Act shall be subject to the following Regulations (hereinafter called " the Regulations ") that is to say :—

Preliminary.

1. The Regulations may be cited as " The Joint Electricity Authorities (Borrowing Power) Regulations, 1926."

2. In the Regulations the following expressions shall, unless the contrary intention appears, have the meanings hereby respectively assigned to them namely—

The expression " the Minister " means " the Minister of Transport."

The expression " the Commissioners " means the Electricity Commissioners.

The expression " the Joint Authority " means any joint electricity authority established by an order made under the Electricity (Supply) Acts, 1882 to 1922.

The expression " the Clerk " means the clerk or other principal officer of the joint authority.

The expression " statutory borrowing power " means any power of the joint authority under the Electricity (Supply) Acts, 1882 to 1922, or any Order made thereunder or any Act of Parliament or under the Regulations whether the power be or be not coupled with a duty of borrowing or reborrowing money.

The expression " statutory security " means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money and any mortgage bond debenture debenture stock stock or other security authorised by or under any Act of Parliament passed or to be passed of any county council or municipal corporation or other local authority as defined by Sect. 34 of the Local Loans Act, 1875, or Sect. 4 of the Local Authorities Loans (Scotland) Act, 1891, as the case may be other than securities of the joint authority and annuities rent charges and securities transferable by delivery.

3. The Interpretation Act, 1889, shall apply for the purpose of the interpretation of the Regulations in like manner as it applies for the purpose of the interpretation of an Act of Parliament.

4. Whenever the joint authority make application for the consent of the Commissioners to the borrowing of money they shall furnish to the Commissioners full particulars of the amount purpose nature and circumstances of the proposed borrowing.

Mode of raising Money.

5. Subject to the provisions of the Regulations the joint authority may raise all or any moneys which they are authorised to borrow under any statutory borrowing power by mortgage charged on the undertaking and all the revenues of the joint authority or any specific property forming part of that undertaking.

Provided that in respect of any mortgage issued by the joint authority for a period of less than ten years no extension of the term of such mortgage shall be granted by such authority and in respect of any other mortgage issued by the joint authority no extension of the term of that mortgage shall be granted by such authority for a period of less than ten years.

Provided also that the provisions of the Articles of the Regulations whereof the marginal notes are " Form of Mortgage " " Ranking of Mortgages " " Appointment of Receiver " and " Powers of Receiver " shall not apply to or in respect of mortgages and other securities granted or issued by the joint authority and charged upon any specific property forming part of the undertaking of that authority.

6. Subject to the necessary authority of the Commissioners being obtained in that behalf under Sect. 3 of the Act the joint authority may raise by the issue of stock all or any moneys which they are authorised to borrow under the Act.

Subject to the provisions of the Act all such stock shall be issued transferred dealt with and redeemed according to regulations made by the Commissioners.

The provisions of the Regulations (other than this Article) shall not apply to such stock except in so far as such provisions are made applicable thereto by Regulations made by the Commissioners.

7. Subject to the provisions of the Regulations every mortgage granted by the joint authority shall be by deed duly stamped truly stating the consideration and the time and place of payment, and shall be sealed with the common seal of the joint authority and may be made in the form contained in the First Schedule to the Regulations or to the like effect.

8. Subject to the provisions of the Regulations all mortgages granted by the joint authority shall rank equally without any priority or preference by reason of any precedence in the date of any statutory borrowing power or in the date of the mortgages or on any other ground whatsoever and shall also rank equally with all other securities granted or issued by the joint authority.

9. For the purpose of raising any moneys which the joint authority are authorised to borrow or for the purpose of securing any advances to be made to the joint authority under the Article of the Regulations of which the marginal note is " Temporary borrowing by Joint Authority " the joint authority may instead of or in temporary substitution for any other method of raising money prescribed by the foregoing provisions of the Regulations issue and renew bonds subject to and in accordance with the provisions contained in the Second Schedule to the Regulations.

Bonds may be issued shortly before any other bonds fall due in order to pay off those bonds notwithstanding that the statutory borrowing power of the joint authority would thereby be temporarily exceeded.

10.—(1) The joint authority shall have power to borrow—
- (a) for the purpose of paying off any moneys previously borrowed by them which are intended to be forthwith repaid ; or
- (b) for the purpose of paying off loans or of redeeming a continuing liability taken over by the joint authority under the Electricity (Supply) Acts, 1882 to 1922 ; or
- (c) in order to replace moneys which during the previous twelve months have been temporarily applied from other funds of the joint authority in repaying moneys previously borrowed in accordance with the Regulations and which at the time of such repayment it was intended to replace by borrowed moneys.

(2) Any moneys borrowed under this Article shall for the purpose of repayment be deemed to form part of the original loan, and shall be repaid within that portion of the period prescribed for the repayment of that loan which remains unexpired and the provisions which are for the time being applicable to the original loan shall apply to the moneys borrowed under this Article.

Provided that the joint authority shall not have power to borrow (except temporarily as provided in the Regulations) for the purpose of making any payment to a sinking fund or of paying any annual or other instalment of principal which has or may become due in respect of borrowed moneys, or in order, to replace any moneys previously borrowed which have been repaid—

(*a*) by instalments or annual payment ; or

(*b*) by means of a sinking fund ; or

(*c*) out of moneys derived from the sale of land ; or

(*d*) out of any capital moneys properly applicable to the purpose of the repayment other than moneys borrowed for that purpose.

Provided also that the power of reborrowing conferred by this Article shall not be exercised in respect of mortgages issued for a period of less than ten years and that mortgages shall not be issued for a period of less than ten years for reborrowing purposes.

11. The joint authority may from time to time subject to such conditions as the Commissioners may see fit to impose for the purpose of providing temporarily for any current expenses borrow by way of temporary loan or overdraft from any bank or otherwise such sums as they may from time to time require not exceeding in the aggregate at any time one-third of the approximate amount of the revenue of the joint authority for the year then current.

Any amount so borrowed together with the interest thereon shall be repaid out of the revenue of the joint authority received in respect of the financial year in which the expenses were incurred.

The joint authority may until provision can be made for borrowing money on mortgage or in any other manner provided by the Regulations borrow temporarily with the consent of the Commissioners for the purpose of any statutory borrowing power and for a period not exceeding six months any sum or sums from any bank or otherwise on such terms and conditions and in such form as may be agreed and any money so borrowed shall be repaid out of moneys duly borrowed on mortgage or in such other manner as aforesaid.

Except as provided by the Article of the Regulations whereof the marginal note is "Power to issue Bonds" the provisions of the Regulations as to borrowing and the repayment of moneys borrowed shall not apply to advances under this Article.

Application of Money borrowed.

12. All money borrowed by the joint authority shall be applied only to the purposes for which the statutory borrowing power is being exercised and (except in the case of money borrowed under the powers of the last preceding Article) to which capital is properly applicable provided that if after the raising of such money it is found that any part thereof is not required for the purposes to which it is applicable as aforesaid the joint authority shall carry the same to the sinking fund established under the Article of the Regulations of which the marginal note is "Sinking Fund" or apply it in the reduction of moneys already borrowed or in such other manner as the Commissioners may approve.

The joint authority may from time to time invest temporarily in statutory securities any sum raised by borrowing and not for the time being required for the purpose for which it was raised.

Repayment of Money borrowed and Sinking Fund.

13. The joint authority shall make provision for the repayment of all moneys borrowed by them in accordance with the Regulations within such period or periods not exceeding sixty years from the date or dates of the borrowing of the same as the Commissioners shall prescribe (hereinafter referred to as "the prescribed period").

Provided that in the case of money borrowed for the purpose of capital expenditure which will not become immediately remunerative the provision for repayment may with the sanction of the Commissioners be suspended for a period not exceeding five years from the commencement of the financial year next after that in which such expenditure commences to be incurred.

14. The joint authority shall either pay off the moneys borrowed in accordance with the provisions of the Regulations by equal yearly or half-yearly instalments of principal or of principal and interest combined, or they shall set apart as a sinking fund an equal annual sum sufficient without accumulations (hereinafter referred to as a non-accumulating sinking fund) to repay the moneys so borrowed within the prescribed period, or an equal annual sum which if accumulated at compound interest at such rate as may from time to time be approved by the Commissioners (hereinafter referred to as an accumulating sinking fund) would be sufficient to pay off the moneys so borrowed within such period. In the case of an accumulating sinking fund the yearly appropriation from the revenue of the undertaking of the joint authority shall comprise the equal annual sum aforementioned increased by a sum equivalent to interest on the amount from time to time standing to the credit of the fund at the rate per centum per annum on which the aforesaid equal annual sum is based.

Provided that the joint authority may if they think fit pay off the moneys borrowed partly by one of the above methods, and partly by another or others of them, and the payment of the first instalment or the first payment to the sinking fund shall subject to the proviso to the last preceding Article be made within twelve months or when the moneys are repaid by half-yearly instalments within six months from the commencement of the prescribed period.

15.—(1) Every sum paid to a sinking fund shall unless applied in accordance with the Article of the Regulations of which the marginal note is " Application of Sinking Fund " in repayment of the loan in respect of which the sinking fund is formed or in accordance with the Article of the Regulations of which the marginal note is " Use of Sinking Fund instead of borrowing " be immediately invested in statutory securities the joint authority being at liberty from time to time to vary and transpose such investments.

(2) The interest on the investments of the sinking fund shall form part of the revenue of the undertaking of the joint authority and may be applied by the joint authority towards the annual payments to the fund.

(3) Any expenses connected with the formation maintenance investment application management or otherwise of any sinking fund under the Regulations shall be paid by the joint authority in addition to the payments provided for by the Regulations.

(4) If it appear to the joint authority at any time that the amount in or the investments of the sinking fund with the future payments thereto in accordance with the provisions of the Regulations will probably not be sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed it shall be the duty of the joint authority to make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose: Provided that if it appear to the Commissioners that any such increase is necessary the joint authority shall increase the payments to such extent as the Commissioners may direct.

(5) If the joint authority desire to accelerate the repayment of any loan they may increase the amounts payable to any sinking fund.

(6) If the amount in or the investments of any sinking fund with the future payments thereto in accordance with the provisions of the Regulations will in the opinion of the Commissioners be more than sufficient to repay within the prescribed period the moneys for the repayment of which the sinking fund is formed the joint authority may reduce the payments to be made to the sinking fund either temporarily or permanently to such an extent as the Commissioners shall approve.

(7) If the amount in or the investments of any sinking fund at any time will in the opinion of the Commissioners be sufficient to repay the loan in respect of which it is formed within the prescribed period the joint authority may with the consent of the Commissioners discontinue the annual payments to such sinking fund until the Commissioners shall otherwise direct.

(8) Any surplus of any sinking fund remaining after the discharge of the whole of the moneys for the repayment of which it was formed shall be applied to such purpose or purposes as the joint authority with the consent of the Commissioners may determine.

16. The joint authority may at any time apply the whole or any part of any sinking fund set apart under the Regulations in or towards the discharge of the moneys for the repayment of which the fund has been established.

Provided that in the case of an accumulating sinking fund they shall pay into the fund each year an additional sum equivalent to the interest which would have been produced by the sinking fund or the part of the sinking fund so applied, if invested at the rate per centum per annum on which the equal annual payments to the sinking fund are based.

17. For the purpose of exercising any statutory borrowing power the joint authority may, with the consent of the Commissioners, instead of raising further moneys in accordance with the Regulations, employ any moneys for the time being standing to the credit of any sinking fund established under the Regulations and may realise and employ the proceeds of the realisation of any securities in which the moneys of any such fund are for the time being invested.

Provided that no such moneys shall be so employed unless provision is made in such manner as the Commissioners approve for replacing the same together with any loss of interest occasioned in any such fund by reason of so employing such moneys at or before the date (if any) at which loans repayable by means of such moneys are required to be repaid.

18.—(1) The clerk shall, if and when he is requested by the Commissioners so to do, transmit to the Commissioners a return showing the provision made for the repayment of money borrowed in accordance with the Regulations.

(2) The return shall show such particulars and shall be made up to such date and in such form as the Commissioners may require, and shall, if so required by them, be verified by statutory declaration of the clerk or other the chief accounting officer of the joint authority, and shall be transmitted within one month after the making of the request; and in the event of his failing to make such return the clerk shall for each offence be liable to a penalty not exceeding twenty pounds to be recovered by the Minister in a court of summary jurisdiction, and notwithstanding the recovery of such penalty the making of the return shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

(3) If it appear to the Commissioners by such a return as aforesaid or otherwise that the joint authority have failed to pay any instalment or annual payment required to be paid or to appropriate any sum required to be appropriated or to set apart any sum required for any sinking fund (whether such instalment or annual payment or sum is required by the Regulations or by the Commissioners in virtue thereof to be paid appropriated or set apart), or have applied any portion of any sinking fund to any purpose other than those authorised the Commissioners shall report the matter to the Minister who may by order direct that the sum in such order mentioned not exceeding the amount in respect of which default has been made shall be paid or applied in the manner and by the date in such order mentioned, and the joint authority shall notify the Minister as soon as the order is complied with, and any such order shall be enforceable by writ of mandamus to be obtained by the Minister out of the High Court.

In the application of this Article to Scotland the words " which shall be recoverable by the Minister as a debt due to the Crown is recoverable " shall be substituted for the words " to be recovered by the Minister in a court of summary jurisdiction " in the second paragraph and the words " by decree of either Division of the Inner House of the Court of Session in Scotland pronounced in a summary application presented for the purpose " shall be substituted for the words " by writ of mandamus to be obtained by the Minister out of the High Court " in the second and third paragraphs.

Registration and Transfers.

19. There shall be kept at the principal office of the joint authority a register of mortgages granted by them and within fourteen days after the date of any such

mortgage an entry shall be made in the register of the number and date thereof, and of the names and description of the parties thereto as stated in the mortgage deed. Every such register shall be open to inspection by any mortgagee or other person entitled to any mortgage at the said office, without fee or reward, on such days (Saturdays excepted) as the office is open for public business, and in the event of such inspection being refused, the clerk shall be liable on summary conviction to a penalty not exceeding five pounds.

20. Any mortgagee or other person entitled to any mortgage granted by the joint authority may transfer his estate and interest therein to any other person by deed, duly stamped, truly stating its date and the consideration for the transfer and such transfer may be according to the form contained in the First Schedule to the Regulations or to the like effect.

21.—(1) There shall be kept at the principal office of the joint authority a register of transfers of mortgages granted by the joint authority and within thirty days after the date of every deed of transfer if executed within Great Britain and Northern Ireland, or within thirty days after its arrival in Great Britain and Northern Ireland if executed elsewhere, the same shall be produced to the clerk, who shall on payment of a sum not exceeding five shillings cause an entry to be made in such register of the date of such deed and of the names and description of the parties thereto as stated therein, and until such entry is made the joint authority shall not be in any manner responsible to the transferee.

(2) On the registration of any such transfer the transferee, his executors or administrators shall be entitled to the full benefit of the original mortgage and the principal and interest secured thereby, and any transferee may in like manner transfer his estate and interest in any such mortgage and no person except the last transferee so registered, his executors or administrators, shall be entitled to release or discharge any such mortgage or any moneys secured thereby.

(3) If the clerk wilfully neglects or refuses to make in the register any entry by this Article required to be made, he shall be liable on summary conviction to a penalty not exceeding twenty pounds.

22. If any such mortgage be transmitted by reason of the bankruptcy of the person entitled thereto there shall be produced to the joint authority official evidence of such bankruptcy and of the vesting of the bankrupt estate in the trustee official assignee or other person to whom such estate shall be transferred.

General.

23. The joint authority may subject to the provisions of the Regulations, and to the approval of the Commissioners, make any arrangement with any banker, firm of bankers or banking company brokers or financial agents with respect to the issue of mortgages, bonds or other securities which the joint authority are authorised to grant or issue the registration and transfer of such securities, the payment of interest on such securities, the keeping of books and other matters incidental to the issue, management, redemption and paying off of such securities. Any such arrangement may provide for the proper remuneration of the banker, firm of bankers or banking company, brokers or financial agents or for the payment of underwriting commission brokerage and other expenses incidental to the issue of such securities as aforesaid.

24. Any person lending money to the joint authority shall not be bound to inquire as to the observance by them of any provision of the Regulations or of the conditions attaching to statutory borrowing power under which the money is borrowed or be bound to see to the application or be answerable for any loss, misapplication or non-application of the money lent or of any part thereof.

25. The joint authority shall not be bound to see to the execution of any trust whether express or implied or constructive to which any loan or security for loan given by them may be subject but the receipt of the person in whose name any loan or security for loan stands in the register of mortgages of the joint authority shall be a sufficient discharge to the joint authority in respect thereof notwithstanding any trusts to which such loan or security may be subject and whether or not the joint authority have had express or implied notice of any such trust or of any charge or incumbrance upon or transfer of such loan or such security or any part thereof

Appendix II. or interest therein not entered in their register and the joint authority shall not be bound to see to the application of the money paid on any such receipt or be answerable or accountable for any loss, misapplication or non-application of any such money.

26. Subject to the provisions of the Regulations if at the expiration of three months from the time when any principal money or interest has become due on any mortgage granted by the joint authority under the Regulations and after demand in writing, the same be not paid, the mortgagee or other person entitled thereto may without prejudice to any other mode of recovery, apply to the High Court for the appointment of a receiver and the court may appoint a receiver on such terms as the court may determine.

In the application of this Article to Scotland " judicial factor " shall be substituted for " receiver " and " Court of Session in Scotland " for " High Court."

27. Subject to the terms of any mortgage in respect of which the receiver is appointed any receiver appointed in pursuance of the Regulations shall have the like power of apportioning amongst the authorised undertakers within the district of the joint authority any deficiency in the revenue account of the joint authority in any financial year and of collecting receiving recovering and applying moneys as the joint authority would have in order to provide the moneys required for the payment of the principal money or interest so in arrear and such other powers and duties as the court thinks fit.

In the application of this Article to Scotland " judicial factor " shall be substituted for " receiver."

SCHEDULES.

FIRST SCHEDULE.

Form of Mortgage.

By virtue of the Electricity (Supply) Act, 1922, the Joint Electricity Authorities (Borrowing Power) Regulations, 1926, and of other their powers in that behalf them enabling the (   ) Joint Electricity Authority (hereinafter referred to as " the joint authority ") in consideration of the sum of   pounds (hereinafter referred to as " the principal sum ") paid to the (treasurer) of the joint authority by   (hereinafter referred to as " the mortgagee ") do hereby grant and assign to the mortgagee (his) executors administrators and assigns such proportion of the undertaking and revenues of the joint authority as the principal sum doth or shall bear to the whole sum which is or shall be charged on the said undertaking and revenues. To hold unto the mortgagee (his) executors administrators and assigns from the day of the date of these presents until the principal sum shall be fully paid and satisfied with interest for the same (subject as hereinafter provided) at the rate of   per centum per annum from the   day of   nineteen hundred and   until payment of the principal sum such interest to be paid half-yearly on the   day of   and the   day of   in each year. And it is hereby agreed that the principal sum shall be repaid at the principal office of the joint authority on the   day of   nineteen hundred and   .

*Provided always and it is hereby agreed and declared that the before-mentioned time for repayment may by agreement between the joint authority and the mortgagee be extended for a period or periods of not less than ten years in each case and upon any such extension the before-mentioned rate of interest may be altered to such other rate or rates of interest as shall from time to time be agreed upon between the joint authority and the mortgagee and mentioned in an endorsement to be made hereon under the hand of the chairman or clerk of the joint authority for the time being and that upon any such endorsement being made whether relating to extension of time only or to extension of time with alteration of rate of interest the provisions thereof shall be incorporated herewith and shall operate and take effect as though they had been originally inserted herein.

In witness whereof the joint authority have caused their common seal to be hereunto affixed this   day of   nineteen hundred and   .

Clerk to Joint Authority.

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* This proviso should be omitted from mortgages issued for a period of less than ten years.

The Endorsement within Referred to.

The within-named consenting the within-mentioned time for repayment of the within-mentioned principal sum of , is hereby extended to the day of , nineteen hundred and (and the interest to be paid thereon on and from the day of nineteen hundred and , is hereby declared to be at the rate of per centum per annum).

Dated this day of , nineteen hundred and .

Form of Transfer of Mortgage.

I (the within-named), of in consideration of the sum of pounds paid to me by of (hereinafter referred to as "the transferee") do hereby transfer to the transferee (his) executors administrators and assigns (the within-written security) (the mortgage number of the ( ) of the ( ) Joint Electricity Authority bearing date the day of) and all my right and interest under the same subject to the several conditions on which I hold the same at the time of the execution hereof and I the transferee for myself my executors administrators and assigns do hereby agree to take the said mortgage security subject to the same conditions.

Dated this day of , nineteen hundred and .

SECOND SCHEDULE.

Regulations as to Issue and Renewal of Bonds.

1. These Regulations may be cited as "the Joint Electricity Authorities (Bonds) Regulations, 1926."

2. In these Regulations unless the context otherwise requires the term "holder" means registered holder.

3.—(1) Bonds issued by a joint authority shall be called Electricity District Bonds (hereinafter referred to as "bonds") and shall be duly stamped.

(2) Bonds shall be issued at par and interest thereon shall be paid half-yearly on the dates to be specified in the bonds.

(3) Applications for bonds shall be for amounts of twenty, fifty, or one hundred pounds or multiples of one hundred pounds.

(4) The principal money secured by a bond other than a bond issued for the purpose of securing any advances made to the joint authority under the Article of the Regulations of which the marginal note is "Temporary borrowing by Joint Authority" shall subject to the provisions of this Schedule be repayable at par at such date as may be specified in the bond being not less than five and not more than ten years from the date of the bond.

(5) The first payment of interest on any bond shall be adjusted in accordance with the date of issue of the bond and any sum paid by way of repayment or redemption shall include interest accrued to the date of repayment or redemption.

(6) Nothing in this Article shall be construed as prohibiting the joint authority from redeeming a bond at any time by agreement with the holder of the bond if they shall think fit to do so.

(7) A bond repaid or redeemed by a joint authority shall be cancelled.

Registration and Certificates.

4. A joint authority issuing bonds, shall appoint a registrar for the purposes of these Regulations, and may direct him to act on their behalf for the purposes of all or any of the things which they are authorised or required to do under these Regulations.

5.—(1) The joint authority shall keep a register (hereinafter called the "Bonds Register") of all persons who are holders for the time being of bonds.

(2) The bonds register shall contain the following particulars:—

(*a*) the name, address, and description of each holder, a statement of the denomination of the bonds held by him and the periods for which they are issued and the numbers and dates of the certificates issued to him as hereinafter provided;

(*b*) the date of registration of each holder and the date on which he ceased to be so registered.

(3) The bonds registered shall be *primâ facie* evidence of any matter entered therein in accordance with these Regulations and of the title of the persons entered therein as holders of bonds.

(4) Where two or more persons are registered as holders of a bond they shall be deemed to be joint holders with right of survivorship between them.

6.—(1) The joint authority shall issue to each holder of a bond a certificate in respect thereof, duly numbered and dated, and specifying the denomination of the bond and the period for which it is issued.

(2) The certificate shall be *primâ facie* evidence of the title of the person therein named, his executors, administrators or assigns, to the bond therein specified, but the want of a certificate, if accounted for to the satisfaction of the joint authority, shall not prevent the holder of a bond from disposing of and transferring the bond.

(3) If a certificate is worn out or damaged, the joint authority, on the production thereof, may cancel it and issue a new certificate in lieu thereof.

(4) If a certificate is lost or destroyed, the joint authority on proof thereof to their satisfaction, and, if they so require, on receiving an indemnity against any claims in respect thereof, may give a new certificate in lieu of the certificate lost or destroyed.

(5) An entry of the issue of a substituted certificate shall be made in the bonds register.

(6) A certificate shall be in the form set out in the annex to this Schedule or in a form substantially to the like effect.

Transfer of Bonds.

7.—(1) The transfer of a bond shall be by deed and may be in the form set out in the annex to this Schedule or in a form substantially to the like effect.

(2) A bond may be transferred in whole or in part, so, however, that any part transferred shall not be for an amount other than an amount for which a bond may be issued by a joint authority.

(3) Unless the joint authority have compounded for stamp duty, every deed of transfer shall be duly stamped and the consideration shall be truly stated therein.

(4) The deed of transfer shall be delivered to and retained by the joint authority and the joint authority shall enter a note thereof in a book to be called the "Register of Transfers of Bonds" and shall endorse on the deed of transfer a notice of that entry.

(5) The joint authority shall, upon receipt of the deed of transfer duly executed together with the certificate issued in respect of the bond and upon payment of a sum not exceeding five shillings, enter the name of the transferee in the bonds register and shall issue a new certificate or certificates to the transferee, or to the transferor and transferee, as the case may require.

(6) Until such entry has been made as aforesaid, the joint authority shall not be affected by the transfer, and the transferee shall not be entitled to receive any payment of interest on the bond.

(7) The joint authority before registering a transfer of a bond may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer.

Closing of Bonds Register.

8. The joint authority may close the bonds register for a period not exceeding thirty days immediately before any interest date and notwithstanding the receipt by the joint authority during such period of any deed of transfer, the half-yearly payment of interest falling due at the expiration of such period may be made to the persons registered as holders of bonds on the date of the closing of the register.

Transmission of Bonds.

9.—(1) Any person becoming entitled to a bond by reason of the death or bankruptcy of a holder or by any lawful means other than a transfer may, by the production of such evidence of title as the joint authority may require, either be registered as holder of the bond, or, instead of being himself registered, may make such transfer of the bond as the holder could have made, and the joint authority shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the joint authority, the joint authority shall not be affected by the transmission of the bond and no person claiming by virtue thereof shall be entitled to receive any payment of interest thereon.

Interest on Bonds.

10.—(1) Unless the holder of a bond otherwise requests, the joint authority may pay the interest thereon by posting a warrant to the holder at his address as shown in the bonds register.

(2) The posting by the joint authority of a letter containing an interest warrant addressed to a holder as aforesaid shall, as respects the liability of the joint authority, be equivalent to the delivery of the warrant to the holder himself.

11. The joint authority shall not be required to pay any executors or administrators any interest on bonds held by their testator or intestate until the probate of the will or the letters of administration or confirmation has or have been left with the joint authority for registration.

12. The joint authority before paying any interest on any bonds may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming a right to receive the interest.

13. Where more persons than one are registered as joint holders of a bond, any one of them may give an effectual receipt for any interest thereon, unless notice to the contrary has been given to the joint authority by any other of them.

General.

14. No notice of any trust shall be entered in the bonds register or in any other book kept by the joint authority or be receivable by the joint authority.

15.—(1) If at any time any interest due on any bonds remains unpaid for three months after demand in writing, the persons entitled thereto may apply to the High Court for a receiver and the Court may, if it thinks fit, appoint a receiver on such terms as it thinks fit.

(2) The receiver shall have the like power of apportioning amongst the authorised undertakers within the district of the joint authority any deficiency in the revenue account of the joint authority in any financial year and of collecting, receiving, recovering, and applying moneys as the joint authority would have, and such other powers and duties as the Court thinks fit, and shall apply all moneys so collected and received, after paying all such costs as the Court may direct, for the purposes of these Regulations.

(3) The provisions of this Article shall not apply to or in respect of bonds issued by the joint authority and charged upon any specific property forming part of the undertaking of that authority.

In the application of this Regulation to Scotland " judicial factor " shall be substituted for " receiver " and " Court of Session " for " High Court."

16. A person taking or holding bonds shall not be concerned to inquire or to take notice whether the issue thereof was or was not in accordance with these Regulations, or whether or not the joint authority or any meeting thereof was properly constituted or convened, or whether or not the proceedings at a meeting of the joint authority were legal or regular, or to see to the application of any money raised by the issue of bonds or be answerable for any loss or misapplication thereof.

17. If at any time any interest on any bonds is unclaimed at the time for payment thereof the amount shall, nevertheless, on demand at any subsequent time, be paid to the person showing his right thereto, but without interest in the meantime.

18. Where the joint authority sell, lease, or otherwise dispose of any land or property charged as security for any bonds, the land or property shall in the hands of the purchaser or lessee be absolutely free from any charge for that purpose and he shall not be bound to inquire into the application of the money arising from such sale, lease, or disposal or be in any way responsible for the misapplication or non-application thereof.

19. A joint authority may pay such expenses in connection with the issue of bonds (including commission) as the Commissioners may approve.

ANNEX TO SECOND SCHEDULE.

Form of Certificate of Registration.

Certificate of Registration of an Electricity District Bond.

Electricity District. No. .

per cent. Bond for £ issued by

REPAYABLE 19 , at the office of the Joint Authority (*see* back).

THIS is to certify that of is the registered holder of an Electricity District bond for pounds (£) issued by the above-named Joint Electricity Authority under the Electricity (Supply) Act, 1922, and the Joint Electricity Authorities (Borrowing Power) Regulations, 1926.

Signed

Registrar.

Date

No deed transferring the whole or any part of the Registered Bonds represented by this certificate will be registered until the certificate has been delivered to the Registrar of the Authority.

Change of address must be notified to the Registrar.

Appendix II.

Form of Deed of Transfer.

I, of in consideration of the sum of paid by of (hereinafter referred to as " the Transferee ") do hereby assign and transfer to the Transferee :—

To hold unto the Transferee, (his) Executors, Administrators and Assigns subject to the several conditions on which I held the same immediately before the execution hereof ; and the Transferee does hereby agree to accept and take the said subject to the conditions aforesaid.

As Witness our Hands and Seals, this day of in the year of our Lord Nineteen Hundred and

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S. R. & O. 1927, No. 19.

THE ELECTRICITY COMMISSIONERS (STATUTORY GAS COMPANIES' CAPITAL POWERS) RULES, 1927, DATED 14TH JANUARY, 1927, MADE BY THE ELECTRICITY COMMISSIONERS UNDER SECTION 34 OF THE ELECTRICITY (SUPPLY) ACT, 1919, WITH RESPECT TO APPLICATIONS BY STATUTORY GAS COMPANIES FOR SPECIAL ORDERS IN PURSUANCE OF THE STATUTORY GAS COMPANIES (ELECTRICITY SUPPLY POWERS) ACT, 1925.

Mode of making Application.

Rule I.—Every application for a Special Order to authorise a statutory gas company * to apply their funds or to raise capital or borrow money for electricity purposes (in these rules referred to as the " Order ") must be made by memorial addressed to the Secretary, Electricity Commission, Savoy Court, Strand, W.C.2.

* *Note.*—The Commissioners will not entertain applications from companies registered under the Companies Acts, 1908 to 1917, for Special Orders in respect of the objects mentioned in rule 1 above, as appropriate machinery is provided under the general law for effecting those objects.

Notices which must be given.

Rule II.—Applicants for an Order must publish notice by advertisement (hereinafter referred to as " the advertisement ") of their intended application, and the advertisement must contain the following particulars :—

(1) The objects of the application.

(2) The address and description of the applicants.

(3) An intimation that every local or other public authority, company, or person being desirous of bringing before the Electricity Commissioners any objection respecting the application, may do so by registered letter addressed to the Secretary, Electricity Commission, as aforesaid and despatched within thirty days from the date of the publication of the advertisement in the local newspaper, and that a copy of such objection must also be forwarded to the parliamentary agents or solicitors for the Order.

(4) The address of an office in London and of an office within the existing or proposed area of electricity supply, at which printed copies of the draft Order, as applied for, and of the Order as made, can be obtained at a price of not more than two shillings each.

The advertisement must be inserted once in a local newspaper circulating in the district or districts to which the application relates and once in the *London* or *Edinburgh Gazette*, as the case may require, as soon as possible after the publication in the local newspaper.

No part of the month of August shall be included in calculating the abovementioned period of thirty days.

Preparation of the Order.

Rule III.—(1) The applicants must in each case prepare a draft of the Order.

(2) The draft Order must be printed on one side of the paper only, and each Schedule annexed must begin a new page.

(3) The names and addresses of the parliamentary agents or solicitors for the Order must be printed on the outside of the draft Order.

(4) There must be a notice at the end of the draft Order stating that any objections must be made by letter sent by registered post addressed to the Secretary, Electricity Commission, as aforesaid on or before a certain date (to be specified in such notice) being thirty days from the date of the publication of the advertisement, and that a copy of any such objections must at the same time be forwarded to the parliamentary agents or solicitors for the Order.

(5) The draft Order must contain the address and description of the applicants.

Deposits to be made.

Rule IV.—On or before the date of the publication of the advertisement the applicants must deposit at the office of the Electricity Commission:—

(1) A copy of the advertisement.

(2) The memorial signed or sealed by or on behalf of the applicants.

(3) Six printed copies of the draft Order.

(4) A statement of the existing capital and borrowing powers showing the amounts authorised, raised, and expended.

(5) A certified statement showing under separate heads the purposes for which the proposed capital or borrowing powers is or are required and the amount required for each purpose.

(6) A copy of the printed accounts of the applicants for the half year or year next before the date of the application.

(7) A list of every Special Act of Parliament and Order having the force of an Act relating to the applicants.

(8) A certified copy of a resolution approving the application for the Order passed by shareholders or stockholders qualified to vote at ordinary meetings of the applicants who were present (either in person or by proxy) at a general meeting and who held at least three-quarters of the paid up capital of the applicants represented by the votes at such meeting.

A certified copy of the notice convening the meeting should also be furnished.

(9) A fee of £35 by cheque payable to the Secretary, Electricity Commission, to cover ordinary expenses. If in consequence of inquiries or otherwise additional expense is incurred, the amount will be charged to the applicants and must be paid by them in addition to the ordinary fee.

Provided that in the case of an Order which also contains provisions in respect of which the Electricity Commissioners Rules, 1920, are applicable, only one fee of £35 to cover ordinary expenses need be paid.

On or before the same date the applicants must deposit a copy of the advertisement and of the draft Order at the office of the Board of Trade.

On or before the same date the applicants must deposit for public inspection a copy of the advertisement and of the draft Order as follows:—

In England or Wales:—

At the office of the Clerk of the Peace in England and Wales of every county, riding, or division wholly or partly within the existing and any proposed area of electricity supply and also at the office of the local authority of every district wholly or partly within the existing and any proposed area of electricity supply.

In Scotland:—

At the office of the principal sheriff clerk for each county wholly or partly within the existing and any proposed area of electricity supply and, where any county is divided into districts for sheriff court purposes, at the office of the sheriff clerk in each of such districts wholly or partly within the existing and any proposed area of electricity supply and also at the office of the local authority of every district wholly or partly within the existing and any proposed area of electricity supply.

In the case of an Order relating to the administrative county of London, the applicants must on or before the same date deposit a copy of the draft Order at the office of the London County Council.

In the case of an Order relating to the district of a joint electricity authority, the applicants must on or before the same date deposit a copy of the draft Order at the office of the joint electricity authority.

On or before the same date the applicants must deposit a sufficient number of printed copies of the draft Order at an office in London and at an office within the existing or proposed area of electricity supply, and a copy must be furnished to all persons applying therefor at a price of not more than two shillings each.

Objections to grant of Order.

Rule V.—Any person desirous of objecting to an Order must do so within thirty days from the date of the publication of the advertisement. Such objections must be sent by registered letter addressed to the Secretary, Electricity Commission, as aforesaid.

Such letter must be signed by the person objecting or by some responsible and duly authorised person on his behalf. It must state the interest of the person objecting in the subject matter of the Order and must state concisely what his objections are.

If any person desires to suggest any clauses or other amendments for insertion in the Order, he must forward with his letter a copy of any such clauses or amendments. At the same time a copy of any such letter, clauses, or amendments must be delivered to the parliamentary agents or solicitors for the Order.

No part of the month of August shall be included in calculating the abovementioned period of thirty days.

Proof of compliance with the foregoing Rules.

Rule VI.—The parliamentary agents or solicitors for the Order must be prepared to prove compliance with the provisions of the foregoing rules when required by the Electricity Commissioners. Six days' notice will be given of the day and hour at which such agents or solicitors are to attend for the purpose at the office of the Electricity Commission, and printed forms of proof will accompany the notice. These forms must be filled up and brought with the requisite documents to the office of the Electricity Commission at the time fixed for receiving proof.

Steps to be taken after Order is granted.

Rule VII.—When an Order has been granted by the Electricity Commissioners and delivered to the applicants, they must forthwith deposit printed copies for public inspection at the offices where the draft Order was deposited, and must supply copies to all persons applying for the same, at a price of not more than two shillings each, and must further publish the same as the Electricity Commissioners may direct.

Proof of compliance with the Rule must be made within fourteen days from the grant of the Order in such manner as the Electricity Commissioners may direct.

Rule VIII.—These Rules may be cited as the Electricity Commissioners (Statutory Gas Companies' Capital Powers) Rules, 1927, and shall come into operation from the date hereof.

NOTE.—The foregoing Statutory Rules supersede the Provisional Rules, dated 9th February, 1926, relating to the same subject-matter.

S. R. & O., 1927, No. 1144.

ELECTRICITY.

THE ELECTRIC LIGHTING (CLAUSES) ACT, 1899 (APPLICATION TO CENTRAL ELECTRICITY BOARD) REGULATIONS, 1927, DATED 1ST JUNE, 1927, MADE BY THE ELECTRICITY COMMISSIONERS UNDER THE ELECTRICITY (SUPPLY) ACT, 1926.

Whereas in pursuance of section 1 of the Electricity (Supply) Act, 1926, the Central Electricity Board (hereinafter referred to as the Board) has been duly established for the purposes defined in the said Act:

And whereas by section 20 of the said Act it is enacted, *inter alia*, as follows :—

> 20.—(1) Subject to the provisions of this section, the Board shall be deemed to be undertakers and authorised undertakers within the meaning of the Electricity (Supply) Acts, 1882 to 1922, and this Act in relation to the Board shall be deemed to be a Special Act for the purposes of those Acts, and for the purposes of this section there shall be incorporated with this Act the provisions of the Schedule to the Electric Lighting (Clauses) Act, 1899, subject to such exceptions and modifications as may be prescribed by Regulations made by the Electricity Commissioners :
>
> Provided that section 13 of the Electric Lighting Act, 1882 (which relates to the breaking up of private streets, railways, and tramways), and sections 2 and 3 of the Electric Lighting Act, 1888 (which relate to the purchase of undertakings by local authorities), shall not apply to the undertaking of the Board, and that section 20 of the Schedule to the Electric Lighting (Clauses) Act, 1899, in its application to the Board shall have effect as if after the words "electric signalling communication" wherever they occur there were inserted the words "or electrical control of railways" :
>
> (2) Before any such Regulations come into force they shall be laid before each House of Parliament for a period of not less than thirty days on which that House has sat and if either House of Parliament before the expiration of that period presents an address to His Majesty no further proceedings shall be taken thereon.

Now, therefore, in the exercise of the power as aforesaid conferred upon them by the Electricity (Supply) Act, 1926, and any and every other power thereunto them enabling, the Electricity Commissioners hereby make the following Regulations, that is to say :—

REGULATIONS.

1. These Regulations may be cited as "The Electric Lighting (Clauses) Act, 1899 (Application to Central Electricity Board) Regulations, 1927."

2. Sections 2 to 7 (both inclusive), 12, 21 to 34 (both inclusive), 37, 39 to 53 (both inclusive), 55, 56, 58, 60, 63 to 68 (both inclusive), 70, 71, 74, 75, 78, 81 and 84 of the Schedule to the Electric Lighting (Clauses) Act, 1899, shall be and are hereby excepted from incorporation with the Electricity (Supply) Act, 1926, for the purposes of section 20 thereof.

3. Sections 1, 8 to 11 (both inclusive), 13 to 20 (both inclusive), 35, 36, 38, 54, 57, 59, 61, 62, 69, 72, 73, 76, 79, 80, 82 and 83 of the Schedule to the Electric Lighting (Clauses) Act, 1899, shall be and are hereby modified as set out in the Schedule hereto for incorporation with the Electricity (Supply) Act, 1926, for the purposes of section 20 thereof.

4. Section 77 of the Schedule to the Electric Lighting (Clauses) Act, 1899, shall be incorporated without modification with the Electricity (Supply) Act, 1926, for the purposes of section 20 thereof.

5. These Regulations shall commence and come into force as soon as they have lain before each House of Parliament for a period of thirty days on which that House has sat if neither of those Houses before the expiration of that period presents an Address to His Majesty against the Regulations or any part thereof.

SCHEDULE.

EXCEPTED, MODIFIED AND UNMODIFIED SECTIONS OF THE SCHEDULE TO THE ELECTRIC LIGHTING (CLAUSES) ACT, 1899.

Section 1. (Interpretation.)

Modified for incorporation as follows :—

1. The provisions of this schedule are to be read and construed subject in all respects to the provisions of the Electricity (Supply) Acts, 1882 to 1926, and of any other Acts or parts of Acts incorporated therewith, and those Acts and parts of Acts are in this schedule collectively referred to as "the principal Acts"; and the several words, terms, and expressions to which by the principal Acts meanings

are assigned shall have in this schedule the same respective meanings, provided that in this schedule—

The expression "the Special Act" means the Electricity (Supply) Act, 1926, with which the modified provisions of this schedule are incorporated and includes those provisions as so incorporated:

The expression "the Undertakers" means the Central Electricity Board named in the Special Act:

The expression "energy" means electrical energy, and for the purposes of applying the provisions of the principal Acts to the Special Act electrical energy shall be deemed to be an agency within the meaning of electricity as defined in the Electric Lighting Act, 1882:

The expression "service line" means any electric line through which energy may be supplied or intended to be supplied by the Undertakers to a consumer either from any main or directly from the premises of the Undertakers:

The expression "county council" means the county council by whom any street or public bridge (not within a county borough) is repairable:

The expression "consumer" means any body or person supplied or entitled to be supplied with energy by the Undertakers:

The expression "consumer's terminals" means the ends of the electric lines situate upon any consumer's premises and belonging to him, at which the supply of energy is delivered from the service lines:

The expression "telegraphic line," when used with respect to any telegraphic line of the Postmaster-General, has the same meaning as in the Telegraph Act, 1878, and any such telegraphic line shall be deemed to be injuriously affected where telegraphic communication by means of that line is, whether through induction or otherwise, in any manner affected:

The expression "railway" includes any tramroad, that is to say, any tramway other than a tramway as hereinafter defined:

The expression "tramway" means any tramway laid along any street:

The expression "daily penalty" means a penalty for each day on which any offence is continued after conviction therefor:

The expression "regulations of the Electricity Commissioners" means any regulations or conditions affecting the undertaking made by the Electricity Commissioners under the principal Acts or the Special Act for securing the safety of the public or for insuring a proper and sufficient supply of energy:

The expression "plan" means a plan drawn to a horizontal scale of at least one inch to eighty-eight feet, and where possible a section drawn to the same horizontal scale as the plan and to a vertical scale of at least one inch to eleven feet, or to such other scale as the Electricity Commissioners may approve of for both plan and section, together with such detail, plan, and sections as may be necessary.

Section 2. (Description of Undertakers.)
Excepted from incorporation.

Section 3. (Undertakers not to purchase other undertakings.)
Excepted from incorporation.

Section 4. (Area of supply and prohibition of supply beyond area.)
Excepted from incorporation.

Section 5. (Security for execution of works.)
Excepted from incorporation.

Section 6. (Audit of undertakers' accounts.)
Excepted from incorporation.

Section 7. (Application of money received by local authority as undertakers.)
Excepted from incorporation.

Section 8. (Purchase and use of lands by local authority.)
Modified for incorporation as follows:—

8. Subject to the provisions of the Special Act and the principal Acts the Undertakers may dispose of or lease any lands acquired by them by agreement which may not for the time being be required for the purposes of the Special Act.

Section 9. (Incorporation of 38 & 39 Vict. c. 55, s. 265.)
Modified for incorporation as follows:—

9. No matter or thing done and no contract entered into by the Undertakers, and no matter or thing done by any member of the Undertakers or by any officer of the Undertakers or other person whomsoever acting under the direction of the Undertakers shall, if the matter or thing were done or the contract were entered into *bonâ fide* for the purpose of executing the Special Act, subject them or any of them personally to any action, liability, claim, or demand whatsoever; and any expense incurred by the Undertakers, member, officer, or other person acting as last aforesaid shall be borne and repaid out of the fund applicable by the Undertakers to the general purposes of the Special Act.

Section 10. (Systems and mode of supply.)

Modified for incorporation as follows :—

10. Subject to the provisions of the Special Act and the principal Acts—

(*a*) Energy shall be supplied by the Undertakers only by means of some system approved in writing by the Electricity Commissioners, and subject to the regulations of the Electricity Commissioners ; and

(*b*) The Undertakers shall not without the express consent of the Minister of Transport place any electric line above ground except within premises in the sole occupation or control of the Undertakers and except so much of any service line as is necessarily so placed for the purpose of supply ; and

(*c*) The Undertakers shall not permit any part of any circuit to be connected with earth except so far as may be necessary for carrying out the provisions of the regulations of the Electricity Commissioners, unless the connection is for the time being approved by the Electricity Commissioners, with the concurrence of the Postmaster-General, and is made in accordance with the conditions, if any, of that approval.

Section 11. (Additional provisions as to works.)

Modified for incorporation as follows :—

11. The provisions of the Special Act as to works shall be in addition but subject to those of the principal Acts, and in particular those of the Gasworks Clauses Act, 1847, with respect to breaking up streets incorporated in the principal Acts.

Section 12. (Powers for execution of works.)

Excepted from incorporation.

Section 13. (Street Boxes.)

Modified for incorporation as follows :—

13.—(1) Subject to the provisions of the principal Acts and the Special Act and the regulations of the Electricity Commissioners, the Undertakers may construct in any street such boxes as may be necessary for purposes in connection with the supply of energy, including apparatus for the proper ventilation of the boxes: Provided that no such box or apparatus shall be placed above ground except with the consent of the authority, body, or person by whom the street is repairable.

(2) Every such box shall be for the exclusive use of the Undertakers and under their sole control, except so far as the Electricity Commissioners otherwise order, and shall be used by the Undertakers only for the purpose of leading off service lines and other distributing conductors, or for examining, testing, regulating, measuring, directing, or controlling the supply of energy, or for examining or testing the condition of the mains or other portions of the works, or for other like purposes connected with the undertaking, and the Undertakers may place therein meters, switches, and any other suitable and proper apparatus for any of the above purposes.

(3) Every such box, including the upper surface or covering thereof, shall be constructed of such materials and shall be constructed and maintained by the Undertakers in such manner as not to be a source of danger, whether by reason of inequality of surface or otherwise.

(4) The local authority may, with the approval of the Electricity Commissioners, prescribe the hours during which the Undertakers are to have access to the boxes, and if the Undertakers during any hours not so prescribed remove or displace or keep removed or displaced the upper surface or covering of any box without the consent of the local authority they shall be liable for each offence to a penalty not exceeding five pounds and to a daily penalty not exceeding five pounds : Provided that the Undertakers shall not be subject to any such penalties as aforesaid if the court are of opinion that the case was one of emergency and that the Undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

Section 14. (Notice of works, with plan, to be served on Postmaster-General and local authority.)

Modified for incorporation as follows :—

14.—(1) Where the exercise of any of the powers of the Undertakers in relation to the execution of any works (including the construction of boxes) will involve the placing of any works in, under, along, or across any street or public bridge, the following provisions shall have effect :—

(*a*) One month or in the case of service lines seven days before commencing the execution of the works (not being repairs, renewals, or amendments of existing works of which the character and position are not altered), the Undertakers shall serve a notice upon the Postmaster-General and the local authority describing the proposed works, together with a plan of the works showing the mode and position in which the works are intended to be executed, and the manner in which it is intended that the street or bridge, or any sewer, drain, or tunnel therein or thereunder is to be interfered with, and shall, upon being required to do so by the Postmaster-General or the local authority, give him or them any such further information in relation thereto as he or they desire.

(*b*) The Postmaster-General or the local authority may, in his or their discretion, approve any such works or plan, subject to such amendments or conditions as may seem fit, or may disapprove them, and may give notice of that approval or disapproval to the Undertakers.

(*c*) Where the Postmaster-General or the local authority approve any such works or plan subject to any amendments or conditions with which the Undertakers are dissatisfied, or disapprove any such works or plan, the Undertakers may appeal to the Minister of Transport, and the Minister of Transport may inquire into the matter and allow or disallow the appeal, and may approve any such works or plan subject to such amendments or conditions as seem fit, or may disapprove them.

(*d*) If the Postmaster-General or the local authority fail to give any such notice of approval or disapproval to the Undertakers within one month or in the case of service lines seven days after the service of the notice upon them, he or they shall be deemed to have approved the works and plan.

(*e*) Notwithstanding anything in the Special Act or the principal Acts, the Undertakers shall not be entitled to execute any such works as above specified except so far as they may be of a description and in accordance with a plan which has been approved, or is to be deemed to have been approved, by the Postmaster-General and the local authority, or by the Minister of Transport as above mentioned; but where any such works, description, and plan are so approved, or to be deemed to be approved, the Undertakers may cause those works to be executed in accordance with the description and plan, subject in all respects to the provisions of the Special Act and the principal Acts.

(*f*) If the Undertakers make default in complying with any of the requirements or restrictions of this section, they shall (in addition to any other compensation which they may be liable to make under the provisions of the Special Act or the principal Acts) make full compensation to the Postmaster-General and the local authority for any loss or damage which he or they may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds: Provided that the Undertakers shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency and that the Undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

(2) In the application of this section to a street or public bridge (not within a county borough) which is repairable by the county council, a reference to the county council shall be substituted for a reference to the local authority.

(3) Nothing in this section shall exempt the Undertakers from any penalty or obligation to which they may be liable under the Special Act or otherwise by law in the event of any telegraphic line of the Postmaster-General being at any time injuriously affected by the Undertakers' works or their supply of energy.

Section 15. (As to streets not repairable by local authority, railways, tramways, and canals.)

Modified for incorporation as follows:—

15. Where the exercise of the powers of the Undertakers in relation to the execution of any works will involve the placing of any works in, under, along, or across any street or part of a street not repairable by the local authority (including the county council) or over or under any railway, tramway, or canal, the following provisions shall have effect unless otherwise agreed between the parties interested:—

(*a*) One month before commencing the execution of the works (not being repairs, renewals, or amendments of existing works of which the character and position are not altered) the Undertakers shall, in addition to any other notices which they may be required to give under the Special Act or the principal Acts, serve a notice upon the body or person (if any) liable to repair the street or part of a street, or the body or person for the time being entitled to work the railway or tramway, or the owners of the canal (as the case may be), in this section referred to as the "owners," describing the proposed works, together with a plan of the works showing the mode and position in which the works are intended to be executed and placed, and shall, upon being required to do so by any such owners, give them any such further information in relation thereto as they desire.

(*b*) Every such notice shall contain a reference to this section and direct the attention of the owners to whom it is given to the provisions thereof.

(*c*) Within three weeks after the service of any such notice and plan upon any owners, those owners may, if they think fit, serve a requisition upon the

Undertakers requiring that any question in relation to the works, or to compensation in respect thereof, and any other question arising upon the notice or plan, shall be settled by arbitration; and thereupon that question, unless settled by agreement, shall be determined by arbitration accordingly.

(*d*) In settling any question under this section an arbitrator shall have regard to any duties or obligations which the owners may be under in respect of the street, railway, tramway, or canal, and may, if he thinks fit, require the Undertakers to execute any temporary or other works so as to avoid any interference with any traffic so far as may be possible.

(*e*) Where no such requisition as in this section mentioned is served upon the Undertakers, or where after any such requisition has been served upon them any question required to be settled by arbitration has been so settled, the Undertakers may cause to be executed the works specified in such notice and plan as aforesaid, and may repair, renew, and amend them (provided that their character and position are not altered), but subject in all respects to the provisions of the Special Act and the principal Acts and only in accordance with the notice and plan so served by them as aforesaid, or such modifications thereof respectively as may have been determined by arbitration as hereinbefore mentioned or as may be agreed upon between the parties.

(*f*) All works to be executed by the Undertakers under this section shall be carried out to the reasonable satisfaction of the owners, and those owners shall have the right to be present during the execution of the works.

(*g*) Where the repair, renewal, or amendment of any existing works of which the character or position is not altered will involve any interference with any railway or with any tramway over or under which those works have been placed, the Undertakers shall, unless it is otherwise agreed between the parties or in case of emergency, give to the owners not less than twenty-four hours' notice before commencing to effect the repair, renewal, or amendment, and the owners shall be entitled by their officer to superintend the works, and the Undertakers shall conform to such reasonable requirements as may be made by the owners or that officer. The notice shall be in addition to any other notices which the Undertakers may be required to give under the Special Act or the principal Acts.

(*h*) If the Undertakers make default in complying with any of the requirements or restrictions of this section they shall (in addition to any other compensation which they may be liable to make under the provisions of the Special Act or the principal Acts) make full compensation to the owners affected thereby for any loss or damage which they may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds: Provided that the Undertakers shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency and that the Undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

Section 16. (Street authority, etc., may give notice of desire to break up streets, etc., on behalf of Undertakers.)

Modified for incorporation as follows:—

16. Any body or person for the time being liable to repair any street or part of a street, or entitled to work any railway or tramway which the Undertakers are empowered to break up for the purposes of the Special Act, may, if they think fit, serve a notice upon the Undertakers stating that they desire to exercise or discharge all or any part of any of the powers or duties of the Undertakers as therein specified in relation to the breaking up, filling in, reinstating, or making good any streets, bridges, sewers, drains, tunnels, or other works vested in or under the control or management of that body or person, and may amend or revoke any such notice by another notice similarly served.

Where any such body or person (in this section referred to as the "givers of the notice") have given notice that they desire to exercise or discharge any such specified powers and duties of the Undertakers, then so long as that notice remains in force the following provisions shall have effect unless it is otherwise agreed between the parties interested:—

(*a*) The Undertakers shall not be entitled to proceed themselves to exercise or discharge any such specified powers or duties as aforesaid except where they have required the givers of the notice to exercise or discharge those powers or duties and the givers of the notice have refused or neglected to comply with that requisition, as hereinafter provided, or in cases of emergency.

(*b*) In addition to any other notices which they are required to give under the provisions of the Special Act or the principal Acts, the Undertakers shall, not more than four days and not less than two days before the exercise or discharge of any such powers or duties so specified as aforesaid is required to be commenced, serve a requisition upon the givers of the notice stating the time when that exercise or discharge is required to be commenced and the manner in which any such powers or duties are required to be exercised or discharged.

(*c*) Upon receipt of any such requisition as last aforesaid, the givers of the notice may proceed to exercise or discharge any such powers or duties as required by the Undertakers subject to the like restrictions and conditions, so far as they are applicable, as the Undertakers would themselves be subject to in that exercise or discharge.

(*d*) If the givers of the notice decline or for twenty-four hours after the time when any such exercise or discharge of any powers or duties is by any requisition required to be commenced neglect to comply with the requisition, the Undertakers may themselves proceed to exercise or discharge the powers or duties therein specified in like manner as they might have done if such notice as aforesaid had not been given to them by the givers of the notice.

(*e*) In any case of emergency the Undertakers may themselves proceed at once to exercise or discharge so much of any such specified powers or duties as aforesaid as may be necessary for the actual remedying of any defect from which the emergency arises without serving any requisition on the givers of the notice; but in that case the Undertakers shall, within twelve hours after they begin to exercise or discharge such powers or duties as aforesaid, give information thereof in writing to the givers of the notice.

(*f*) If the Undertakers exercise or discharge any such specified powers or duties as aforesaid otherwise than in accordance with the provisions of this section, they shall be liable for each offence to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds: Provided that the Undertakers shall not be subject to any such penalties as aforesaid if the court are of opinion that the case was one of emergency and that the Undertakers complied with the requirements of this section so far as was reasonable under the circumstances.

(*g*) All expenses properly incurred by the givers of the notice in complying with any requisition of the Undertakers under this section shall be repaid to them by the Undertakers and may be recovered summarily.

Provided that nothing in this section shall in any way affect the rights of the Undertakers to exercise or discharge any powers or duties conferred or imposed upon them by the Special Act or the principal Acts in relation to the execution of any works beyond the actual breaking up, filling in, reinstating, or making good any such street or part of a street, or any such bridges, sewers, drains, tunnels, or other works, or railway or tramway as in this section mentioned.

Section 17. (As to alteration of pipes, wires, etc., under streets.)

Modified for incorporation as follows:—

17. The Undertakers may alter the position of any pipes (except any pipe forming part of any sewer of the local authority) or any wires being under any street or place authorised to be broken up by them which may interfere with the exercise of their powers under the principal Acts or the Special Act; and any body or person may in like manner alter the position of any electric lines or works of the Undertakers being under any such street or place as aforesaid which may interfere with the lawful exercise of any powers vested in that body or person in relation to that street or place, subject to the following provisions unless it is otherwise agreed between the parties interested:—

(*a*) One month before commencing any such alterations the Undertakers or the body or person (as the case may be), in this section referred to as the "operators," shall serve a notice upon the body or person for the time being entitled to the pipes, wires, electric lines, or works (as the case may be), in this section referred to as the "owners," describing the proposed alterations, together with a plan showing the manner in which it is intended that the alterations shall be made, and shall, upon being required to do so by any such owners, give them any such further information in relation thereto as they may desire.

(*b*) Within three weeks after the service of any such notice and plan upon any owners those owners may, if they think fit, serve a requisition upon the operators requiring that any question in relation to the works or to compensation in respect thereof or any other question arising upon such notice or plan as aforesaid shall be settled by arbitration; and thereupon that question unless settled by agreement shall be determined by arbitration accordingly.

(c) In settling any question under this section an arbitrator shall have regard to any duties or obligations which the owners may be under in respect of the pipes, wires, electric lines, or works, and may, if he thinks fit, require the operators to execute any temporary or other works so as to avoid interference with any purpose for which the pipes, wires, electric lines, or works are used so far as possible.

(*d*) Where no such requisition as in this section mentioned is served upon the operators, the owners shall be held to have agreed to the notice of plan served on them as aforesaid, and in that case, or where after any such requisition has been served upon them any question required to be settled by arbitration has been so settled, the operators may cause the alterations specified in such notice and plan as aforesaid to be made, but subject in all respects to the provisions of the principal Acts and the Special Act, and only in accordance with the notice and plan so served by them as aforesaid, or such modifications thereof respectively as may have been determined by arbitration as hereinbefore mentioned or as may be agreed upon between the parties.

(*e*) At any time before any operators are entitled to commence any such alterations as aforesaid, the owners may serve a statement upon the operators stating that they desire to execute the alterations themselves, and where any such statement has been served upon the operators they shall not be entitled to proceed themselves to execute the alterations except where they have notified to the owners that they require them to execute the alterations and the owners have refused or neglected to comply with the notification as hereinafter provided.

(*f*) Where any such statement as last aforesaid has been served upon the operators, they shall, not more than forty-eight hours and not less than twenty-four hours before the execution of the alterations is required to be commenced, serve a notification upon the owners stating the time when the alterations are required to be commenced and the manner in which the alterations are required to be made.

(*g*) Upon receipt of any such notification as last aforesaid, the owners may proceed to execute the alterations as required by the operators subject to the like restrictions and conditions, so far as they are applicable, as the operators would themselves be subject to in executing the alterations.

(*h*) If the owners decline or for twenty-four hours after the time when any such alterations are required to be commenced neglect to comply with the notification, the operators may themselves proceed to execute the alterations in like manner as they might have done if no such statement as aforesaid had been served upon them.

(*i*) All expenses properly incurred by any owners in complying with any notification of any operators under this section shall be repaid to them by the operators and may be recovered summarily.

(*j*) If the operators make default in complying with any of the requirements or restrictions of this section they shall (in addition to any other compensation which they may be liable to make under the provisions of the Special Act or the principal Acts) make full compensation to the owners affected thereby for any loss, damage, or penalty which they may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds: Provided that the operators shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency and that the operators complied with the requirements of this section so far as was reasonable under the circumstances.

Section 18. (Laying of electric lines, etc., near sewers, etc., or gas or water pipes, or other electric lines.)

Modified for incorporation as follows:—

18.—(1) Where the Undertakers require to dig or sink any trench for laying down or constructing any new electric lines (other than service lines) or other works near to which any sewer, drain, watercourse, defence, or work under the jurisdiction or control of the local authority, or any main, pipe, syphon, electric line or other work belonging to any gas, electric supply or water company has been lawfully placed, or where any gas or water company require to dig or sink any trench for laying down or constructing any new mains or pipes (other than service pipes) or other works near to which any lines or works of the Undertakers have been lawfully placed, the Undertakers or the gas or water company (as the case may be), in this section referred to as the "operators," shall, unless it is otherwise agreed between the parties interested or in case of sudden emergency, give to the local authority or to the gas, electric supply or water company, or to the Undertakers (as the case may be), in this section referred to as the "owners," not less than three days' notice before commencing to dig or sink such trench as aforesaid, and those owners shall be entitled by their officer to superintend the work and the operators shall conform with such reasonable requirements as may be made by the owners or the officer for protecting from injury every such sewer, drain, watercourse, defence, main, pipe, syphon, electric line, or work and for securing access thereto, and they shall also, if required by the owners thereof, repair any damage that may be done thereto.

(2) Where the operators find it necessary to undermine but not alter the position of any pipe, electric line, or work, they shall temporarily support it in position during the execution of their works, and before completion provide a suitable and proper foundation for it where so undermined.

(3) Where the operators (being the Undertakers) lay any electric lines crossing or liable to touch any mains, pipes, lines, or services belonging to any gas, electric supply or water company, the conducting portion of the electric line shall be effectively insulated in a manner approved by the Electricity Commissioners; and the Undertakers shall not, except with the consent of the gas, electric supply, or water company (as the case may be) and of the Electricity Commissioners, lay their electric lines so as to come into contact with any such mains, pipes, lines, or services, or, except with the like consent, employ any such mains, pipes, lines, or services as conductors for the purposes of their supply of energy.

(4) Any question or difference which may arise under this section shall be determined by arbitration.

(5) If the operators make default in complying with any of the requirements of this section they shall make full compensation to all owners affected thereby for any loss, damage, penalty, or costs which they may incur by reason thereof; and in addition thereto they shall be liable for each default to a penalty not exceeding ten pounds and to a daily penalty not exceeding five pounds: Provided that the operators shall not be subject to any such penalty if the court are of opinion that the case was one of emergency and that the operators complied with the requirements of this section so far as was reasonable under the circumstances, or that the default in question was due to the fact that the operators were ignorant of the position of the sewer, drain, watercourse, defence, main, pipe, syphon, electric line, or work affected thereby and that that ignorance was not owing to any negligence on the part of the operators.

(6) For the purposes of this section the expression "gas company" shall mean any body or person lawfully supplying gas; the expression "water company" shall mean any body or person lawfully supplying water or water power; and the expression "electric supply company" shall mean any body or person other than the Undertakers supplying energy in pursuance of the principal Acts.

Section 19. (For protection of railway and canal companies.)

Modified for incorporation as follows:—

19. In the exercise of any of the powers of the Special Act relating to the execution of works, the Undertakers shall not in any way injure the railways, tunnels, arches, works, or conveniences belonging to any railway or canal company nor obstruct or interfere with the working of the traffic passing along any railway or canal.

Section 20. (For protection of telegraphic and telephonic wires.)

Modified for incorporation as follows:—

20.—(1) The Undertakers shall take all reasonable precautions in constructing, laying down, and placing their electric lines and other works of all descriptions and in working their undertaking so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephonic, or electric signalling communication or electrical control of railways, or the currents in that wire or line, whether that wire or line be or be not in existence at the time of the laying down or placing of the electric lines or other works.

If any question arises between the Undertakers and the owner of any such wire or line as to whether the Undertakers have constructed, laid down or placed their electric lines or other works or worked their undertaking in contravention of this sub-section and as to whether the working of that wire or line or the current therein is or is not injuriously affected thereby, that question shall be determined by arbitration; and the arbitrator (unless he is of opinion that the wire or line not having been so in existence at such time as aforesaid has been placed in unreasonable proximity to the electric lines or works of the Undertakers) may direct the Undertakers to make any alterations in, or additions to their system so as to comply with the provisions of this section, and the Undertakers shall make those alterations or additions accordingly.

(2) Seven days before commencing to lay down or place any electric line or to use any electric line in any manner whereby the work of telegraphic or telephonic

or electric signalling communication or electrical control of railways through any wire or line lawfully laid down or placed in any position may be injuriously affected, the Undertakers shall, unless otherwise agreed between the parties interested give to the owner of the wire or line notice in writing specifying the course, nature, and gauge of the electric line and the manner in which the electric line is intended to be used, and the amount and nature of the currents intended to be transmitted thereby, and the extent to and manner in which (if at all) earth returns are proposed to be used; and any owner entitled to receive that notice may serve a requisition on the Undertakers requiring them to adopt such precautions as may be therein specified in regard to the laying, placing or user of the electric line for the purpose of preventing the injurious affection; and the Undertakers shall conform with such reasonable requirements as may be made by the owner for the purpose of preventing the communication through the wire or line from being injuriously affected as aforesaid.

If any difference arises between any such owner and the Undertakers with respect to the reasonableness of any requirement so made, that difference shall be determined by arbitration.

Provided that nothing in this sub-section shall apply to repairs or renewals of any electric line so long as the course, nature, and gauge of the electric line and the amount and nature of the current transmitted thereby are not altered.

(3) If in any case the Undertakers make default in complying with the requirements of this section, they shall make full compensation to every such owner as aforesaid for any loss or damage which he may incur by reason thereof, and in addition thereto they shall be liable for each default to a penalty not exceeding five pounds and to a daily penalty not exceeding forty shillings. Provided that the Undertakers shall not be subject to any such penalty as aforesaid if the court are of opinion that the case was one of emergency and that the Undertakers complied with the requirements of this section so far as was reasonable under the circumstances, or that the default was due to the fact that the Undertakers were ignorant of the position of the wire or line affected thereby and that that ignorance was not owing to any negligence on the part of the Undertakers.

(4) Nothing in this section contained shall be held to deprive any owner of any existing rights to proceed against the Undertakers by indictment, action, or otherwise in relation to any of the matters aforesaid.

Section 21. (Mains, etc., to be laid down in streets specified in Special Order and in remainder of area of supply.)

Excepted from incorporation.

Section 22. (As to laying of electric line under special agreement.)

Excepted from incorporation.

Section 23. (If Undertakers fail to lay down mains, etc., Order may be revoked.)

Excepted from incorporation.

Section 24. (Manner in which requisition is to be made.)

Excepted from incorporation.

Section 25. (Provisions on requisition by owners or occupiers.)

Excepted from incorporation.

Section 26. (Provisions on requisition by local authority.)

Excepted from incorporation.

Section 27. (Undertakers to furnish sufficient supply of energy to owners and occupiers within the area of supply.)

Excepted from incorporation.

Section 28. (Maximum power.)

Excepted from incorporation.

Section 29. (Supply of energy to public lamps.)

Excepted from incorporation.

Section 30. (Penalty for failure to supply.)

Excepted from incorporation.

Section 31. (Methods of charging.)

Excepted from incorporation.

Section 32. (Maximum prices.)

Excepted from incorporation.

Section 33. (Other charges by agreement.)

Excepted from incorporation.

Section 34. (Price to public lamps.)

Excepted from incorporation.

Section 35. (Appointment of electric inspectors.)

Modified for incorporation as follows:—

35. The Electricity Commissioners on the application of any consumer or of the Undertakers may appoint and keep appointed one or more competent and impartial person or persons to be electric inspectors under the Special Act.

Section 36. (Duties of electric inspectors.)

Modified for incorporation as follows :—

36.—(1) The duties of an electric inspector under the Special Act shall be as follows :—

(*a*) The inspection and testing of the Undertakers' electric lines and works and the supply of energy given by them ;

(*b*) The certifying and examination of meters ; and

(*c*) Such other duties in relation to the undertaking as may be required of him under the provisions of the Special Act or of the regulations of the Electricity Commissioners.

(2) The Electricity Commissioners may prescribe the manner in which and the times at which any such duties are to be performed by an electric inspector, and also the fees to be taken by him, and those fees shall be accounted for and applied as may be directed by the Electricity Commissioners.

Section 37. (Remuneration of electric inspectors.)

Excepted from incorporation.

Section 38. (Notice of accidents and inquiries by Board of Trade.)

Modified for incorporation as follows :—

38.—(1) The Undertakers shall send to the Electricity Commissioners notice of any accident by explosion or fire, and also of any other accident of such kind as to have caused or to be likely to have caused loss of life or personal injury which has occurred in any part of the Undertakers' works or their circuits or in connection with those works or circuits, and also notice of any loss of life or personal injury occasioned by any such accident. The notice shall be sent by the earliest practicable post after the accident occurs, or, as the case may be, after the loss of life or personal injury becomes known to the Undertakers.

If the Undertakers fail to comply with the provisions of this sub-section they shall be liable for each default to a penalty not exceeding twenty pounds.

(2) The Electricity Commissioners may also, if they deem it necessary, appoint any electric inspector or other fit person to inquire and report as to the cause of any accident affecting the safety of the public which may have been occasioned by or in connection with the Undertakers' works, whether notice of the accident has or has not been received from the Undertakers, or as to the manner and extent in and to which the provisions of the Special Act and the principal Acts and of the regulations of the Electricity Commissioners so far as those provisions affect the safety of the public have been complied with by the Undertakers ; and any person appointed under this section, not being an electric inspector, shall for the purposes of his appointment have all the powers of an electric inspector under the Special Act.

Section 39. (Testing of mains.)

Excepted from incorporation.

Section 40. (Testing of works and supply on consumer's premises.)

Excepted from incorporation.

Section 41. (Undertakers, not being local authority, to establish testing stations.)

Excepted from incorporation.

Section 42. (Undertakers to keep instruments on their premises.)

Excepted from incorporation.

Section 43. (Readings of instruments to be taken.)

Excepted from incorporation.

Section 44. (Electric inspector may test Undertakers' instruments.)

Excepted from incorporation.

Section 45. (Representation of Undertakers at testings.)

Excepted from incorporation.

Section 46. (Undertakers to give facilities for testing.)

Excepted from incorporation.

Section 47. (Report of results of testing.)

Excepted from incorporation.

Section 48. (Expenses of electric inspector.)

Excepted from incorporation.

Section 49. (Meters to be used except by agreement.)

Excepted from incorporation.

Section 50. (Meter to be certified.)

Excepted from incorporation.

Section 51. (Inspector to certify meter.)

Excepted from incorporation.

Section 52. (Undertakers to supply meters if required to do so.)

Excepted from incorporation.

Section 53. (Meters not to be connected or disconnected without notice.)

Excepted from incorporation.

Section 54. (Consumer to keep his meter in proper order.)

Modified for incorporation as follows :—

54.—(1) Every consumer shall at all times at his own expense keep all meters belonging to him whereby the value of the supply is to be ascertained in proper order for correctly registering that value, and in default of his so doing the Undertakers may cease to supply energy through the meter.

(2) The Undertakers shall have access to and be at liberty to take off, remove, test, inspect, and replace any such meter at all reasonable times: Provided that all reasonable expenses of and incident to any such taking off, removing, testing, inspecting, and replacing shall if the meter is found to be not in proper order be paid by the consumer, but if it is found to be in proper order all expenses connected therewith shall be paid by the Undertakers.

Section 55. (Power to the Undertaker to let meter.)

Excepted from incorporation.

Section 56. (Undertakers to keep meters let for hire in repair.)

Excepted from incorporation.

Section 57. (Differences as to correctness of meter to be settled by inspector.)

Modified for incorporation as follows :—

57. If any difference arises between any consumer and the Undertakers as to whether any meter whereby the value of the supply is ascertained (whether belonging to the consumer or to the Undertakers) is or is not in proper order for correctly registering that value, or as to whether that value has been correctly registered in any case by any meter, that difference shall be determined upon the application of either party by an electric inspector to be appointed by the Electricity Commissioners, and that inspector shall also order by which of the parties the costs of and incidental to the proceedings before him shall be paid and the decision of the inspector shall be final and binding on all parties.

Subject as aforesaid, the register of the meter shall be conclusive evidence in the absence of fraud of the value of the supply.

Section 58. (Undertakers to pay expenses of providing new meters where method of charge altered.)

Excepted from incorporation.

Section 59. (Undertakers may place meters to measure supply or to check measurement.)

Modified for incorporation as follows :—

59. In addition to any meter which may be placed upon the premises of any consumer to ascertain the value of the supply, the Undertakers may place upon his premises such meter or other apparatus as they may desire for the purpose of ascertaining or regulating either the amount of energy supplied to the consumer or the number of hours during which the supply is given or the maximum power taken by the consumer or any other quantity or time connected with the supply: Provided that the meter or apparatus shall be of some construction and pattern and shall be fixed and connected with the service lines in some manner approved by the Electricity Commissioners, and shall be supplied and maintained entirely at the cost of the Undertakers, and shall not except by agreement be placed otherwise than between the mains of the Undertakers and the consumer's terminals.

Section 60. (Map of area of supply to be made.)

Excepted from incorporation.

Section 61. (Notices, etc., may be printed or written.)

Modified for incorporation as follows :—

61. Notices, orders, and other documents under the Special Act may be in writing or in print or partly in writing and partly in print, and where any notice, order, or document requires authentication by the local authority, the signature thereof by the clerk or surveyor to the local authority shall be sufficient authentication.

Section 62. (Service of notices, etc.)

Modified for incorporation as follows :—

62.—(1) Any notice, order, or document required or authorised to be served upon any body or person under the Special Act or the principal Acts may be served by being addressed to that body or person and being left at or transmitted through the post to the following addresses respectively :—

(*a*) in the case of the Minister of Transport, the office of the Ministry of Transport;

(*b*) in the case of the Electricity Commissioners, the office of the Electricity Commissioners;

(*c*) in the case of the Postmaster-General, the General Post Office;

(*d*) in the case of any county council, the office of that council;

(*e*) in the case of any local authority, the office of that local authority;

(*f*) in the case of the Undertakers, the principal office of the Undertakers;

(*g*) in the case of a company having a registered office, at that registered office,

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and in the case of a company having an office or offices but no registered office, the principal office of that company;

(*h*) in the case of any other person, the usual or last-known place of abode of that person.

(2) A notice, order, or document by this schedule required or authorised to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of the premises (naming the premises) without further name or description.

(3) A notice, order, or document by the Special Act required or authorised to be served on the owner or occupier of premises may be served by delivering it or a true copy thereof to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by fixing it on some conspicuous part of the premises.

(4) Subject to the provisions of the Special Act as to cases of emergency, where the interval of time between the service of any notice or document under the provisions of the Special Act and the execution of any works or the performance of any duty or act is less than seven days, the following days shall not be reckoned in the computation of that time; that is to say, Sunday, Christmas Day, Good Friday, any bank holiday under and within the meaning of the Bank Holiday Act, 1871, and any Act amending that Act, and any day appointed for public fast, humiliation, or thanksgiving.

Section 63. (Revocation of Order where Undertakers are insolvent.)
Excepted from incorporation.

Section 64. (Revocation of Order where undertaking cannot be carried on with profit.)
Excepted from incorporation.

Section 65. (Revocation where local authority are Undertakers and works are not executed.)
Excepted from incorporation.

Section 66. (Revocation of Order with consent.)
Excepted from incorporation.

Section 67. (Provisions where Order revoked.)
Excepted from incorporation.

Section 68. (Provisions where local authority are Undertakers and Order is revoked.)
Excepted from incorporation.

Section 69. (Remedying of system and works.)
Modified for incorporation as follows:—

69.—(1) If at any time it is established to the satisfaction of the Electricity Commissioners:—

(*a*) that the Undertakers are supplying energy otherwise than by means of a system which has been approved by the Electricity Commissioners or (except in accordance with the provisions of the Special Act) have permitted any part of their circuits to be connected with earth or placed any electric line above ground; or

(*b*) that any electric lines or works of the Undertakers are defective so as not to be in accordance with the provisions of the Special Act or the regulations of the Electricity Commissioners; or

(*c*) that any work of the Undertakers or their supply of energy is attended with danger to the public safety, or injuriously affects any telegraphic line of the Postmaster-General,

the Electricity Commissioners may by order specify the matter complained of and require the Undertakers to abate or discontinue it within such period as is therein limited in that behalf, and if the Undertakers make default in complying with the order they shall be liable to a penalty not exceeding twenty pounds for every day during which the default continues.

(2) The Electricity Commissioners may also if they think fit by the same or any other order forbid the use of any electric line or work as from such date as may be specified in that behalf until the order is complied with, or for such time as may be so specified, and if the Undertakers make use of any such electric line or work while the use thereof is so forbidden they shall be liable to a penalty not exceeding one hundred pounds for every day during which the user continues.

Section 70. (Publication of Regulations.)
Excepted from incorporation.

Section 71. (Nature and amount of security.)
Excepted from incorporation.

Section 72. (Proceedings of Board of Trade.)
Modified for incorporation as follows:—

72.—(1) All things required or authorised under the Special Act to be done by, to, or before the Minister of Transport may be done by, to, or before the Minister of Transport or a secretary or assistant secretary of the Minister of Transport.

(2) All documents purporting to be orders made by the Minister of Transport and to be sealed with the seal of the Ministry of Transport, or to be signed by a secretary or assistant secretary of the Minister of Transport, or by any person authorised in that behalf by the Minister of Transport, shall be received in evidence and shall be deemed to be those orders without further proof unless the contrary is shown.

Section 73. (Approval or consent of Board of Trade.)

Modified for incorporation as follows :—

73.—(1) Where the Special Act provides for any consent or approval of the Minister of Transport or the Electricity Commissioners, the Minister of Transport or the Electricity Commissioners (as the case may be) may give that consent or approval subject to terms or conditions or may withhold their consent or approval as in his or their discretion he or they may think fit.

(2) All costs and expenses of or incident to any approval, consent, certificate, or order of the Minister of Transport or the Electricity Commissioners or of any inspector or person appointed thereby, including the cost of any inquiry or tests for the purpose of determining whether the same should be given or made, to such an amount as is certified by the Minister of Transport or the Electricity Commissioners (as the case may be) to be due, shall be borne and paid by the applicant therefor:

Provided that where any approval is given to any plan, pattern, or specification, the Minister of Transport or the Electricity Commissioners (as the case may be) may require such copies of the plan, pattern, or specification as he or they may think fit to be prepared and deposited at his or their office at the expense of the applicant, and may revoke any approval so given, or permit the approval to be continued subject to such modifications as he or they may think necessary.

Section 74. (Notice of approval of Board of Trade, etc., to be given by advertisement.)

Excepted from incorporation.

Section 75. (Notice of application for extension of time, etc., to be given to local authority.)

Excepted from incorporation.

Section. 76. (Recovery and application of penalties.)

Modified for incorporation as follows :—

76. All penalties, fees, expenses, and other moneys recoverable under the Special Act, or under the regulations of the Electricity Commissioners, the recovery of which is not otherwise specially provided for may be recovered summarily in manner provided by the Summary Jurisdiction Acts.

Section 77. (Undertakers to be responsible for all damages.)

Incorporated without modification.

77. The Undertakers shall be answerable for all accidents, damages and injuries happening through the act or default of the Undertakers or of any person in their employment by reason of or in consequence of any of the Undertakers' works, and shall save harmless all authorities, bodies, and persons by whom any street is repairable, and all other authorities, companies, and bodies collectively and individually, and their officers and servants, from all damages and costs in respect of those accidents, damages, and injuries.

Section 78. (As to mortgages.)

Excepted from incorporation.

Section 79. (Saving for Postmaster-General.)

Modified for incorporation as follows :—

79. Nothing in the Special Act shall affect any right or remedy of the Postmaster-General under the principal Acts or the Telegraph Acts, 1863 to 1926, and all provisions contained in the Special Act in favour of the Postmaster-General shall be construed to be in addition to and not in modification of the provisions of those Acts.

Section 80. (Saving rights of the Crown in the foreshore.)

Modified for incorporation as follows :—

80. Nothing in the Special Act shall authorise the Undertakers to take, use, or in any manner interfere with any portion of any shore, bed of the sea, river, channel, creek, bay, or estuary, or any right in respect thereof belonging to the King's most Excellent Majesty in right of His Crown and under the management of the Board of Trade, without the previous consent in writing of the Board of Trade on behalf of His Majesty (which consent the Board of Trade may give), neither shall anything in the Special Act contained extend to take away, prejudice, diminish, or alter any of the estates, rights, privileges, powers, or authorities vested in or enjoyed or exerciseable by the King's Majesty.

Section 81. (Undertakers not exempted from proceedings for nuisance.)

Excepted from incorporation.

Section 82. (Provision as to general Acts.)

Modified for incorporation as follows :—

82. Nothing in the Special Act shall exempt the Undertakers or their undertaking from the provisions of or deprive the Undertakers of the benefits of any general Act relating to electricity or to the supply of or price to be charged for energy which may be passed after the passing of the Special Act.

Section 83. (Application to Scotland.)

Modified for incorporation as follows :—

83. In the application of the provisions of this schedule to Scotland the following modifications shall be made :—

(1) The expression " arbiter " shall be substituted for the expression " arbitrator."

(2) " The sheriff of the county or any of his substitutes " shall be substituted for " a court of summary jurisdiction."

(3) References to recovery summarily as a civil debt shall be construed as references to recovery summarily.

(4) The expression " complainer " shall be substituted for the expression " complainant," and the expression " defender " for the expression " defendant."

(5) A reference to the Edinburgh Gazette shall be substituted for a reference to the London Gazette.

Section 84. (Application to Ireland.)

Excepted from incorporation.

OVERHEAD LINE REGULATIONS, DATED 16TH APRIL, 1928, FOR SECURING THE SAFETY OF THE PUBLIC, MADE BY THE ELECTRICITY COMMISSIONERS UNDER THE ELECTRICITY (SUPPLY) ACTS, 1882 TO 1926.

DEFINITION.

In the following Regulations the expression " line conductors " means conductors used for transmitting a supply of electrical energy, including so much of any service line as may be under the control of the undertakers.

I.—GENERAL.

Material of Line Conductors.

1. Line conductors shall be of copper, aluminium, or such other materials as may be approved by the Electricity Commissioners.

Strength of Line Conductors.

2. All line conductors at the time of erection shall comply, as regards elongation, breaking load and elasticity, with the specification of the British Engineering Standards Association then in force.

Minimum Size of Line Conductor.

3. The minimum permissible size for copper and other line conductors (other than service lines) shall be such as to have an actual breaking load of not less than 1,237 pounds, the equivalent minimum cross-sectional area and weight per mile for copper being as follows :—

Conductor.	Cross-sectional area.	Weight per mile.
	sq. ins.	lbs.
No. 8 S.W.G. . . .	0·0201	409

The minimum permissible size of service line shall be such as to have an actual breaking load of not less than 816 pounds, the equivalent minimum cross-sectional area and weight per mile for copper being as follows :—

Conductor.	Cross-sectional area.	Weight per mile.
	sq. ins.	lbs.
No. 10 S.W.G. . . .	0·0129	262

Line Conductors to be Inaccessible.

4. Line conductors shall be rendered inaccessible to any person from any building or other place without the use of a ladder or other special appliance.

Regard shall be had to the normal use by the occupier of any premises or land and where necessary (*a*) the height of the line conductors shall be increased to provide sufficient clearance for safety in accordance with such use, and (*b*) provision as hereinafter prescribed in Regulations 14 or 17 shall be made to prevent danger.

Line Conductors Crossing other Lines.

5. Where a line conductor crosses over or under, or is in proximity to any other overhead wire, precautions shall be taken by the undertakers to prevent contact, due to breakage or otherwise, between the line conductor and the other overhead wire, or between the other wire and the line conductor.

Provided that this Regulation shall not be deemed to require the undertakers to take precautions against contact between a broken line conductor and other auxiliary conductors and earth wires carried on the same support and forming part of the same overhead line.

Supports.

6. Line conductors shall be attached to suitable insulators carried on supports of wood, iron, steel, or reinforced concrete. All wooden supports other than oak or hard wood cross-arms shall unless otherwise approved by the Electricity Commissioners be of red fir impregnated with creosote. Special precautions shall be taken to prevent the corrosion of all metal work at or below the surface of the ground.

Factor of Safety of Supports.

7. The supports, in conjunction with stays or struts if provided, shall withstand the longitudinal, transverse, and vertical loads due to the ice loadings and wind pressure hereinafter specified without damage and without movement in the ground. In no case shall the strength of a support in the direction of the overhead line be less than *one-quarter* the required strength in a direction transverse to the line.

The following factors of safety shall apply to each support:—

Material.	Factor of Safety.
Iron or steel	2·5
Wood	3·5
Reinforced concrete . .	3·5

These factors of safety shall be calculated on the assumption that all line conductors, cables, and wires carried by the supports are at a temperature of 22° F., and have a covering of ice to the radial thickness specified in Regulation 12 (or Regulation 15 according to the voltage) and that together with the supports they are subjected to a wind of fifty miles per hour at right angles to the line, this wind to be taken as exerting a pressure equivalent to 8 pounds per square foot calculated on the whole of the projected area.

The wind pressure on the lee side members of lattice steel or other compound structures, including A and H Poles, shall be taken as one-half of the wind pressure on the windward side members. The factor of safety shall be calculated on the crippling load of struts and upon the elastic limit of tension members.

Service Lines.

8. Service lines shall be connected to line conductors at a point of support only and shall be fixed to insulators on consumers' premises. Every part of a service line (other than a neutral conductor connected with earth) which is accessible from a building with the use of a ladder or other special appliance shall be efficiently protected either by insulating material or by other means approved by the Electricity Commissioners.

Erection of Line Conductors at different Voltages on same Supports.

9. Where line conductors forming parts of systems at different voltages are erected on the same poles or supports adequate provision shall be made to guard against danger to linesmen and from the lower voltage system being charged above its normal voltage by leakage from or contact with the higher voltage system; and the type of construction shall be subject to the prior approval of the Electricity Commissioners.

Inspection and Maintenance of Lines.

10. Every overhead line, including its supports and structural parts, and electrical appliances and devices belonging to or connected therewith, shall be regularly inspected and efficiently maintained.

Materials Used.

11. All materials used shall at the time of erection conform to the specifications of the British Engineering Standards Association and to the Post Office Technical Instructions for the construction of aerial lines for the time being in force, so far as the same are applicable and are not inconsistent with these Regulations.

II.—SPECIFIC REGULATIONS.

[*Applicable according to the voltage between line conductors where no part of the system is connected with earth, or according to the voltage to earth where part of the system is connected with earth.*]

A. For voltages *not exceeding* 650 volts direct current and 325 volts alternating current.

Factor of Safety of Line Conductors.

12. The factor of safety of line conductors shall be 2. The factor of safety shall be based on the breaking load and shall be calculated on the assumption that the line conductors are at a temperature of 22° F. and have a covering of ice to a radial thickness of *three-sixteenths of an inch*, and that they are simultaneously subjected to a wind of 50 miles per hour at right angles to the line, this wind to be taken as exerting a pressure equivalent to 8 pounds per square foot calculated on the whole of the projected area of the ice-covered lines.

The weight of ice is to be taken as 57 pounds per cubic foot.

The elasticity of the metal may be allowed for in calculating the sag for line conductors.

Minimum Height of Conductors.

13. The height from the ground of any line conductor (other than a service line), earth wire, or auxiliary conductor at any point of the span at a temperature of 122° F. shall not, except with the consent of the Electricity Commissioners, be less than 19 feet across a public road or 17 feet in other positions. A height of 15 feet may be adopted in situations inaccessible to vehicular traffic.

Where a service line is carried across or along a carriage-way, the height of the line from the ground at any part of the carriage-way shall not, except with the consent of the Electricity Commissioners, be less than 19 feet and 17 feet respectively.

Provision to Prevent Danger.

14. Where the voltage to earth exceeds 250 volts direct current or 125 volts alternating current, precautions should be taken to prevent danger—

(1) from a broken line conductor by the provision of—

(*a*) a neutral or earthed conductor carried continuously from pole to pole, and so arranged in relation to the other conductors that in the event of breakage of any one of them the line conductor shall make contact with the earthed wire; or

(*b*) other means approved by the Electricity Commissioners.

(2) from leakage by the provision—
- (*a*) in cases where metal poles are used, of
  - (i) an earthed wire, running from pole to pole and connected to the poles; or
  - (ii) a suitable metal framework to support the insulators carrying the line conductors, the framework being insulated from the pole but connected to the neutral conductor; or
  - (iii) other means approved by the Electricity Commissioners.
- (*b*) in cases where wooden poles are used, of
  - (i) a bonding wire connected to the supporting metal-work of all insulators, the bonding wire terminating at the lowest part of the supporting metal-work; or
  - (ii) other means approved by the Electricity Commissioners.

Where lightning conductors are used or other uninsulated conductors are run down wooden poles to within 10 feet from the ground, the precautions for the prevention of danger from leakage shall be as for metal poles.

All stay wires other than those which are connected with earth by means of a continuous earth wire shall be insulated to prevent danger from leakage. For this purpose an insulator shall be placed in each stay wire at a height of not less than 10 feet from the ground.

B. For voltages *exceeding* 650 volts direct current and 325 volts alternating current.

Factor of Safety of Line Conductors.

15. The factor of safety of line conductors shall be 2. The factor of safety shall be based on the breaking load and shall be calculated on the assumption that the line conductors are at a temperature of 22° F., and have a covering of ice to a radial thickness of *three-eighths of an inch*, and that they are simultaneously subjected to a wind of 50 miles per hour at right angles to the line, this wind to be taken as exerting a pressure equivalent to 8 pounds per square foot calculated on the whole of the projected area of the ice-covered lines.

The weight of ice is to be taken as 57 pounds per cubic foot.

The elasticity of the metal may be allowed for in calculating the sag for line conductors.

Minimum Height of Conductors.

16. The height from the ground of any line conductor at any point on the span at a temperature of 122° F. shall not, except with the consent of the Electricity Commissioners, be less than the height hereunder stated:—

Voltages not exceeding 66,000 volts.	20 feet.
Voltages exceeding 66,000 volts and not exceeding 110,000 volts.	21 feet.
Voltages exceeding 110,000 volts and not exceeding 165,000 volts.	22 feet.
Voltages exceeding 165,000 volts.	23 feet.

The height from the ground of an earth wire or auxiliary conductor shall not be less than the minimum heights prescribed in Regulation 13.

Provision to Prevent Danger.

17. Adequate means shall be provided to render any line conductor dead in the event of it falling due to breakage or otherwise.

All metal work other than conductors shall be permanently and efficiently connected with earth. For this purpose a continuous earth wire shall be provided and connected with earth at four points in every mile, the spacing between the points being as nearly equidistant as possible, or, alternatively, the metal work shall be connected to an effective earthing device at each individual support. The design and construction of the system of earth connections shall be such that when contact is made between a line conductor and metal connected with earth the resulting leakage current shall not be less than twice the leakage current required to operate the devices which make the line dead.

Road Crossings, etc.

18. Where an overhead line is erected along or across a public road or canal or across a railway all wires including earth wires and auxiliary conductors shall be placed at the appropriate height from the ground specified in Regulation 16 for line conductors, and the following additional precautions shall be taken to prevent danger:—

(1) In the case of a line erected *along* a public road or canal (or within 50 feet thereof) there shall be provided—

(*a*) duplicate insulators supporting the conductors; or

(*b*) a device to ensure that in the event of a line conductor falling it shall be put to earth; or

(*c*) other means approved by the Electricity Commissioners.

(2) In the case of a line erected *across* a public road, canal, or railway there shall be provided—

(*a*) duplicate insulators for supporting the line conductor and a device to ensure that in the event of a line conductor falling it shall be put to earth; or

(*b*) duplicate insulators supporting duplicate conductors tied at intervals not exceeding 5 feet; or

(*c*) other means approved by the Electricity Commissioners.

Danger Notices.

19. Supports shall be numbered consecutively and each support shall have a danger notice of a permanent character securely fixed to it. Adequate provision shall also be made to prevent unauthorised climbing.

These Regulations are made subject to the power of the Electricity Commissioners to make such further or other Regulations as they may think expedient and shall apply to any overhead lines erected by authorised undertakers:

Provided that these Regulations shall not apply to any overhead lines in existence at the date hereof and constructed and maintained by authorised undertakers under and in accordance with the provisions of any prior Regulations for overhead lines made by the Board of Trade or the Electricity Commissioners.

EMPLOYMENT OF WORKMEN.

THE NATIONAL HEALTH INSURANCE (EMPLOYMENT UNDER LOCAL AND PUBLIC AUTHORITIES) EXCLUSION ORDER, 1913, DATED OCTOBER 11TH, 1913, BEING PROVISIONAL SPECIAL ORDER, MADE BY THE NATIONAL HEALTH INSURANCE JOINT COMMITTEE, ACTING JOINTLY WITH THE INSURANCE COMMISSIONERS AND THE WELSH INSURANCE COMMISSIONERS, UNDER SECTION 6 OF THE NATIONAL INSURANCE ACT, 1913, EXCLUDING CERTAIN EMPLOYMENTS UNDER LOCAL AND PUBLIC AUTHORITIES FROM PART I. OF THE FIRST SCHEDULE TO THE NATIONAL INSURANCE ACT, 1911.

Whereas by section 6 of the National Insurance Act, 1913, it is provided that employment under any local or other public authority, except such as may be excluded by Special Order, shall be employment within Part I. of the National Insurance Act, 1911 (hereinafter called "the principal Act"):

And whereas by the National Insurance (Joint Committee) Regulations, 1911 and 1913, the National Health Insurance Joint Committee (hereinafter called "the Joint Committee") is to exercise jointly with the several bodies of Commissioners constituted under the principal Act the power of making the Special Orders aforesaid:

And whereas by virtue of section 82 of the principal Act the Welsh Insurance Commissioners for the purpose of carrying Part I. of the Act into effect in Wales have the like powers and duties as are by the principal Act conferred and imposed on the Insurance Commissioners:

And whereas by the National Health Insurance (Special Orders Acceleration) Order, 1912, it is provided that in any case in which the Joint Committee, acting either alone or jointly with the several bodies of Commissioners, or with any one or more of those bodies, have published notice of their proposal to make a Special Order under the Act, they may, if they certify that for the purpose of bringing into operation Part I. of the Act, it is expedient that the Special Order should come into operation forthwith, make the Order to come into operation forthwith as a Provisional Special Order, but that such a Provisional Special Order shall only continue in force until the Special Order has been made in accordance with the provisions of section 113 of, and the Ninth Schedule to the principal Act:

And whereas by sub-section (2) of section 43 of the National Insurance Act, 1913, it is provided that that Act shall be deemed to be part of Part I. of the principal Act:

And whereas the Joint Committee, acting jointly with the Insurance Commissioners and the Welsh Insurance Commissioners, have published notice of their proposal to make a Special Order in the form of this Order.

Now therefore the Joint Committee, acting jointly with the Insurance Commissioners and the Welsh Insurance Commissioners, hereby certify that, for the purpose of bringing into operation Part I. of the Act, it is expedient that the said Special Order should come into operation forthwith, and in pursuance of the powers conferred upon them by the principal Act, and the National Insurance Act, 1913, and by the National Insurance (Joint Committee) Regulations, 1912 and 1913, hereby make the said Special Order to come into operation forthwith as a Provisional Special Order, and accordingly order as follows:—

1. Employment of the class specified in the schedule to this Order under any local or other public authority respectively, shall be deemed not to be employment within the meaning of Part I. of the principal Act.

2.—(1) This Order may be cited as the National Health Insurance (Employment under Local and Public Authorities) Exclusion Order, 1913.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

SCHEDULE.

CLASS OF EMPLOYMENT.

Employment as chaplain or other minister of religion.
Employment as a duly qualified medical practitioner.
Employment as a coroner or a deputy coroner.
Employment as a public analyst.
Employment as a public vaccinator.
Employment as superintendent registrar or deputy superintendent registrar, registrar of births and deaths or deputy registrar of births and deaths, and registrar of marriages or deputy registrar of marriages.
Employment under a contract of apprenticeship without money payment.
Employment as an unpaid officer of any local or other public authority.
Employment otherwise than as an officer or servant of a local or other public authority, not being an employment specified in Part I. (*a*), (*b*), (*c*), or (*d*) of the First Schedule to the National Insurance Act, 1911.

S. R. & O., 1921, No. 339.

THE UNEMPLOYMENT INSURANCE (EMPLOYMENT UNDER LOCAL AND PUBLIC AUTHORITIES) (EXCLUSION) ORDER, 1921. SPECIAL ORDER, DATED JANUARY 10TH, 1921, MADE BY THE MINISTER OF LABOUR UNDER THE UNEMPLOYMENT INSURANCE ACT, 1920 (*a*).

Whereas it is provided by paragraph (*c*) of Part I. of the First Schedule to the Unemployment Insurance Act, 1920 (hereinafter referred to as "the Act"), that employment under any local or other public authority shall be employment within the meaning of the Act except such employment as may be excluded by a Special Order made by the Minister of Labour (hereinafter referred to as the Minister).

(*a*) This Order having lain before both Houses of Parliament for 20 days in accordance with s. 36 (2) of the Unemployment Insurance Act, 1920, duly came into force.

Appendix II.

Now, therefore, the Minister hereby makes the following Special Order :—

1. The classes of employment declared not to be employment within the meaning of the National Health Insurance Acts, 1911 to 1920, by the Special Orders, made under those Acts, set out in the Schedule hereto shall be excluded from the employments which are employment within the meaning of the Act.

2. Employment under any local or other public authority not being employment under a contract of service or apprenticeship within the meaning of paragraphs (*a*) or (*b*) of Part I. of the First Schedule to the Act and not being employment as an officer or servant of such local or other public authority shall be excluded from the employments which are employment within the meaning of the Act.

3. This Order may be cited as the Unemployment Insurance (Employment under Local and Public Authorities) (Exclusion) Order, 1921, and shall have effect from the 8th day of November, 1920.

SCHEDULE.

SPECIAL ORDERS MADE UNDER THE NATIONAL HEALTH INSURANCE ACTS, 1911 TO 1920.

(i) The National Health Insurance (Employment under Local and Public Authorities) Exclusion Order, 1914.
(ii) The National Health Insurance (Employment under Local and Public Authorities) Exclusion Order (Scotland), 1914.
(iii) The National Health Insurance (Employment under Local and Public Authorities) Exclusion Order (Ireland), 1914.
(iv) The National Health Insurance (Employment under Local and Public Authorities) Exclusion Order (Ireland), No. 2, 1914.
(v) The National Health Insurance (Employment under Local and Public Authorities) Exclusion Order (Scotland), 1915.

S. R. & O., 1925, No. 1323.

THE UNEMPLOYMENT INSURANCE (SUBSIDIARY EMPLOYMENTS) SPECIAL ORDER, 1925, DATED 28TH NOVEMBER, 1925, MADE BY THE MINISTER OF LABOUR UNDER PARAGRAPH (*j*) OF PART II. OF THE FIRST SCHEDULE TO THE UNEMPLOYMENT INSURANCE ACT, 1920.

The Minister of Labour, by virtue of the powers conferred on him by paragraph (*j*) of Part II. of the First Schedule to the Unemployment Insurance Act, 1920, and of all other powers enabling him in that behalf, hereby makes the following Special Order :—

1. The employment of the several classes set forth in the First Schedule hereto are specified as being of such a nature that they are ordinarily adopted as subsidiary employments only, and not as the principal means of livelihood.

2. The several Orders specified in the Second Schedule hereto are hereby revoked, but such revocation shall not affect any right, privilege, obligation, or liability acquired, accrued or incurred under any of those Orders.

3.—(1) This Order may be cited as the Unemployment Insurance (Subsidiary Employments) Special Order, 1925, and shall be deemed to have effect from the fourth day of January, 1926.

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SCHEDULES.

FIRST SCHEDULE.

PART I.

EMPLOYMENT IN CONNECTION WITH RELIGIOUS WORSHIP, ETC.

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PART II.

EMPLOYMENT UNDER THE CROWN, ETC.

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PART III.

EMPLOYMENT UNDER LOCAL AUTHORITIES, ETC.

Employment, involving part-time service only, by any local or other public authority as a person employed to act in relief of gymnasium, lavatory, or playground attendants, or park constables.

Employment, involving part-time service only, by a local or other public authority, or by any company or body responsible for the lighting of any borough, burgh or other local area, as lamp lighter or extinguisher, whether the employment does or does not include the duty of cleaning or keeping in order the lamps.

Employment, involving part-time service only, by a local education authority or by the managers of a public elementary school or State aided school in Scotland in the cleansing of drains, cesspools, pits or offices in or about any such school.

Employment, involving attendance on Sundays only, by a local education authority in relief of a school keeper in a public elementary school or State aided school in Scotland or by the managers of a public elementary school or State aided school in Scotland in relief of the school keeper in the school.

Employment by a local education authority or by the managers of a public elementary school or State aided school in Scotland as a supervisor of meals provided in accordance with the Education Act, 1921, and the Education (Scotland) Act, 1908.

Employment by a local or other public authority in the removing of snow in or about any streets or other public places.

Employment, involving occasional service only, as a macebearer.

Employment in the capacity of—

(*a*) Special constable;
(*b*) Town crier.

Employment, involving part-time service only, in the capacity of—

(*a*) Member of fire brigade.
(*b*) Probation Officer under the Probation of Offenders Act, 1907.

Employment, in England and Wales, involving part-time services only, as Fishery Officer under any of the following authorities or bodies:—

(*a*) Local fisheries committees constituted under the Sea Fisheries Regulation Acts, 1888 to 1894;
(*b*) Boards of conservators constituted under the Salmon and Freshwater Fisheries Act, 1923;
(*c*) Boards of salmon conservators having the powers of a local fisheries committee under the Sea Fisheries Regulation Acts, 1888 to 1894.

PART IV.

EMPLOYMENT UNDER LIGHTHOUSE AUTHORITY, ETC.

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PART V.

EMPLOYMENT IN CONNECTION WITH AGRICULTURE (SCOTLAND).

PART VI.

EMPLOYMENT IN THEATRES, ETC.

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PART VII.

MISCELLANEOUS EMPLOYMENTS.

Employment, involving only occasional service or service outside the ordinary hours of work, as secretary or clerk of a society, club, philanthropic institution, school, local pension committee, or otherwise in the performance of clerical duties.

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Employment as a caretaker, where no wages are paid or other money payments are made.

Appendix II.

Employment, involving part-time service only, in the capacity of—
- (*a*) Member of a town band;
- (*b*) Political agent;
- (*c*) Water bailiff, *i.e.* a person employed to protect a river, lake, loch, or water-course from pollution or trespass.

Employment, involving part-time service only, in reading to the blind.

Employment, involving part-time service only, in attendance upon old age pensioners or persons in receipt of outdoor relief.

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SECOND SCHEDULE.

ORDERS REVOKED.

The Unemployment Insurance (Subsidiary Employments) Order, 1920 (S. R. and O., 1920, No. 2092).

The Unemployment Insurance (Subsidiary Employments) Order, 1921 (S. R. and O., 1921, No. 1019).

The Unemployment Insurance (Subsidiary Employments) Order, 1924 (S. R. and O., 1924, No. 1602).

S. R. & O., 1925, No. 1367.

THE UNEMPLOYMENT INSURANCE INCLUSION ORDER, 1925, DATED 23RD DECEMBER, 1925, MADE BY THE MINISTER OF LABOUR UNDER THE UNEMPLOYMENT INSURANCE ACT, 1920.

Whereas by the Unemployment Insurance (Subsidiary Employments) Special Order, 1925, the classes of employment set forth in the First Schedule thereto are specified as being of such a nature that they are ordinarily adopted as subsidiary employments only, and not as the principal means of livelihood:

And whereas it is desirable that certain persons engaged in the said classes of employments should be included among the persons employed within the meaning of the Unemployment Insurance Acts, 1920 to 1925:

Now, therefore, the Minister of Labour, by virtue of the powers conferred on him by section 4 of the Unemployment Insurance Act, 1920, and all other powers enabling him in that behalf, with the approval of the Treasury, hereby makes the following Order:—

1. The persons set out in the First Schedule hereto shall be included among the persons employed within the meaning of the Unemployment Insurance Acts, 1920 to 1925.

2. The Order specified in the Second Schedule hereto is hereby revoked, but such revocation shall not affect any right, privilege, obligation or liability acquired, accrued or incurred under the said Order.

3.—(1) This Order may be cited as the Unemployment Insurance Inclusion Order, 1925, and shall be deemed to have effect from the fourth day of January, 1926.

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SCHEDULES.

FIRST SCHEDULE.

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(5) Any person employed in employment involving part-time service only by a local or other public authority, or by any company or body responsible for the lighting of any borough, burgh or other local area, as lamp lighter or extinguisher.	Where the person so employed is otherwise ordinarily employed by the authority, company, or other body or person to whom the service is rendered.
(6) Any person employed by a local or other public authority in the removing of snow in or about any streets or other public places.	
(7) Any person employed in employment involving occasional service only as a mace-bearer.	

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(12) Any person employed in employment involving part-time service only in attendance upon old age pensioners or persons in receipt of outdoor relief, where the person so employed is otherwise ordinarily engaged in the service of the same employer.

Appendix II.

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SECOND SCHEDULE.

ORDER REVOKED.

Unemployment Insurance (Postal Workers') Inclusion Order, 1925 (S. R. and O., 1925, No. 394).

EXPLOSIVES.

S. R. & O., 1924, No. 1129.

EXPLOSIVE SUBSTANCE.

ORDER OF SECRETARY OF STATE (NO. 11), DATED SEPTEMBER 20, 1924, MAKING BYE-LAWS AS TO THE CONVEYANCE OF EXPLOSIVES ON ROADS, AND IN CERTAIN SPECIAL CASES.

Whereas by Part I. (section 37) of the Explosives Act, 1875 (hereinafter referred to as the Act), it is provided that a Secretary of State may from time to time make and when made rescind, alter or add to bye-laws for regulating the conveyance, loading, and unloading of gunpowder, in any case in which bye-laws made under any other provision of the Act do not apply, and in particular for declaring or regulating all or any of the matters thereinafter following:

And whereas by Part II. (section 39) of the Act it is declared that, subject to the provisions subsequently in Part II. of the Act contained, Part I. of the Act relating to gunpowder shall apply to every other description of explosive in like manner as if the provisions of such Part I. were re-enacted in such Part II. with the substitution of that description of explosive for gunpowder:

Now, therefore, in pursuance of the aforesaid provisions of the Act, I, one of His Majesty's Principal Secretaries of State, hereby order that the following bye-laws shall be observed with respect to the conveyance, loading, or unloading of gunpowder and other explosives, elsewhere than (1) in any harbour, (2) on any railway or canal with respect to which bye-laws regulating the conveyance, loading, or unloading of explosives may be made under section 36 of the Act, or (3) at any wharf or dock with respect to which bye-laws regulating the loading or unloading of explosive have been made under section 36 of the Act.

1. Explosive shall not be conveyed in a carriage or boat whilst carrying or plying for public passengers, unless the quantity be less than 5 lbs., and all due precautions be taken for the prevention of accidents by fire or explosion; provided that there shall not be conveyed in any such carriage or boat any explosive of the 5th (Fulminate) class, or any explosive of the 3rd division of the 6th (Ammunition) class, or any explosive of the 1st division of the 7th (Firework) class; and

* * * * * *

3. Explosive shall not be deposited in any receptacle or place appropriated for refuse and shall not be handed or forwarded to any dustman or other person employed in the removal of refuse, nor shall explosive be conveyed in any carriage or boat appropriated for the removal of refuse.

4. . . . In the event of any breach (by any act or default) of any of the foregoing bye-laws, or any attempt to commit such breach:

(*a*) The explosive in respect of which, or being in the carriage or boat in respect of which the offence is committed, may be forfeited; and

(*b*) The person committing the offence shall be liable to a penalty not exceeding in the case of the first offence £10, and in the case of the second offence, or any subsequent offence, £20, and also the following persons, viz.:—the owner of the carriage or boat in respect of which, or containing the explosive in respect of which, the offence is committed, the person in charge of such carriage, and the person owning such explosive—shall each be liable to a similar penalty, unless he proves that he had supplied proper means and issued proper orders for the observance, and used due diligence to enforce the observance of these bye-laws.

Wherever in these bye-laws an explosive is distinguished as belonging to a particular class or division of a class, reference is made to the classification of explosives contained in an Order in Council made in pursuance of section 106 of the Act.

This Order shall come into force on the date hereof from which date the Orders of Secretary of State Nos. 4, 4A, 4B, 4C, shall be deemed to be rescinded.

ARTHUR HENDERSON.

WHITEHALL,
20th September, 1924.

FACTORIES AND WORKSHOPS (*a*).

CUBIC SPACE.

ORDER OF SECRETARY OF STATE, DATED JANUARY 17TH, 1902, MODIFYING THE PROPORTION OF CUBIC FEET OF SPACE IN WORKSHOPS USED AS SLEEPING PLACES.

1902. No. 23.

In pursuance of the power conferred on me by sub-section (3) of section 3 of the Factory and Workshop Act, 1901, I hereby direct that, where a workshop other than a domestic workshop is occupied by day as a workshop and by night as a sleeping place, the proportion of cubic feet of space prescribed in sub-section (1) of the said section shall be modified by substituting "four hundred" for "two hundred and fifty," and accordingly such workshop shall, for the purposes of the law relating to public health, be deemed to be so overcrowded as to be dangerous or injurious to the health of the persons employed therein if the number of cubic feet of space in any room bears to the number of persons employed at one time in the room a proportion less than four hundred cubic feet to each person.

ORDER OF THE SECRETARY OF STATE, DATED DECEMBER 30TH, 1903, MODIFYING THE PROPORTION OF CUBIC FEET OF SPACE TO BE PROVIDED IN CERTAIN BAKEHOUSES.

1903. No. 1157.

In pursuance of the power conferred on me by sub-section (2) of section 3 of the Factory and Workshop Act, 1901, I hereby direct that the proportion of cubic feet of space to each person employed prescribed in sub-section (1) of the said section shall be modified.

(1) As regards UNDERGROUND BAKEHOUSES by substituting "five hundred cubic feet of space to every person"; and

(2) As regards BAKEHOUSES (other than such as are underground) WHERE WORK IS CARRIED ON AT NIGHT BY ARTIFICIAL LIGHT OTHER THAN ELECTRIC LIGHT by substituting in respect of the period between 9 in the evening and 6 in the succeeding morning "four hundred cubic feet of space to every person" for "two hundred and fifty cubic feet of space to every person."

This Order shall come into force on the 1st day of January, 1904.

VENTILATION.

ORDER OF THE SECRETARY OF STATE, DATED FEBRUARY 4TH, 1902, PRESCRIBING A STANDARD OF VENTILATION FOR CERTAIN HUMID TEXTILE FACTORIES OTHER THAN COTTON CLOTH FACTORIES.

1902. No. 79.

In pursuance of the powers conferred on me by section 7 of the Factory and Workshop Act, 1901, I hereby prescribe that the means of ventilation to be pro-

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(*a*) A memorandum (too long to be here printed) is obtainable from the Home Office with respect to the duties of Local Authorities under the Factory and Workshop Acts.

vided and maintained in every textile factory, not being a cotton cloth factory, in which atmospheric humidity is artificially produced by steaming or other mechanical appliances, and in which special rules or regulations with respect to humidity are not for the time being in force, shall be such as to supply during working hours not less than 600 cubic feet of fresh air per hour for each person employed.

SANITARY ACCOMMODATION.

THE SANITARY ACCOMMODATION ORDER OF FEBRUARY 4TH, 1903.

1903. No. 89.

In pursuance of section 9 of the Factory and Workshop Act, 1901, I hereby determine that the accommodation in the way of sanitary conveniences provided in a factory or workshop shall be deemed to be sufficient and suitable within the meaning of the said section if the following conditions are complied with and not otherwise:—

1. In factories or workshops where females are employed or in attendance there shall be one sanitary convenience for every 25 females.

In factories or workshops where males are employed or in attendance there shall be one sanitary convenience for every 25 males; provided that—

(a) In factories or workshops where the number of males employed or in attendance exceeds 100, and sufficient urinal accommodation is also provided, it shall be sufficient if there is one sanitary convenience for every 25 males up to the first 100; and one for every 40 after;

(b) In factories or workshops where the number of males employed or in attendance exceeds 500, and the district inspector of factories certifies in writing that by means of the check system, or otherwise, proper supervision and control in regard to the use of the conveniences are exercised by officers specially appointed for that purpose it shall be sufficient if one sanitary convenience is provided for every 60 males, in addition to sufficient urinal accommodation. Any certificate given by an inspector shall be kept attached to the general register, and shall be liable at any time to be revoked by notice in writing from the inspector.

In calculating the number of conveniences required by this Order, any odd number of persons less than 25, 40, or 60, as the case may be, shall be reckoned as 25, 40, or 60.

2. Every sanitary convenience shall be kept in a cleanly state, shall be sufficiently ventilated and lighted, and shall not communicate with any workroom except through the open air or through an intervening ventilated space: provided that in work-rooms in use prior to 1st January, 1903, and mechanically ventilated in such manner that air cannot be drawn into the work-room through the sanitary convenience, an intervening space shall not be required.

3. Every sanitary convenience shall be under cover and so partitioned off as to secure privacy, and if for the use of females shall have a proper door and fastenings.

4. The sanitary conveniences in a factory or workshop shall be so arranged and maintained as to be conveniently accessible to all persons employed therein at all times during their employment.

5. Where persons of both sexes are employed, the conveniences for each sex shall be so placed or so screened that the interior shall not be visible, even when the door of any convenience is open, from any place where persons of the other sex have to work or pass; and, if the conveniences for one sex adjoin those for the other sex, the approaches shall be separate.

6. This Order shall come into force on the 1st day of July, 1903.

7. This Order may be referred to as the Sanitary Accommodation Order of 4th February, 1903.

Appendix II.

SPECIAL CONDITIONS FOR FRUIT PRESERVING.

ORDER DATED SEPTEMBER 11TH, 1907.

1907. No. 728.

In pursuance of sections 41 and 58 of the Factory and Workshop Act, 1901, I hereby order that the following conditions shall be observed in factories and workshops in which women or young persons are employed in the process of cleaning or preparing fruit in pursuance of the special exception allowed by section 41 :—

Provided that the conditions prescribed in paragraphs 1, 2, 3 (e), 3 (f), and 4 shall not take effect until June 1st, 1908.

1. There shall be sufficient and suitable sanitary accommodation for the use of all persons employed, as defined in the Special Order made by the Secretary of State under section 9 of the Factory and Workshop Act, 1901.

2. There shall be sufficient and suitable washing accommodation for the use of all persons employed in cleaning or preparing fruit.

3. In each room in which women or young persons are employed in pursuance of the special exception :—

(a) There shall be not less than 400 cubic feet of air space for each person employed in the room.

(b) If any process is carried on which entails the giving off of steam, a fan or other efficient means shall be maintained and used for the removal of steam at or near to the point of origin.

(c) A thermometer shall be kept affixed.

(d) The floors shall be maintained in good condition ; and, if any wet process is carried on, so drained as to carry the wet away from the workers.

(e) The walls and ceilings shall once in every six months be limewashed, or, if the surface be such as not to admit of limewashing, washed.

(f) There shall be adequate lighting.

4. No woman or young person shall be employed in pursuance of the special exception unless and until the occupier holds a certificate from the inspector of the district, to the effect that provision has been made to his satisfaction for compliance with the foregoing requirements of this Order, for the maintenance of reasonable temperature, and for ventilation.

Such certificate shall be in writing, and shall be kept attached to the general register, and shall be revocable at any time by one week's notice in writing from the inspector of the district.

5. No young person shall be employed to lift, carry, or move any weight so heavy as to be likely to cause injury to such young person.

6.—(a) No woman or young person shall be employed before six o'clock in the morning or after ten o'clock in the evening.

(b) In the case of young persons, a period of not less than ten hours shall elapse between the termination of work on one day and the commencement of work on the following day.

7. No woman or young person shall be employed continuously for more than five hours without an interval of at least half an hour.

8. There shall be an interval of one hour at least, either at the same time or at different times, before three o'clock in the afternoon.

9. No woman or young person shall be employed in pursuance of the exception who has since the first day of October last preceding been employed by the same occupier outside the ordinary period of employment in pursuance of any other special exception.

10. The occupier shall each year, before employing any person in pursuance of the special exception, enter in the prescribed notice, which shall be kept affixed in the factory or workshop, the name of such person, and whether under 16, under 18, or over 18 years of age, and a declaration that such person has not been employed outside the ordinary period of employment in pursuance of any other special exception since the first day of October last preceding.

11. On every day on which a woman or young person is employed in pursuance of the special exception, the occupier shall enter in the prescribed register, and report to the inspector of the district in the prescribed form, the hour at which the fruit arrived at the factory or workshop, the processes on which women or young persons were employed in pursuance of the exception, the periods of employment of such women and young persons, and the intervals allowed them for meals.

12. The Order of 17th June, 1902, is hereby repealed.

CONDITIONS OF EMPLOYMENT IN CASES OF SPECIAL EXCEPTIONS.

ORDER OF THE SECRETARY OF STATE, DATED DECEMBER 20TH, 1882 (*a*), IMPOSING CONDITIONS OF EMPLOYMENT IN CASES OF SPECIAL EXCEPTIONS.

Whereas the Factory and Workshop Act, 1878 (*b*), part 2, section 63, provides as follows :—

Where it appears to the Secretary of State, that the adoption of any special means or provision for the cleanliness or ventilation of a factory or workshop is required for the protection of the health of any child, young person, or woman employed, in pursuance of an exception under this part of this Act, either for a longer period than is otherwise allowed by this Act, or at night, he may by order made under this part of this Act direct that the adoption of such means or provisions shall be a condition of such employment :

And whereas it appears to me that special means or provisions for the ventilation of factories and workshops is required for the protection of the health of the young persons and women employed in pursuance of an exception made under part 2, section 53, of the said Act for a longer period than is otherwise allowed by the said Act :

Now I, the Right Honourable William Vernon Harcourt, one of Her Majesty's principal Secretaries of State, by this Order, made under the said sixty-third section, direct that it shall be a condition of the employment in any factory or workshop mentioned in Part III. of Schedule III. to the same Act of any young person or woman, in pursuance of an exception under the said fifty-third section, that there shall be a cubic space of at least four hundred feet for every young person and woman so employed.

This Order shall come into effect on 1st January, 1883, and shall continue in force until revoked.

S. R. & O., 1911, No. 394.

THE HOME WORK ORDER OF THE 10TH APRIL, 1911.

In pursuance of sections 107, 108, and 110 of the Factory and Workshop Act, 1901, I hereby make the following Order :—

1. Section 107 (relating to lists of out-workers) and section 108 (relating to employment in unwholesome premises) shall apply to the following classes of work :—

The making, cleaning, washing, altering, ornamenting, finishing, and repairing of wearing apparel ;

The making up, ornamenting, finishing and repairing of table linen, bed linen or other household linen (including in the term linen articles of cotton or cotton linen mixtures) and any processes incidental thereto ;

(*a*) So far as the Factories are concerned, s. 3 of the Factory and Workshop Act, 1901, has superseded the provisions of the Order. In the case of workshops, however, the effect of that section is not to supersede the Order, but to give to the local authority a co-ordinate power to deal with overcrowding under the law relating to public health ; the Order, therefore, remains in full force so far as regards workshops, and the condition which it imposes on the working of overtime in workshops is enforceable by the factory inspectors.

(*b*) 41 & 42 Vict. c. 16 ; now see s. 58 of the Factory and Workshop Act, 1901.

Appendix II.

The making, ornamenting, mending, and finishing of lace and of lace curtains and nets;
The making of curtains and furniture hangings and any processes incidental thereto;
Cabinet and furniture making and upholstery work;
The making of electro-plate;
The making of files;
The manufacture of brass and of any articles or parts of articles of brass (including in the term brass any alloy or compound of copper with zinc or tin).
Fur-pulling;
The making of iron and steel cables and chains;
The making of iron and steel anchors and grapnels;
The making of cart gear, including swivels, rings, loops, gear buckles, mullin bits, hooks, and attachments of all kinds;
The making of locks, latches, and keys;
The making or repairing of umbrellas, sunshades, parasols, or parts thereof;
The making of artificial flowers;
The making of nets other than wire nets;
The making of tents;
The making or repairing of sacks;
The covering of racquet or tennis balls;
The making of paper bags;
The making of boxes or other receptacles or parts thereof made wholly or partially of paper, cardboard, chip, or similar material;
The making of brushes;
Pea picking;
Feather sorting;
The carding, boxing, or packeting of buttons, hooks and eyes, pins, and hair pins;
The making of stuffed toys;
The making of baskets;
And any processes incidental to the above.

2. Section 110 (relating to the prohibition of home work in places where there is infectious disease) shall apply to the following classes of work:—

The making, cleaning, washing, altering, ornamenting, finishing, and repairing of wearing apparel and any work incidental thereto (as in the said section specified);
The making up, ornamenting, finishing and repairing of table linen, bed linen or other household linen (including in the term linen articles of cotton or cotton and linen mixtures) and any processes incidental thereto;
The making, ornamenting, mending, and finishing of lace and of lace curtains and nets;
The making of curtains and furniture hangings and any processes incidental thereto;
Upholstery work;
Fur-pulling;
The making or repairing of umbrellas, sunshades, parasols, or parts thereof;
The making of artificial flowers;
The making of nets other than wire nets;
The making of tents;
The making or repairing of sacks;
The covering of racquet or tennis balls;
The making of paper bags;
The making of boxes or other receptacles or parts thereof made wholly or partially of paper, cardboard, chip, or similar material;
The making of brushes;
Pea picking;
Feather sorting;
The carding, boxing, or packeting of buttons, hooks and eyes, pins, and hair pins;
The making of stuffed toys;
The making of baskets;
And any processes incidental to the above.

3. The lists of out-workers required to be kept by section 107 and the copies thereof shall be kept and made in the form and manner and with the particulars shown in the schedule hereto.

4. This Order may be referred to as the Home Work Order of the 10th April, 1911.

5. The Home Work Order of the 23rd May, 1907, is hereby revoked.

SCHEDULE.

LIST OF OUT-WORKERS.

A correct list of out-workers employed in the following classes of work—

(1) the making, cleaning, washing, altering, ornamenting, finishing, and repairing of wearing apparel;
(2) the making-up, ornamenting, finishing and repairing of table linen, bed linen, or other household linen (including in the term linen articles of cotton or cotton and linen mixtures) and any processes incidental thereto;
(3) the making, ornamenting, mending, and finishing of lace and of lace curtains and nets;
(4) the making of curtains and furniture hangings and any processes incidental thereto;
(5) cabinet and furniture making and upholstery work;
(6) the making of electro-plate;
(7) the making of files;
(8) the manufacture of brass and of any articles or parts of articles of brass (including in the term brass any alloy or compound of copper with zinc or tin).
(9) fur-pulling;
(10) the making of iron and steel cables and chains;
(11) the making of iron and steel anchors and grapnels;
(12) the making of cart gear, including swivels, rings, loops, gear buckles, mullin bits, hooks, and attachments of all kinds;
(13) the making of locks, latches, and keys;
(14) the making or repairing of umbrellas, sunshades, parasols, or parts thereof;
(15) the making of artificial flowers;
(16) the making of nets other than wire nets;
(17) the making of tents;
(18) the making or repairing of sacks;
(19) the covering of racquet or tennis balls;
(20) the making of paper bags;
(21) the making of boxes or other receptacles or parts thereof made wholly or partially of paper, card board, chip, or similar material;
(22) the making of brushes;
(23) pea picking;
(24) feather sorting;
(25) the carding, boxing, or packeting of buttons, hooks and eyes, pins, and hair pins;
(26) the making of stuffed toys;
(27) the making of baskets;
and any processes incidental to the above;

must be kept in the form and with the particulars specified below in the factory or workshop or place from which the work is given out, and must be open to inspection by H.M. inspectors and the officers of the local authority; and a copy of the list signed and dated and corrected up to that date must be forwarded to the local authority of the district on or before the first day of February and on the first day of August in each year.

In order that the list may be correct, the name of any person newly taken into employment should be immediately entered, and the name of any person ceasing to be employed should be immediately struck out.

* * * * * *

S. R. & O., 1912, No. 158.

THE HOME WORK ORDER OF THE 9TH FEBRUARY, 1912.

In pursuance of sections 107, 108, and 110 of the Factory and Workshop Act, 1901, I hereby make the following Order:—

1. Section 107 (relating to lists of out-workers), section 108 (relating to employment in unwholesome premises), and section 110 (relating to the prohibition of home work in places where there is infectious disease) shall apply to the following classes of work:—

THE MANUFACTURE OF CHOCOLATES OR SWEETMEATS, AND ANY WORK INCIDENTAL THERETO.

2. The lists of out-workers required to be kept by section 107 and the copies thereof shall be kept and made in the form and manner and with the particulars shown in the schedule to the Home Work Order of the 10th April, 1911.

3. This Order may be referred to as the Home Work Order of the 9th February, 1912.

S. R. & O., 1913, No. 91.

THE HOME WORK ORDER OF THE 20TH JANUARY, 1913.

In pursuance of sections 107, 108, and 110 of the Factory and Workshop Act, 1901, I hereby make the following Order :—

1. Section 107 (relating to lists of outworkers), section 108 (relating to employment in unwholesome premises) and section 110 (relating to the prohibition of home work in places where there is infectious disease) shall apply to the following classes of work :—

1. The making or filling of cosaques, Christmas crackers, Christmas stockings or similar articles or parts thereof, and any work incidental thereto.
2. The weaving of any textile fabric, and any process incidental thereto.

2. The lists of outworkers required to be kept by section 107 and the copies thereof shall be kept and made in the form and manner and with the particulars shown in the schedule to the Home Work Order of the 10th April, 1911.

3. This Order may be referred to as the Home Work Order of the 20th January, 1913.

S. R. & O., 1917, No. 1068.

ORDER DATED OCTOBER 9, 1917, MADE BY THE SECRETARY OF STATE UNDER SECTION 7 (1) OF THE POLICE, FACTORIES, ETC. (MISCELLANEOUS PROVISIONS) ACT, 1916, IN REGARD TO THE SUPPLY OF DRINKING WATER AT CERTAIN FACTORIES AND WORKSHOPS.

In pursuance of section 7 of the Police, Factories, etc. (Miscellaneous Provisions) Act, 1916, I hereby make the following Order, and direct that it shall apply to all factories and workshops in which 25 or more persons are employed.

1. In every factory or workshop to which this Order applies the occupier shall provide and maintain at suitable points, conveniently accessible at all times to all persons employed—

(*a*) an adequate supply of wholesome drinking water from a public main or from some other source of supply approved in writing by the local authority of the district in which the factory or workshop is situated, which shall be either laid on or contained in a suitable vessel;

(*b*) (except where the water is delivered in an upward jet from which the workers can conveniently drink) at least one suitable cup or drinking vessel at each point of supply, with facilities for rinsing it in drinking water.

Each drinking water supply shall be clearly marked "Drinking Water."

2. All practicable steps shall be taken to preserve the water and vessels from contamination.

3. This Order shall come into force on the 1st December, 1917.

THE MINISTRY OF HEALTH (FACTORIES AND WORKSHOPS TRANSFER OF POWERS) ORDER, 1921.

At the Court at Buckingham Palace, the 27th day of July, 1921.

* * * * * *

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Ministry of Health (Factories and Workshops Transfer of Powers) Order, 1921.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

2.—(1) On and after the date of this Order, the powers and duties of the Secretary of State under the Factory and Workshop Act, 1901, so far as they relate to the supervision and enforcement of the provisions of the sections of that Act set out in the schedule to this Order, shall be transferred to the Minister of Health.

(2) References to inspectors in the said Act shall, so far as relates to powers and duties conferred and imposed on inspectors with reference to the provisions of the sections set out in the said schedule, be deemed to be references to inspectors appointed by the Minister of Health.

3. References to the Minister of Health shall be substituted for references to the secretary of state in sub-section (5) of section 110 of the said Act, and in section 120 of the said Act so far as that section relates to proceedings for the enforcement of any of the provisions of the sections set out in the said schedule.

ALMERIC FITZROY.

SCHEDULE.

No. of Section.	Subject matter.
Section 61.	Prohibition of employment of women after childbirth.
Sections 97 to 100 (both inclusive).	Provisions relating to bakehouses.
Section 109.	Making of wearing apparel where there is scarlet fever or smallpox.
Section 110.	Prohibition of home work where there is infectious disease.

CIRCULAR TO SANITARY AUTHORITIES.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
October 2, 1921.

SIR,—I am directed by the Minister of Health to forward for the information of the local authority, copies of the Ministry of Health (Factories and Workshops Transfer of Powers) Order, 1921, made under the Ministry of Health Act, by which the powers and duties of the Secretary of State, under the undermentioned sections of the Factory and Workshop Act, 1901, are transferred to the Minister of Health, namely:—

Section 61.—Prohibition of employment of women after childbirth.
Sections 97–100.—Provisions relating to bakehouses.
Section 109.—Making of wearing apparel where there is scarlet fever or smallpox.
Section 110.—Prohibition of homework where there is infectious disease.

PROHIBITION OF EMPLOYMENT OF WOMEN AFTER CHILDBIRTH.

Section 61 of the Act provides that the occupier of a factory or workshop shall not knowingly allow a woman or girl to be employed therein within four weeks after she has given birth to a child. This section is extended to laundries by section 103 of the Act.

The Minister trusts that local authorities administering maternity and child welfare schemes will assist occupiers of factories, workshops, and laundries in observing the provisions of this section, so far as they are in a position to do so. He would be glad if all local authorities would in the future communicate with this department on any points which may arise under this section.

BAKEHOUSES.

It seems to the Minister that the enforcement of the provisions relating to bakehouses can better be undertaken locally than centrally, especially as the work is of the same character as that at present performed by the sanitary staff of local authorities in relation to retail bakehouses under section 102 of the Act of 1901.

The actual amount of additional work involved will be very small, as it is believed that the number of wholesale bakehouses in England and Wales is less than two thousand.

In addition to their duties in relation to retail bakehouses under section 102, local authorities are also charged with the certification of underground bakehouses under section 101. Under section 98 the authority have concurrent powers with the factory inspector to undertake a prosecution in the case of a bakehouse which is unsuitable on sanitary grounds. The Minister understands that the power of prosecution under this section has in the past been mainly exercised by the factory inspector, but he suggests that in future it should be wholly exercised by the local authority. Local authorities have no specific powers of enforcement in regard to sections 97, 99 and 100, but it is suggested that where an offence is committed under any of these sections, and the defect is not remedied at the suggestion of the authority, proceedings could usually be undertaken under the general terms of section 98. In any case, where this cannot be done, the Minister would be glad if the facts were referred to him.

Reference may also be made to section 125 under which the local authority and their officers have all necessary powers of entry, inspection, etc.

HOMEWORK IN INFECTED PREMISES.

The powers and duties of local authorities under sections 109 and 110, relating to homework in premises where there is infectious disease are not affected by the transfer to the Minister of jurisdiction in regard to these sections, and there is no alteration of the classes of work to which the sections have hitherto applied.

The Minister considers it desirable, however, to draw the attention of the local authorities to the provisions of sub-section 5 of section 110 under which the section may be applied by special order of the Secretary of State (now the Minister of Health) to other classes of work besides those specified in the sub-section, and to Article 2 of the Homework Order of the 10th April, 1911, which applied the sub-section to various classes of work in addition to those specified therein.

The attention of the medical officer of health should be drawn to the provisions of the Order, and it is requested that the duplicate copy of the Order and of this Circular may be handed to him.

I am, etc.

FIRE BRIGADES.

S. R. & O., 1926, No. 232.

PENSION.

FIRE BRIGADE PENSIONS.

RULES, DATED 8TH MARCH, 1926, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT, WITH REGARD TO APPEALS UNDER SECTION 10 (8) OF THE FIRE BRIGADE PENSIONS ACT, 1925 (15 & 16 GEO. 5, c. 47).

1. In these Rules—

   (i) " The Act " means the Fire Brigade Pensions Act, 1925.

   (ii) " Appeal " means an appeal under section 10 (8) of the Act.

   (iii) " Appellant" means a serving or retired professional fireman who gives notice to the local authority of his desire to appeal under section 10 (8) of the Act.

(iv) "The local authority" means the local authority on whose behalf a serving or retired professional fireman is examined by a medical practitioner for the purposes of section 10 of the Act, and includes any officer authorised by the local authority to act on their behalf in the matters referred to therein.

(v) "Referee" means the independent person nominated by the Secretary of State for the purposes of section 10 (8) of the Act.

2. Every opinion given by the medical practitioner selected by the local authority on any question referred to him under section 10 of the Act shall be stated in writing; and if the serving or retired professional fireman to whom the opinion relates applies, within 14 days of his being informed of the decision of the local authority, for a copy of that opinion, it shall be supplied to him by the local authority; and he shall be entitled to appeal against the opinion so given, if, within 14 days after the copy of the opinion has been sent to him, or such longer period as the local authority may fix, he gives notice in writing to the local authority of his desire to appeal. Any such notice shall be accompanied by a written statement of the grounds on which he desires to appeal against the opinion of the medical practitioner.

3. On receipt of such notice and statement, the local authority shall within 7 days forward to the Secretary of State two copies thereof and of the opinion which is the subject of the appeal, with particulars of the name of the appellant and the place where he resides.

4. When a referee has been nominated by the Secretary of State to act for the purposes of the appeal and has received from the Secretary of State copies of the documents referred to in the preceding paragraph, he shall as soon as may be appoint a time and place for proceeding with the consideration of the appeal, and shall send notice thereof in writing to the local authority and to the appellant.

Provided that where the referee is satisfied that the appellant is unable to travel, the place appointed shall be that at which the appellant resides.

5. The appellant and the local authority, on receipt of notice of the appointment of the referee, may forward to him in writing any further statements relative to the subject of the appeal which they may respectively desire to submit, and any such statements, if received by the referee before the appointed date, shall be considered by him. Where any such statements are forwarded to the referee a copy thereof shall at the same time be supplied by the local authority to the appellant, or by the appellant to the local authority, as the case may be.

6.—(*a*) It shall be the duty of the appellant to attend at the time and place appointed and, if he is a serving professional fireman, he shall be given such leave as may be necessary to enable him to attend. He shall submit himself to any medical examination which the referee may desire to make or may direct to be made.

(*b*) The medical practitioner whose opinion is the subject of the appeal, or any other duly qualified medical practitioner selected by the local authority, and a duly qualified medical practitioner chosen by the appellant may also attend.

7. In the event of failure of the appellant to attend at the time and place appointed, the referee may forthwith decide on the matter referred to him upon such information as shall then be available: provided that where the absence of the appellant is shown to the satisfaction of the referee to be unavoidable he shall, and on any other grounds he may at his discretion, adjourn the proceedings and resume them at such time and place as he may appoint, giving due notice to the local authority and to the appellant.

8. The referee shall notify his decision in writing to the local authority and to the appellant.

9. For the purposes of any appeal to which these Rules apply, the referee shall be entitled to fees and allowances as follows:—

(*a*) For deciding on the question referred to him in the appeal and for all duties performed in connection therewith, three guineas:

(*b*) Where for the purposes of the appeal the referee is compelled to travel to a place distant more than two miles from his residence, in addition to the above fee, five shillings for each mile beyond two, and up to ten, miles distant from such residence, and thereafter one shilling for each mile distant therefrom:

(c) The amount of any fees or expenses incurred by him with the approval of the Secretary of State in respect of any expert assistance which, in a case involving special difficulty, he may consider it necessary to obtain.

10.—(a) Except as hereinafter provided, all fees and allowances payable to the referee who acts for the purposes of the appeal and all expenses of the medical practitioner whose opinion is the subject of the appeal or of any other duly qualified medical practitioner selected by the local authority shall be paid by the local authority out of the fire brigade pension fund; and all expenses incurred by the appellant in attending before the referee at the time and place appointed and all fees or expenses of any medical practitioner chosen by the appellant shall be paid by the appellant.

(b) Where the referee decides in favour of the local authority, the local authority may, unless the referee otherwise directs, require the appellant to pay towards the costs of the appeal such sum as they may think fit, not exceeding the total amount of any fees and allowances payable by the local authority to the referee in respect of the appeal, and such sum shall be recoverable from him by the local authority, and may, if the local authority so direct, be deducted from any pay or pension due or which may become due to him. Any such sum shall be paid into the fire brigade pension fund.

(c) Where the referee decides in favour of the appellant, the local authority shall, unless the referee otherwise directs, refund to the appellant a sum equal to the amount of any personal expenses actually and reasonably incurred by him in respect of his attendance before the referee and, if a medical practitioner chosen by him has attended before the referee, the amount of any reasonable fees and expenses paid by the appellant in respect of such attendance: and any such sum shall be paid out of the fire brigade pension fund.

(d) If any question arises whether the decision is in favour of the local authority or of the appellant, it shall be determined by the referee.

(e) Where no fire brigade pension fund is established by the local authority, the payments directed in paragraphs (a), (b) and (c) of this rule to be made into or out of the fire brigade pension fund shall be made into or out of the district or other fund from which the expenses of the fire brigade are defrayed.

11. These Rules shall have effect as from the 1st April, 1926.

W. JOYNSON-HICKS,
One of His Majesty's Principal
Secretaries of State.

FOOD AND DRUGS.

See also DISEASES AND HOSPITALS, *ante*, p. 3139; MILK AND DAIRIES, *post*, p. 3558; AND SLAUGHTER HOUSES, *post*, p. 3759.

REGISTRATION OF MANUFACTORIES OF MARGARINE AND MARGARINE-CHEESE—GENERAL ORDER OF FEBRUARY 26TH, 1900.

* * * * * *

Now therefore, we, the Local Government Board, hereby order and direct as follows:

ARTICLE I. This Order shall come into operation forthwith, and shall remain in force until we shall otherwise direct; and the order of 1887 is hereby rescinded: Provided that in every case where a manufactory of margarine, or an owner or occupier carrying on the manufacture of margarine has been duly registered, and such registration has effect at the date of this Order, such registration shall, notwithstanding the rescission of the Order of 1887 but subject to the provisions of Article 4 of this Order, continue to have effect: Provided also, that any book which prior to the date of this Order has been used by a local authority in pursuance of the Order of 1887 for purposes of registration shall, so far as such book contains any entry applicable to any such case as aforesaid, be deemed to be part of the register of the local authority for the purposes of this Order.

ARTICLE II. Every owner or occupier of a manufactory of and every wholesale dealer in margarine or margarine-cheese in England and Wales who shall make application to the proper local authority for a certificate of registration under the Act of 1887 and the Act of 1899, or under either of the said Acts, shall, in his application, state the following particulars:

(a) The name and address of the owner or occupier or wholesale dealer making the application.
(b) The situation of the manufactory, or of the premises wherein the business of the wholesale dealer is carried on.
(c) The name and address, or names and addresses, of the owner or owners, or occupier or occupiers, or wholesale dealer or dealers, carrying on the manufacture or the business.

Every such application shall be signed by the person making the same, or by some one acting on his behalf.

ARTICLE III. If the application is in due form, the local authority shall cause the manufactory, or the premises, as the case may be, to be registered by entering in a book the particulars of the application for registration; and thereupon a certificate, in the Form (A.) set forth in the Schedule hereto, shall be issued by the local authority to the person applying for the same.

ARTICLE IV. Where any change occurs in the persons carrying on the manufacture, or the business, written notice thereof shall be given by the owner or occupier of the manufactory, or by the wholesale dealer carrying on the business, to the local authority, and the register shall thereupon be amended by making therein the requisite alteration, and an endorsement shall be made by the local authority on the certificate in accordance with the Form (B.) set forth in the said Schedule.

SCHEDULE.

* * * * * *

REGISTRATION OF BUTTER FACTORIES, AND OF FACTORIES OF AND DEALERS IN MILK-BLENDED BUTTER—GENERAL ORDER OF DECEMBER 28TH, 1907.

* * * * * *

Now therefore, we, the Local Government Board, hereby order and direct as follows:—

ARTICLE I. Every owner or occupier of a butter factory or of premises on which there is manufactured any milk-blended butter, or on which there is carried on the business of a wholesale dealer in milk-blended butter in England and Wales who shall make application to the proper local authority for a certificate of registration under the Act of 1887 as amended by the Act of 1899 and the Act of 1907, shall, in his application, state the following particulars:—

(a) The name and address of the owner or occupier making the application;
(b) The situation of the factory, or of the premises on which the manufacture, or the business of the wholesale dealer, is carried on;
(c) The name and address, or names and addresses, of the owner or owners, or occupier or occupiers, or wholesale dealer or dealers, carrying on the manufacture or the business;
(d) Whether the premises are proposed to be registered as—
    (i) a butter factory; or
    (ii) premises on which there is manufactured any milk-blended butter; or
    (iii) premises on which there is carried on the business of a wholesale dealer in milk-blended butter.

The application shall be signed by the person making the same, or by some one acting on his behalf.

ARTICLE II. If the application is in due form, the local authority shall cause the factory, or the premises, as the case may be, to be registered by entering in a book the particulars of the application for registration; and thereupon a certificate, in the Form A. set forth in the Schedule hereto, shall be issued by the local authority to the person applying for the same.

ARTICLE III. Where any change occurs in the persons carrying on the manufacture, or the business, written notice thereof shall be given by the owner or occupier of the butter factory, or of the premises on which the manufacture of milk-blended butter or the business of a wholesale dealer in milk-blended butter, as the case may be, is carried on, to the local authority, and the register shall thereupon be amended by making therein the requisite alteration, and an endorsement shall be made by the local authority in the certificate in accordance with the Form B. set forth in the said Schedule.

SCHEDULE.

* * * * * *

THE PUBLIC HEALTH (SHELL-FISH) REGULATIONS, 1915.

REGULATIONS PROHIBITING THE SALE OF SHELL-FISH TO CAUSE DANGER TO PUBLIC HEALTH.

* * * * * *

NOW THEREFORE, we, the Local Government Board, by this our Order, and in the exercise of the powers conferred upon us by the statutes in that behalf, do make the following regulations, that is to say :—

ARTICLE I.—In these regulations, unless the contrary intention appears :—

(*a*) The expression " Local Authority " means, as the case may be, a port sanitary authority, the mayor, aldermen and commons of the city of London in common council assembled, the council of a metropolitan borough, the council of a municipal borough or other urban district, or the council of a rural district;

(*b*) The expression " the district " means in the case of a port sanitary authority the district of the port sanitary authority, in the case of any local authority, part of whose district is situate in the district of a port sanitary authority, the remainder of the district of the local authority, and in every other case the district of the local authority;

(*c*) The expression " the notice " means the notice given by the local authority in pursuance of sub-division (1) of Article IV. of these regulations;

(*d*) The expression " the order " means the order made by the local authority in pursuance of sub-division (3) of Article IV. or in pursuance of Article V. or Article VI. of these regulations, as the case may be;

(*e*) The expression " laying " means any foreshore, bed, laying, pond, pit, ledge, float or other place where shell-fish are taken or deposited, and the expression " the laying " means the laying referred to in the notice or in the order, as the case may be;

(*f*) The expression " private laying " means a laying where shell-fish are not habitually taken or deposited except by the owner of the laying or his tenant or persons authorised by the owner or tenant;

(*g*) The expression " public laying " includes any laying which is not a private laying;

(*h*) The expression " the persons interested " means the persons interested in the laying or in the collection of shell-fish therefrom.

ARTICLE II.—(1) In any case in which the medical officer of health of a local authority is in possession of information that any person is suffering, or has recently suffered, from infectious or other disease attributable to shell-fish, or that the consumption of shell-fish exposed for sale within the district is likely to cause danger to public health, he shall take all such steps as are practicable to ascertain the laying or layings from which such suspected shell-fish were derived, and shall report thereon to the local authority.

(2) The local authority may require any fishmonger supplying shell-fish in the district to furnish to the medical officer of health, within a reasonable time fixed by them, a list of all the layings, so far as, with the exercise of due diligence, he can ascertain them, from which his supply of shell-fish is derived or has been derived during the six weeks last preceding the date of the requirement, together with any information in his possession which will assist the medical officer of health in ascertaining the particular laying or layings from which the suspected shell-fish were derived, and, if the supply or any part of it is obtained through any other fishmonger, may make a similar requisition upon that fishmonger, and a fishmonger on whom such a requisition is made shall comply with the requisition.

ARTICLE III.—The local authority shall, on receipt of the report of the medical officer of health, if the laying or layings from which the suspected shell-fish were derived has or have been ascertained and if the laying or layings is or are not situate in their district, make a representation to the local authority or local authorities of the district or districts in which the laying or layings is or are situate, and such representation shall be accompanied by a copy of the report of the medical officer of health, and by any other information which may be in the possession of the local authority indicating possible danger to the public health from the consumption of the shell-fish in question.

ARTICLE IV.—(1) In the case of a public laying the local authority of the district in which the laying is situate shall forthwith, on receipt of such a representation as is referred to in Article III. of these regulations, or, if the laying is situate in their own district, on receipt of the report of their medical officer of health,referred to in subdivision (1) of Article II. of these regulations, give to the persons interested notice to appear before them, within such time not less than twenty-one days as may be specified in the notice, to show cause why an order should not be made prohibiting, as the circumstances may require, the distribution for sale for human consumption of shell-fish brought from the laying, unless the shell-fish have been relaid for such period as the local authority, on the advice of their medical officer of health, may direct.

(2) The notice shall be given by advertisement published in each of two successive weeks in one or more local newspapers circulating in the district, and a copy of the notice shall be served, either personally or by post, upon every person known to the local authority to be interested in the laying referred to in the notice.

(3) If in the opinion of the local authority sufficient cause is not shown why an order should not be made by the local authority, then the local authority shall forthwith make such order as the circumstances require.

ARTICLE V.—In the case of a private laying the local authority of the district in which the laying is situate shall forthwith, on receipt of such a representation as is referred to in Article III. of these regulations, or, if the laying is situate in their own district, on receipt of the report of the medical officer of health referred to in subdivision (1) of Article II. of these regulations, communicate with the owner and occupier thereof, and if the owner or other the occupier is able and willing to give to the local authority an undertaking that he will forthwith carry out their requirements for dealing with the shell-fish taken from the laying or for prohibiting the taking of shell-fish therefrom and that he will not permit shell-fish to be taken therefrom otherwise than in accordance with such requirements, the local authority may accept the undertaking so given.

If such an undertaking is not given and sufficient cause is not shown why an order should not be made by the local authority, then the local authority shall forthwith make such order as the circumstances require.

ARTICLE VI.—(1) If the local authority of the district in which the laying is situate shall, on receipt of such a representation as is referred to in Article III. of these regulations, fail to give the notice provided for in Article IV. or to communicate with the owner and occupier as provided in Article V., as the case may be, or if after compliance with those Articles they shall refuse to make an order, then the local authority making the representation may appeal to us within fourteen days after the date of such refusal or after a period of six weeks has elapsed from the date of their representation without an assurance that the notice has been given or the communication made, and if, after such inquiry into the circumstances as we may deem necessary, we are satisfied that an order should be made, we may require the local authority of the district in which the laying is situate to make such order in the matter as we may think fit.

(2) For the purposes of this Article it shall be the duty of the local authority of the district in which the laying is situate forthwith to inform the local authority making the representation of their refusal to make an order.

ARTICLE VII.—A local authority shall, with as little delay as possible, inform us and the Board of Agriculture and Fisheries of any action taken under these regulations, and, when action has been taken by a local authority in whose district a laying is situate as a result of a representation from the local authority of another district, the like information shall be supplied to that local authority.

ARTICLE VIII.—(1) As soon as practicable after an Order under these regulations is made the local authority making the Order shall cause a copy of the Order to be served, either personally or by post, upon every person known to the local authority to be interested in the laying referred to in the order if the laying is a public laying, and on the owner, if any, and on the occupier, if any, if the laying referred to in the order is a private laying.

(2) The Order shall come into operation on the expiration of seven days from the date of compliance with subdivision (1) of this Article.

(3) As soon as practicable after the Order has come into operation the local authority shall, if the laying is a public laying—

(*a*) publish the Order in one or more local newspapers circulating in the district; and

(*b*) cause warning notices containing a copy of the order or a sufficient statement of its terms and printed in easily legible type to be posted in conspicuous places in the vicinity of the laying.

If the laying is a private laying the local authority may publish the order and cause warning notices to be posted if they consider it to be necessary or expedient.

ARTICLE IX.—(1) If at any time the local authority are satisfied that the conditions of the laying have so changed that any order may be withdrawn without prejudice to the public health, the local authority shall forthwith withdraw the Order and shall send a statement of the reasons for the withdrawal to us, and to the Board of Agriculture and Fisheries, and to the local authority of any district that has made a representation with regard to the laying in respect of which the order was made.

(2) In the event of an appeal being made under Article XI. of these regulations against the refusal of the local authority to withdraw the order, the order shall continue to be operative until and unless it is varied or withdrawn by us.

ARTICLE X.—(1) Where an order has been made by a local authority under these regulations and has come into operation, any person who for human consumption sells, or exposes, distributes, or offers for sale or has in his possession for the purposes of sale, contrary to the order, shell-fish brought from the laying shall be deemed to be acting in contravention of these regulations.

(2) Before proceedings are instituted against any person for a contravention of these regulations, the local authority shall afford him an opportunity of furnishing an explanation, in writing or otherwise, as they may appoint, and shall duly consider any such explanation, and all the circumstances of the case.

(3) A person shall not be liable under this Article if he did not know and could not with reasonable diligence have ascertained that the shell-fish in question were derived from a laying which had been the subject of an order made under these regulations.

ARTICLE XI.—(1) Any of the persons interested may appeal to us against an Order other than an Order made in pursuance of subdivision (1) of Article VI. of these regulations, within fourteen days after the date of compliance with subdivision (1) of Article VIII. of these regulations, or may after the expiration of that period appeal against the refusal of the local authority to withdraw such Order; and we may appoint an officer to hear the appeal and to report to us thereon, and may at any stage require the appellant to pay to us such sums as we deem right to secure the payment of any costs incurred by us in the matter of the appeal, and may confirm, vary, or withdraw the Order, and may direct to and by whom the costs of the appeal (including any sum paid or payable to us as aforesaid) are to be paid.

(2) The said officer shall, for the purposes of the appeal, have all the powers of an inspector of the Local Government Board under section 296 of the Public Health Act, 1875.

ARTICLE XII.—These regulations shall come into operation on the first day of March, one thousand nine hundred and fifteen, and may be cited as the Public Health (Shell-fish) Regulations, 1915.

CIRCULAR. PORT SANITARY AUTHORITIES, METROPOLITAN BOROUGH COUNCILS, COUNCILS OF BOROUGHS, AND URBAN AND RURAL DISTRICTS.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.
February 17*th*, 1915.

PUBLIC HEALTH (SHELL-FISH) REGULATIONS, 1915.

SIR,—I am directed by the Local Government Board to transmit to you the accompanying copies of an Order which they have issued in pursuance of the Public Health (Regulations as to Food) Act, 1907 (7 Edw. 7, c. 32), containing regulations prohibiting the sale of shell-fish likely to cause danger to public health.

Numerous representations have been made by local authorities to the Board to the effect that further powers are required to prevent danger to health from the consumption of shell-fish which have been grown or fattened in polluted waters, and these were submitted to the royal commission on sewage disposal. The commissioners stated in their fourth report that they were satisfied, after carefully considering the whole of the evidence on the point, that a considerable number of cases of enteric fever and of other illness were caused by the consumption of shell-fish which had been exposed to sewage contamination, and they made certain recommendations for preventing the sale of polluted shell-fish for human consumption.

Opportunity has not yet arisen for altering the law in the way recommended by the commission, and the present Order has been made with a view to the provision of an alternative procedure under powers which the Board already possess. In framing the regulations the Board have taken the opportunity of consulting the Fishmongers' Company, and several suggestions made by the Company have been incorporated in the Order.

Machinery is provided by the regulations for the closing of shell-fish layings in regard to which there is evidence to show that shell-fish from such layings have actually caused infectious or other disease, or are likely to be a source of danger to public health. The power to close layings is vested by the Order in the sanitary authority of the district in which the layings are situated, and a right of appeal to the Board is provided for in the particular cases specified in Articles VI. and XI. of the regulations.

It will be seen that the sanitary authority of the district in which the layings are situated are required to take action on receipt of a representation from another local authority, in whose district the shell-fish are consumed, indicating that the shell-fish have caused or are likely to cause infectious or other disease, or, on the report of their own medical officer of health, if such shell-fish are found in their own district.

Apart from any representation from another district, the medical officer of health of every district in which shell-fish are laid should examine the conditions of the layings in his district and should report to the local authority any cases in which the layings are so situated as to be liable to dangerous contamination, with a view to steps being taken under the regulations to prevent shell-fish being distributed for sale for human consumption from such layings unless the shell-fish have been relaid in fresh water for a period sufficient to free them from contamination. The

Appendix II. Board are advised that, as a general rule, the period of relaying required to rid shell-fish of micro-organisms should not be less than a fortnight.

In this connection I am directed to say that the Board consider it of great importance that any action taken with a view to the closing of a laying should be based rather on epidemiological and topographical considerations than on the results of bacteriological analysis. On this point it may be well to refer to the findings of the commissioners on sewage disposal, who in paragraph 64 of their fourth report state that in their opinion they would not be justified in recommending "that the closing of a foreshore, laying or pond should depend, *as a matter of routine*, on the results of a bacteriological examination." I am also to direct your attention to the following extract from that report:—

> "65. It will be seen from the evidence of Dr. Bulstrode and others that in the great majority of the cases in which outbreaks of disease have been clearly traced to shell-fish, the foreshores, layings or ponds from which the shell-fish have been procured have been so situated that the opportunities of pollution by sewage have been obvious and indisputable. That is to say, the foreshores, layings or ponds in question were such as would have been condemned on a careful examination by a trained person without the aid of bacteriological examination of the water or the shell-fish.
>
> "Having regard to the number of such foreshores, layings and ponds obviously liable to pollution which Dr. Bulstrode has noted in England and Wales, and Dr. Browne in Ireland, we think that in the light of experience we are justified in concluding that, *if those were closed, or else freed from chance of pollution, the greater number of cases of disease due to the consumption of contaminated shell-fish would be eliminated.*"

The regulations will take effect from the 1st day of March, 1915. The Board are anxious to secure uniformity in the administration of the regulations, and will be glad to have their attention drawn to any cases of difficulty which may arise.

A copy of the Order and of this circular are enclosed for transmission to the medical officer of health.

The Order and this circular will be placed on sale so that additional copies may shortly be obtained, either directly or through any bookseller, from Messrs. Wyman and Sons, Limited, 29, Bream's Buildings, Fetter Lane, London, E.C.

I am, etc.,

The Clerk,
Town Clerk,
or
The Clerk to the Council.

S. R. & O., 1924, No. 1432.

THE PUBLIC HEALTH (MEAT) REGULATIONS, 1924, DATED DECEMBER 20, 1924, MADE BY THE MINISTER OF HEALTH UNDER THE PUBLIC HEALTH (REGULATIONS AS TO FOOD) ACT, 1907 (*a*).

67,779.

The Minister of Health, in pursuance of his powers under the Public Health (Regulations as to Food) Act, 1907, and of all other powers enabling him in that behalf hereby makes the following Regulations:—

PART I.—GENERAL.

1. These Regulations may be cited as the Public Health (Meat) Regulations, 1924, and shall come into operation on the 1st day of April, 1925.

2.—(1) In these Regulations, unless the context otherwise requires—

"The Minister" means the Minister of Health;

"Local authority" means the Common Council of the City of London, the Council of a Metropolitan Borough, the Council of a Municipal Borough or other

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(*a*) As to these regulations, see a Circular dated 12th June, 1925, at p. 3762, *post.*

Urban District, the Council of a Rural District or the Council of the Isles of Scilly;

"Medical Officer of Health" includes any person temporarily acting in that capacity;

"Inspector" means the Medical Officer of Health or any other officer of a local authority, having under the Acts relating to Public Health or any local Act power to inspect and examine meat intended for the food of man;

"Meat" means the flesh of cattle, swine, sheep, or goats, including bacon and ham and edible offal and fat, which is sold or intended for sale for human consumption, and "animal" means any animal from which meat is derived;

"Slaughter-house" means such part of a slaughter-house, as defined in section 4 of the Public Health Act, 1875, as is used for the slaughtering of animals or the dressing or hanging of carcases for human consumption;

"Stall" includes any stall, barrow or vehicle from which meat is offered for sale in a street or other open space or in any market place;

"Room" includes a shop, cellar, passage or other space forming the whole or part of a building other than a slaughter-house as above defined;

"Vehicle" includes a railway or other van or waggon and a ship or barge but does not include any separate compartment thereof in which meat is not being conveyed.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The local authority shall enforce and execute the provisions of these Regulations in their district:

Provided that a port sanitary authority shall also be an authority for enforcing and executing the provisions of Part VI. within their district.

4. The medical officer of health, the sanitary inspector and any other officer of a local authority or port sanitary authority duly authorised by the authority in writing shall for the purpose of ascertaining whether these Regulations are being observed have power at all reasonable times to enter and inspect any slaughter-house, room or other place and any stall or vehicle to which these Regulations apply.

5. A person shall, if so required, give to any officer of a local authority acting in the execution of these Regulations, all reasonable assistance in his power, and shall, in relation to anything within his knowledge, furnish any such officer with all information he may reasonably require for the purposes of these Regulations.

6. No person who is for the time being suffering from an infectious disease to which the Infectious Disease (Notification) Act, 1889, applies shall take part in the slaughtering of animals intended for human consumption or the handling of meat.

PART II.—SLAUGHTER-HOUSES AND SLAUGHTERING.

7.—(1) This part of these Regulations shall not apply so as to interfere with the operation or effect of the Diseases of Animals Acts, 1894 to 1922, or of any Order, licence or act of the Minister of Agriculture and Fisheries, made, granted or done thereunder.

(2) Articles 8, 9, 10 and 11 of these Regulations shall not apply where the slaughter takes place in a slaughter-house under the management of a local authority.

8. A person shall not slaughter an animal for sale for human consumption unless he has not less than three hours before the time of slaughtering delivered or caused to be delivered to the local authority notice of the day and time and of the place on and at which the slaughtering will take place:

Provided that—

(1) Where it is the regular practice in any slaughter-house to slaughter animals at fixed times on fixed days and written notice of this practice has been given to the local authority special notice under this Article shall not be required to be given in respect of any animal slaughtered in accordance with such practice;

(2) Where by reason of accidental injury, illness, or exposure to infection, it is necessary that an animal should be slaughtered without delay, the provisions of this Article shall be deemed to be satisfied if notice of the slaughter is given to the local authority as soon as reasonably possible, whether before or after the slaughtering takes place.

9. Where on the slaughter of an animal for sale for human consumption it appears that any part of the carcase or internal organs is or may be diseased or unsound the person by or on whose behalf the animal was slaughtered shall forthwith give notice of the fact to the local authority.

10. Except as hereinafter provided, the person by or on whose behalf an animal is slaughtered for sale for human consumption, shall not cause or permit the carcase of the animal, including the mesentery and internal organs other than the stomach, intestines and bladder, to be removed from the place of slaughter until such carcase with its organs has been inspected, or its removal has been authorised, by an inspector of the local authority:

Provided that—

(1) This Article shall not apply in the case of a sheep or in the case of any animal in respect of whose slaughter special notice is not required to be given by reason of proviso (1) to Article 8, unless some part of the carcase or organs appears to be diseased or unsound;

(2) The removal may in any case take place at the expiration of three hours from the time of slaughter or six hours from the delivery of any notice relating thereto under Article 8 or 9 whichever time may be later, save that if such time falls between 7 p.m. on one day and 7 a.m. on the next day, the removal shall not take place before 7 a.m.;

(3) Where the animal was slaughtered by reason of accidental injury and the place of slaughter is unsuitable for the retention of the carcase, the carcase and organs may be removed to some convenient place, but the notice required to be given under Article 8 shall be given to the local authority in whose district that place is situated and Article 8 of this Article shall have effect as if that place were substituted for the place of slaughter.

11.—(1) The notices to be given to the local authority under Articles 8 and 9 of these Regulations shall be given to such officer and delivered at such address as the local authority may direct and in the absence of any such direction shall be given to the medical officer of health and delivered at his office. The effect of any direction given under this paragraph shall be communicated to the occupier of every slaughter-house in the district and published in one or more local newspapers circulated within the district.

(2) Any such notice, other than a notice of regular slaughtering, may be given orally; and any such notice may be served by letter addressed to the proper officer and delivered at, or prepaid and posted to, the proper address, and in the case of a notice sent by post shall for the purposes of these Regulations be deemed to have been delivered at the time at which it would have been delivered in the ordinary course of the postal service.

12.—(1) No gut-scraping, tripe-cleaning, manufacture or preparation of articles of food for man or for animals, household washing or work of any nature, other than is involved in the slaughter and the dressing of carcases, shall be carried on in any slaughter-house.

(2) No articles shall be stored in any slaughter-house except such implements, appliances, receptacles and other articles as are required for the slaughter of animals and processes directly connected therewith, including the dressing, hanging and storage of carcases, the cleansing of the slaughter-house and the removal of refuse.

13. No person shall blow or inflate with his breath, or in any other manner likely to cause infection or contamination, the carcase or any part of the carcase of any animal slaughtered for human consumption.

14. No person shall use a slaughter-house for the slaughter of any animal which previous to slaughter is not intended for human consumption.

PART III.—MEAT MARKING.

15.—(1) Where a local authority show to the satisfaction of the Minister that they have made suitable arrangements (including the appointment or employment of competent inspectors) for the inspection of animals at the time of slaughter, the Minister may, on the application of the authority, and subject to such conditions, if any, as he may impose, authorise them to use for the purpose and in the manner specified in these Regulations a distinctive mark of a design approved by him and so devised as to indicate the identity of the local authority and of the inspector using the mark.

(2) An inspector of a local authority whose mark has been approved by the Minister shall not affix or impress the same to or on any part of the carcase of an animal slaughtered for the food of man unless he has inspected the whole carcase with the organs in position and such part has appeared to him to be free from disease, sound, wholesome and fit for the food of man.

(3) The local authority and their inspectors shall comply with any directions given by the Minister as to the use of such mark, and they shall not cause the mark to be affixed to or impressed on any carcase except at the request or with the consent of the person having possession of the carcase at the time of inspection.

(4) The Minister may at any time revoke his authorisation of the use of a mark or his approval of a mark adopted as aforesaid.

16. No local authority shall use or permit to be used a mark indicating that the carcase or any part of the carcase of an animal for human consumption has been inspected unless they have been authorised and such mark has been approved by the Minister and such authorisation and approval have not been revoked.

17. No other person other than an inspector of a local authority authorised as aforesaid shall make use of a mark adopted and approved as aforesaid, and no person shall make use of any mark so resembling a mark adopted and approved as aforesaid as to be calculated to deceive.

18.—(1) The local authority may determine the charges (if any) to be made for the marking of carcases either according to the number of carcases marked or on such other basis as they may think fit, but the charge so determined shall not in any case exceed a sum calculated at the rate of one shilling for each carcase or part of a carcase marked.

(2) Any such charge shall be recoverable summarily as a civil debt from the person requesting or consenting to the marking.

PART IV.—STALLS.

19. A person selling meat or exposing or offering meat for sale from any stall—

(*a*) shall keep his name and address legibly painted or inscribed on such stall in some conspicuous position;

(*b*) shall cause such stall (if not placed in an enclosed and covered market place) to be suitably covered over and to be screened at the sides and back thereof in such a manner as to prevent mud, filth or other contaminating substance being splashed or blown from the ground upon any meat on the stall;

(*c*) shall cause every counter, slab, vessel or other article on or in which meat is placed for sale and all knives and other implements used in connection with the meat to be thoroughly cleansed after use and to be kept at all times in a cleanly condition;

(*d*) shall take all such steps as may be reasonably necessary to guard against the contamination of the meat by flies;

(*e*) shall not place or cause to be placed any meat on, or within eighteen inches of the ground or floor, unless the meat is placed in a closed cupboard or other adequately protected space not less than nine inches from the ground or floor;

(*f*) shall cause all trimmings, refuse and rubbish to be placed in properly covered receptacles kept for the purpose apart from any meat intended for sale.

PART V.—SHOPS, STORES, ETC.

20.—(1) The occupier of any room in which any meat is sold or exposed for sale or deposited for the purpose of sale or of preparation for sale or with a view to future sale, and any person who knowingly lets any room or suffers any room to be occupied for such purpose shall cause the following provisions to be complied with :—

(*a*) No urinal, water-closet, earth-closet, privy, ashpit or other like sanitary convenience shall be within such room or shall communicate directly therewith, or shall be otherwise so placed that offensive odours therefrom can penetrate to such room ;

(*b*) No cistern for supplying water to such room shall be in direct communication with or directly discharge into any such sanitary convenience ;

(*c*) No drain or pipe for carrying off fæcal or sewage matter shall have any inlet or opening within such room unless it is efficiently trapped ;

(*d*) No such room shall be used as a sleeping place, and, so far as may be reasonably necessary to prevent risk of the infection or contamination of any such meat as aforesaid, no sleeping place shall communicate directly with such room.

(*e*) Except in the case of a room used as a cold store, adequate means of ventilation shall be provided.

(2) The occupier of any such room shall not cause or suffer any refuse or filth whether solid or liquid to be deposited or to accumulate therein except so far as may be reasonably necessary for the proper carrying on of the trade or business.

(3) Such occupier shall cause the walls and ceiling of such room to be whitewashed, cleansed or purified as often as may be necessary to keep them in a proper state.

(4) Such occupier and every other person engaged in such room shall observe due cleanliness in regard to such room and all articles, apparatus and utensils therein.

(5) The occupier of any such room—

(*a*) shall take all such steps as may be reasonably necessary to guard against the contamination of the meat therein by flies and shall cause the meat to be so placed as to prevent mud, filth, or other contaminating substance being splashed or blown thereon ;

(*b*) shall not permit any gut-scraping, tripe-cleaning or household washing to be carried on therein ;

(*c*) shall cause every counter, slab, vessel or other article on or in which meat is placed for sale and all knives and other implements used in connection with the meat to be thoroughly cleansed after use and to be kept at all times in a cleanly condition ;

(*d*) shall cause all trimmings, refuse and rubbish to be placed in properly covered receptacles kept for the purpose apart from any meat intended for sale.

PART VI.—TRANSPORT AND HANDLING.

21.—(1) Every person who conveys or causes to be conveyed any meat in a vehicle—

(*a*) shall cause to be kept clean the inside and covering of the vehicle, the receptacles in which the meat is placed, and such parts of any slings or other implements or apparatus used for loading or unloading as come into contact with the meat or its covering ; and

(*b*) if the vehicle is open at the top, back, or sides or if any other commodity is being conveyed therein, shall cause the meat to be adequately protected by means of a clean cloth or other suitable material ;

(*c*) shall not permit any live animal to be conveyed in the vehicle at the same time as meat.

(2) A person engaged in the handling or transport of meat—

(*a*) shall not permit any part of the meat to come into contact with the ground ; and

(*b*) shall take such other precautions as are reasonably necessary to prevent the exposure of the meat to contamination.

(3) Every person who employs a person to carry meat in or about a market or other place in which meat is sold by wholesale or in or about any place wholly or mainly used for the storage of meat before it is distributed to retailers, shall cause such person while so occupied to wear, and every person while so occupied shall wear, a clean and washable head covering and overall.

(4) This Article shall not apply to any meat which is packed in hampers or other strongly constructed and impervious cases or is adequately wrapped in jute or some other stout fabric.

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S. R. & O., 1925, No. 273.

THE PUBLIC HEALTH (IMPORTED FOOD) REGULATIONS, 1925, DATED 23RD MARCH, 1925, MADE BY THE MINISTER OF HEALTH.

The Minister of Health in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, and the Public Health (Regulations as to Food) Act, 1907, and of every other power enabling him in that behalf, hereby makes the following Regulations, with the consent of the Commissioners of Customs and Excise so far as they apply to the officers of Customs and Excise, that is to say :—

PART I.

Preliminary.

* * * * * *

3. From the date of commencement of these Regulations, the Public Health (Foreign Meat) Regulations, 1908, the Public Health (First Series ; Unsound Food) Regulations, 1908, and the Public Health (Foreign Meat) Amending Regulations, 1909, shall be revoked, but without prejudice to the effect of any notice, certificate, proceedings, or other thing given, issued, begun, or done in pursuance of such Regulations ; and all Orders made under these Regulations shall continue in force until altered or revoked as if they were made under these Regulations and any reference in any such Order to any provisions of the revoked Regulations shall have effect as if the reference were to the corresponding provisions of these Regulations.

4.—(1) Subject to such provisions of these Regulations as prescribe functions to be exercised by the officers of Customs and Excise and by the medical officer of health and any other officer of a sanitary authority, the sanitary authority shall enforce and execute these Regulations :

Provided that a sanitary authority and a local authority, or two or more sanitary authorities or local authorities shall act together for any of the purposes of these Regulations in every case in which the Minister by Order requires any such joint action, and in every such case these Regulations shall have effect subject to such adaptations and modifications as are made by the Order.

(2) If the Minister after due inquiry is satisfied that a sanitary authority or local authority or their officers have failed to enforce and execute any of the provisions of these Regulations he may appoint some person to execute and enforce such provisions and the provisions of section 299 of the Public Health Act, 1875, shall apply as regards any such appointment.

5. Where a vehicle containing articles of food is landed in Great Britain and with the consent of the Commissioners of Customs and Excise the Customs examination of such vehicle is deferred until the vehicle reaches a place of destination in England or Wales, or where articles of food are brought by aircraft, these Regulations shall apply to such articles of food with all necessary modifications, including the substitution throughout the Regulations of the terms and expressions set out in the second

Appendix II. column of the following table for the terms and expressions set out in the first column :—

Terms and expressions used in Regulations.	Terms and expressions to be substituted.
Ship	Vehicle or aircraft.
Cargo	Contents of vehicle or aircraft.
Master	Person having charge of vehicle or aircraft.
Sanitary authority . .	Local authority (where place of destination or arrival is not within a Customs port).
Land	Unload.

PART II.

All Food.

6. A person shall not import into England or Wales for sale for human consumption any article of food which has been examined by a competent authority and not found at the time of examination to be fit for human consumption, or any article of food in the manufacture or preparation of which any such article as aforesaid has been used.

7.—(1) The medical officer of health may examine any article of food which has been landed within the district, and where the circumstances, in his opinion, so require, he may examine an article of food while it is on board a ship within the district, or after it has been delivered overside, and before it has been landed.

(2) The master of a ship, and every person having the custody of any lands or premises within the district shall, at the request of the medical officer of health, afford him access to the ship, or to the lands or premises, at any reasonable time, for the examination of an article of food which is on board the ship, or which has been deposited on the lands or premises.

(3) The importer, the master of the ship, and every person having the custody of any lands or premises shall, at the request of the medical officer of health, afford, by the convenient and suitable arrangement, unpacking or uncovering of so much of the cargo, or of any consignment delivered overside or landed, or deposited on the lands or premises, as comprises articles of food, all such facilities as the medical officer of health may reasonably require for the examination of the article of food. He shall also afford such other facilities as the medical officer of health may reasonably require for the purposes of these Regulations.

(4) Where the medical officer of health has reason to believe that an article of food, which has been landed within the district, is deposited on any lands or premises within the district, and access to the lands or premises at a reasonable time, for the examination of the article of food by the medical officer of health, has been refused by the person having the custody of the lands or premises, the medical officer of health may make complaint to a justice.

The justice may thereupon by a warrant authorise the medical officer of health to enter the lands or premises, and to search for, and examine any article of food deposited thereon.

The person having the custody of the lands or premises named in the warrant shall, at any reasonable time, afford all such facilities as the medical officer of health may reasonably require to enable him, by an assistant or otherwise, to search for and examine the article of food.

(5) Where the duties of an officer of Customs and Excise with respect to the examination of a cargo or consignment comprising an article of food have not been wholly discharged, an examination of the article of food for the purpose of these Regulations shall not be made without the consent of such officer, but every officer of Customs and Excise shall afford such facilities as the circumstances require for the examination of the article of food in pursuance of these Regulations.

8.—(1) The medical officer of health may take a sample from a consignment of articles of food for any purpose of these Regulations, and, subject to paragraph (2) of this Article, shall dispose of the sample in such manner as the sanitary authority direct.

(2) Where the medical officer of health who takes a sample from a consignment of articles of food is of opinion that special procedure is necessary for the examination of the articles of food, or where, at the request of the importer, the medical officer of health who takes any such sample has recourse to special procedure for the examination of the articles of food, the importer and every person who has the custody or control of the consignment shall afford all such facilities as the medical officer of health may reasonably require for the completion of his examination of the articles of food, and, during such time, not exceeding forty-eight hours, as the medical officer of health by notice in writing appoints, or during any longer time which he by notice in writing appoints, and to which the importer consents, he shall not, without the permission of the medical officer of health remove any such articles of food except to any such place as may be specified in the notice.

9.—(1) If, on examination, the medical officer of health is of opinion that an article of food is diseased or unsound or unwholesome, or unfit for human consumption, he may himself, or by an assistant, seize and carry away the article of food and apply to a justice to deal with the same under Article 15 or he may by a notice in writing to the importer, or to the master of the ship, or to any other person having charge of the article of food, require that, until it has been dealt with by a justice, it shall not, without the permission of the medical officer of health, be removed from the place of examination or from any other place specified in the notice.

(2) Neither the importer nor the master of the ship, nor any other person shall, without the permission of the medical officer of health, remove an article of food in relation to which a notice has been given in pursuance of this article from the place at which the medical officer of health has examined it, or such other place as is specified in the notice, until it has been dealt with by a justice, and such justice has authorised its removal.

PART III.

Oversea Meat.

10. A person shall not import into England or Wales for sale for human consumption any conditionally admissible meat without an official certificate or any prohibited meat.

11.—(1) The officer of Customs and Excise on the arrival of a ship within the district shall ascertain whether the cargo of the ship comprises any oversea meat.

(2) Where it appears to the officer of Customs and Excise to be desirable that any oversea meat should be examined by the medical officer of health either with a view to ascertaining whether it includes any conditionally admissible meat without an official certificate or any prohibited meat or for any other purpose of these Regulations he shall by a notice in writing given to the master or to the importer require that until the meat has been examined by the medical officer of health it shall not be removed from the place specified in the notice.

The officer of Customs and Excise shall at the same time inform the medical officer of health of the effect of the notice.

(3) The medical officer of health shall forthwith examine any meat in respect of which a notice has been given by an officer of Customs and Excise under this article.

(4) If upon the examination of any oversea meat the medical officer of health is of opinion that it comprises conditionally admissible meat without an official certificate or prohibited meat, he shall by a notice in writing forbid the removal of the meat for any purpose other than exportation.

He shall send a copy of every such notice to the sanitary authority, and where the officer of Customs and Excise has given a notice under this Article in respect of such meat he shall also send a copy to that officer.

(5) If upon the examination of any meat in respect of which the officer of Customs and Excise has given a notice under this Article, the medical officer of health is of opinion that the meat does not comprise any conditionally admissible meat without an official certificate, any prohibited meat, or any meat which is diseased or unsound

Appendix II. or unwholesome or unfit for human consumption, he shall give a certificate authorising the removal of the meat, and he shall give a copy of the certificate to the officer of Customs and Excise.

12.—(1) The sanitary authority, within twelve hours after the receipt of a copy of a notice by the medical officer of health given in pursuance of paragraph (4) of Article 11 with respect to any oversea meat, shall give to the importer notice in writing that, unless, within the time specified in the notice not being less than twelve hours after the receipt thereof, he gives a written undertaking to export the meat at his own expense, or to prove in proceedings before a justice that the meat is not intended for sale for human consumption, the meat will be destroyed or disposed of under the supervision of the medical officer of health by such means and in such a manner as to prevent its being used for human consumption.

(2) If within the time specified in the notice, the sanitary authority have not received such a written undertaking as is described in the notice or if within that time they have received an undertaking that the importer will at his own expense export the meat, and within three days after the receipt of the undertaking the importer fails to export the meat, the sanitary authority may cause the meat to be destroyed or disposed of under the supervision of the medical officer of health by such means and in such a manner as to prevent its being used for human consumption.

(3) Where in pursuance of this Article the importer has given an undertaking to prove that any meat is not intended for sale for human consumption the sanitary authority shall within twenty-four hours after the receipt of the undertaking take steps to obtain the decision of a justice with respect thereto.

13.—(1) Where in pursuance of Article 11 the officer of Customs and Excise or the medical officer of health has given a notice forbidding the removal of any meat a person shall not remove such meat contrary to the terms of the notice except with the express permission of the officer by whom the notice was given.

(2) A person shall not land any meat which has been exported in compliance with an undertaking given under these Regulations or under any similar Regulations in force in any part of the British Islands.

PART IV.

Judicial Proceedings, etc.

14. For the purposes of these Regulations an application may be made to any justice having jurisdiction in the district, and thereupon sub-section (2) of section 28 of the Public Health Acts Amendment Act, 1890, whether that subsection is or is not in force in the district, and any provision in any Act of Parliament which applies to a proceeding under or consequent upon that sub-section, shall have effect in relation to the proceedings, as if the application were a complaint within the meaning of the said sub-section, and otherwise subject to the provisions of these Regulations.

15.—(1) Where in pursuance of these Regulations an application is made to a justice in respect of an article of food and the justice is satisfied :—

(*a*) that the article of food is diseased, or unsound, or unwholesome, or unfit for human consumption : or

(*b*) in the case of meat in respect of which an undertaking in that behalf has been given under Article 12 that the importer has failed to prove that the meat is not intended for sale for human consumption ;

he shall condemn the article of food and order it to be destroyed or disposed of under the supervision of the medical officer of health by such means and in such a manner as to prevent its being used for human consumption.

(2) Where on such application the justice is satisfied that the article of food is not intended for sale for human consumption, he shall order the return of such article to the person entitled thereto or the rescission of the notice prohibiting the removal thereof, as the case may require.

(3) The justice shall in every Order under this Article set forth the description of, and such other details as will suffice to identify, the article of food, together with the name, description and address of the importer and of the person to whom it is to be delivered ; and he shall forthwith furnish the sanitary authority with a copy of the Order.

16. If a difference arises in relation to any subject matter of, or to anything done under, these Regulations, the difference may, on the application of all the parties affected, be referred to the Minister for determination, and the Minister may by Order determine the difference, and such determination shall be final and conclusive.

PART V.

General.

17. Any notice or certificate given by a sanitary authority or a medical officer of health, or any undertaking given by an importer under these Regulations, may be given by properly addressing, prepaying, and posting a letter containing the notice, certificate, or undertaking.

18. Where, in pursuance of these Regulations, an article of food is destroyed or otherwise disposed of under the supervision of the medical officer of health, the sanitary authority before the destruction or other disposal of the article of food shall cause the description of, and such other details as will suffice to identify, the article of food to be duly recorded, and shall keep the record in their custody for a period of not less than twelve months.

19. A person shall, if so required, give to the officer of Customs and Excise or the medical officer of health acting in the execution of these Regulations, all reasonable assistance in his power, and shall, in relation to anything within his knowledge, furnish any such officer with all information he may reasonably require for the purposes of these Regulations, and a person, in relation to anything within his knowledge and material to any purpose of proceedings in pursuance of these Regulations, shall make a true statement and truly answer any question, when required or put by a justice or other competent authority in the course and for any purpose of those proceedings.

20.—(1) The sanitary authority may, with the consent of the Minister, appoint and pay a legally qualified medical practitioner to act in the execution of these Regulations, either in the place of, or as an assistant to, the medical officer of health.

(2) The sanitary authority may also, with the consent of the Minister appoint or employ and pay an assistant officer to act, under the direction of the medical officer of health, in the exercise of any such powers or in the discharge of any such duties of the medical officer of health under these Regulations as the sanitary authority assign to the person so appointed.

SCHEDULES.

FIRST SCHEDULE.

PROHIBITED MEAT.

Any of the following kinds of meat:—

(*a*) Scrap meat, that is to say meat which consists of scraps, trimmings, or other pieces (whether with or without bone) of such shape or in such condition as to afford insufficient means of identification with definite parts of a carcase, and which has not before importation been made ready for human consumption in the form of a sausage or other prepared or manufactured article of food;

(*b*) Meat comprising the ribs or the abdominal wall from which the pleura or the peritoneum has been detached;

(*c*) The carcase of a pig having the head in its natural state of attachment to the carcase but not having the submaxillary, pre-scapular, pre-crural, and popliteal glands in their natural position;

(*d*) A severed part of the carcase of a pig (including the whole carcase without the head) from which a pre-scapular, pre-crural, or popliteal gland has been taken out;

(*e*) The head of a pig without the submaxillary glands; and

(*f*) Revoked by Order of August 7, 1925.

Appendix II.

SECOND SCHEDULE.

CONDITIONALLY ADMISSIBLE MEAT.

Any of the following kinds of meat so far as they are not included in the First Schedule—

(*a*) A severed part of the carcase of a pig (including the severed head and the whole carcase without the head) which has not been salted, cured, pickled, dried, or smoked, or otherwise prepared in the manner in which bacon or ham is ordinarily prepared, and from which no submaxillary, pre-scapular, pre-crural, or popliteal gland has been taken out;

(*b*) Lard, dripping, edible tallow and similar rendered fats; and

(*c*) All edible parts of a pig other than (i) the head or other severed parts of the carcase and (ii) the intestines prepared in the form of sausage casings.

S. R. & O., 1925, No. 775, AS AMENDED BY 1926, No. 1557, AND 1927, No. 577.

THE PUBLIC HEALTH (PRESERVATIVES, ETC., IN FOOD) REGULATIONS MADE BY THE MINISTER OF HEALTH (*a*).

Being Regulations made by the Minister of Health on the 4th August, 1925, in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, the Public Health (Regulations as to Food) Act, 1907, and the Butter and Margarine Act, 1907 (*b*), and of every other power enabling him in that behalf, with the consent of the commissioners of Customs and Excise, so far as they apply to the officers of Customs and Excise.

Printed as amended by Regulations dated 10th December, 1926, and 25th June, 1927.

PART I.

General.

1. These Regulations may be cited as the Public Health (Preservatives, etc., in Food) Regulations (*a*), and shall come into operation on the 1st day of January, 1927: Provided that (*c*)—

(i) the Regulations shall come into operation on the 1st day of July, 1927, so far as they relate to bacon, ham, and egg yolk, and on the 1st day of January, 1928, so far as they relate to butter and cream and to the revocation of such of the provisions of the Public Health (Milk and Cream) Regulations, 1912, and the Public Health (Milk and Cream) Regulations, 1912, Amendment Order, 1917, as relate to cream; and

(ii) so far as the Regulations prohibit the manufacture for sale or (*d*) sale of an article of food containing any preservative which is necessarily introduced by the use in its preparation of preserved margarine, preserved egg yolk, preserved bacon, preserved ham, preserved cream, or preserved butter, they shall come into operation on the following dates, viz.:—

(*a*) Article 3 of the Public Health (Preservatives, etc., in Food) Amendment Regulations, 1926 (S. R. and O., 1926, No. 1557), provides as follows:—

> "Copies of the Public Health (Preservatives, etc., in Food) Regulations, 1925, printed under the authority of His Majesty's Stationery Office, may be printed with any additions, omissions, or substitutions directed to be made by these or any other amending Regulations, but with a footnote in each instance referring to such amending Regulations, and the principal Regulations so printed may be cited as the Public Health (Preservatives, etc., in Food) Regulations."

The alterations made by amending Regulations are those referred to in the footnotes in this print.

(*b*) So far as the Regulations were made under this Act, which is repealed by the Food and Drugs (Adulteration) Act, 1928 (operating from January 1, 1929), they are continued in operation by s. 37 of that Act.

(*c*) Amended form of proviso substituted by Regulations of 1926.

(*d*) Words "manufacture for sale or" added by Regulations of 1927.

(a) the 1st day of July, 1927, where the preservative has been so introduced by the use of preserved margarine;

(b) the 1st day of January, 1928, where the preservative has been so introduced by the use of preserved egg yolk or preserved cream; and

(c) the 1st day of July, 1928, where the preservative has been so introduced by the use of preserved butter.

(iii) (a) the Regulations shall not apply to the sale of pearl barley until the 1st day of January, 1928.

2.—(1) In these Regulations unless the context otherwise requires—

"The Minister" means the Minister of Health;

"Local Authority" means any local authority authorised to appoint an analyst for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907 (b), and "public analyst" means an analyst so appointed;

"Officer of Customs and Excise" includes any person acting under the authority of the Commissioners of His Majesty's Customs and Excise;

"Food" means food or drink intended for human consumption;

"Cream" means that portion of milk rich in milk-fat which has been separated by skimming or otherwise and is intended for human consumption;

"Preservative" means any substance which is capable of inhibiting, retarding, or arresting the process of fermentation, acidification, or other decomposition of food or of masking any of the evidences of putrefaction; but does not include common salt (sodium chloride), saltpetre (sodium or potassium nitrate), sugars, lactic acid (c), acetic acid, or vinegar, glycerine (d), alcohol, or potable spirits. herbs, hop extract, spices, and essential oils used for flavouring purposes or any substance added to food by the process of curing known as smoking;

"Thickening substance" means sucrate of lime, gelatine, starch paste or any other substance, which when added to cream is capable of increasing its viscosity but does not include cane or beet sugar;

"Sulphur dioxide" includes sulphites, and "benzoic acid" includes benzoates;

"Sell" includes expose or offer for sale or deposit in any place for the purposes of sale, and "sale" shall be construed accordingly;

"Importer" includes any person who, whether as owner, consignor or consignee, agent, or broker, is in possession of or in anywise entitled to the custody or control of any article of food brought from a place situate outside Great Britain, Ireland, the Channel Islands, and the Isle of Man; and "import" shall be construed accordingly;

(2) Percentages shall be calculated by weight.

(3) Sulphites shall be calculated as sulphur dioxide (SO_2) and benzoates as benzoic acid (C_6H_5COOH).

(4) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

PART II.

Sale of Articles of Food and Preservatives.

3. The local authority and every officer of a local authority authorised in writing by the authority shall enforce and execute this Part of these Regulations, and for this purpose shall make such inquiries and take such other steps as may seem to them or him to be necessary for securing the due observance of this Part of the Regulations in the district of the local authority.

4.—(1) No person shall manufacture for sale or sell any article of food which contains any added preservative or any added colouring matter being one of those (e) specified in Part II. of the First Schedule to these Regulations:

(a) Proviso (iii) added by Regulations of 1927.

(b) These Acts are repealed by the Food and Drugs (Adulteration) Act, 1928, and the joint effect of that Act and this definition is that the expression "Local Authority" in these Regulations means a Food and Drugs Authority as defined in that Act.

(c) Words "lactic acid" added by Regulations of 1927.

(d) Word "glycerine" added by Regulations of 1926.

(e) Words "any added colouring matter being one of those" substituted by Regulations of 1927 for words "any of the colouring matters."

Provided that—

(i) any article of food specified in Part I. of the said Schedule may contain preservative of the nature and in the proportion therein specified ;

(ii) where an article of food specified in Part I. of the said Schedule otherwise than in item 4 thereof (*a*) is used in the preparation of any other article of food, the latter article may contain any preservative necessarily introduced by the use of the former article, but the total proportion of any one preservative contained in any article of food specified in that Part of the Schedule shall not exceed the proportion therein specified.

(iii) (*b*) The provisions of this Article shall not apply so as to prohibit the presence of sulphur dioxide in any article of food other than meat if it is shown either—

(*a*) that the article not being an article specified in Part I. of the said Schedule is intended to be used in the preparation of an article which is so specified, or

(*b*) that the article being itself an article so specified, other than fruit or fruit pulp, is intended to be so treated before it is sold or exposed for sale by retail as to comply with the provisions of the Schedule as regards the proportion of sulphur dioxide contained.

(2) (*c*) The following provisions shall have effect with respect to any of the articles of food mentioned in paragraph 1 of the Second Schedule to these Regulations which contains any preservative specified in Part I. of the First Schedule as permissible in the case of such article, that is to say—

(*a*) A person who exposes or offers any such article for sale by retail shall at the time when it is so exposed or offered either cause the article to be labelled in accordance with the Rules set out in the said Second Schedule, or cause a notice to the effect that the article contains preservative to be exhibited in a conspicuous place so as to be easily readable by a customer ; and

(*b*) A person who sells any such article shall cause it to be labelled in accordance with the said Rules at the time when it is delivered to any purchaser, agent, or broker :

Provided that—

(i) Neither the requirement mentioned in paragraph (*a*) nor that mentioned in paragraph (*b*) shall apply where the article is exposed or offered for sale by retail or delivered to a customer in a hotel, restaurant, or other such place for consumption on the premises ; and

(ii) The requirement mentioned in paragraph (*b*) shall not apply where the article is sold by retail and delivered to the purchaser at the vendor's premises or stall if such a notice as is mentioned in paragraph (*a*) is there exhibited as provided in that paragraph.

(3) No person shall sell cream which contains any thickening substance.

5.—(1) No person shall sell any article which is recommended in any mark or label placed thereon or on its receptacle or container for use as a preservative of, or colouring matter for, any article of food or is described or referred to in any such mark or label in terms likely to lead to its being so used,—

(i) if such use would be contrary to these Regulations ; or

(ii) if in the case of a preservative, it is not labelled in accordance with the Rules set out in the Second Schedule to these Regulations.

(2) No person shall on or in connection with the sale of any article or in any advertisement, circular or notice relating thereto recommend it for use as a preservative of, or colouring matter for, any article of food, or describe or refer to it in terms likely to lead to its being so used, if such use would be contrary to these Regulations.

(3) No person shall sell any article which is recommended in any such mark or

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(*a*) Words " otherwise than in item 4 thereof " added by Regulations of 1927.
(*b*) Proviso (iii) added by Regulations of 1927.
(*c*) Amended form of sub-division (2) substituted by Regulations of 1926.

label as aforesaid for use as a thickening substance for cream or is described or referred to in any such mark or label in terms likely to lead to its being so used, and no person shall on or in connection with the sale of any article or in any advertisement, circular, or notice relating thereto recommend it for use as a thickening substance for cream or describe or refer to it in terms likely to lead to its being so used.

6.—(1) Any officer authorised by the Minister and any officer of the local authority acting in the execution of these Regulations shall have power to enter at all reasonable times any premises where articles to which these Regulations apply are prepared, packed, labelled, or stored.

(2) The officer may take samples of any such article or of any substance used or capable of being used in the preparation of any such article and of any labels designed to be affixed to any such article or to any package or other receptable containing such article, but shall if so required make reasonable payment for any samples so taken.

(3) Where a sample is taken of an article to which these Regulations apply, the Sale of Food and Drugs Acts, 1875 to 1907, shall apply as if the officer were an officer authorised to procure samples thereunder; and where an analysis is required for the purposes of these Regulations, the provisions of section 14 of the Sale of Food and Drugs Acts, 1875, as amended by section 13 of the Sale of Food and Drugs Act, 1899, shall apply (*a*).

7. Where it appears to any authority or officer whose duty it is to enforce these Regulations that an article has been sold within the district of the authority contrary to the provisions of Article 4 or 5 of these Regulations, the authority or officer may, instead of or in addition to taking proceedings against the seller, take proceedings against any previous seller of the article notwithstanding that the sale by such previous seller took place outside the district of the authority, and for the purpose of any such proceedings the sale by the previous seller shall be deemed to have taken place within the district of the authority and the proceedings may be taken either before a court having jurisdiction within that district or before a court having jurisdiction in the place where the sale actually took place.

PART III.

Importation of Articles of Food.

8.—(1) Subject to any directions given by the commissioners of Customs and Excise after consultation with the Minister, the officers of Customs and Excise shall have power to enforce and execute this Part of these Regulations and may take such samples as may be necessary of consignments of imported articles to which these Regulations apply.

(2) Where an officer of Customs and Excise takes a sample for the purpose of analysis he shall send the sample or a portion thereof to the Government Chemist, and either the officer or the Government Chemist shall send a portion of the sample to the importer.

9.—(1) The following authorities and any officers authorised by them in writing shall also have power to enforce and execute this Part of these Regulations, namely:—

(*a*) Where the article of food is landed from a ship or aircraft in a place which is not within the jurisdiction of a port sanitary authority, or where the article is imported in a vehicle and the Customs examination of that vehicle is deferred with the consent of the commissioners of Customs and Excise until the vehicle reaches a place outside such jurisdiction, the council of the borough (including the City of London and a metropolitan borough) or urban or rural district in which such place is situated.

(*b*) In every other case, the port sanitary authority.

(*a*) By reason of the provisions of the Food and Drugs (Adulteration) Act, 1928, the effect of this sub-division is that where a sample is taken of an article to which the Regulations apply, that Act will apply as if the officer were a sampling officer thereunder; and where an analysis is required for the purposes of the Regulations, the provisions of sub-s. (1) of s. 18 of that Act, *ante*, p. 2972, will apply.

(2) Every officer authorised as aforesaid may take such samples as may be necessary of consignments of imported articles to which these Regulations apply, and where he takes a sample for the purpose of analysis he shall send the sample or a portion thereof to a public analyst and either the officer or the analyst shall send a portion of the sample to the importer.

(3) Where the duties of an officer of Customs and Excise with regard to the examination of a cargo or consignment comprising an article of food have not been wholly discharged, a sample of that article shall not be taken without his consent, but every officer of Customs and Excise shall afford such facilities as the circumstances require for the taking of samples in pursuance of this Article.

10. If in any case the Commissioners of Customs and Excise or a port sanitary authority or other authority executing this Part of these Regulations are of opinion that an offence against this Part of these Regulations has been committed, they shall communicate to the Minister for his information the name of the importer and such other facts as they may possess or may obtain as to the destination of the consignment.

11.—(1) No person shall import into England or Wales any article of food intended for sale which contains any added preservative or any added colouring matter being one of those (*a*) specified in Part II. of the First Schedule to these Regulations:

Provided that—

(i) any article of food specified in Part I. of the said Schedule may contain preservative of the nature and in the proportion therein specified;

(ii) where an article of food specified in Part I. of the said Schedule otherwise than in item 4 thereof (*b*) is used in the preparation of any other article of food, the latter article may contain any preservative necessarily introduced by the use of the former article, but the total proportion of any one preservative contained in any article of food specified in that Part of the Schedule shall not exceed the proportion therein specified.

(iii) (*c*) The provisions of this Article shall not apply so as to prohibit the presence of sulphur dioxide in any article of food other than meat if it is shown either—

(*a*) that the article not being an article specified in Part I. of the said Schedule is intended to be used in the preparation of an article which is so specified; or

(*b*) that the article being itself an article so specified, other than fruit or fruit pulp, is intended to be so treated before it is sold or exposed for sale by retail as to comply with the provisions of the Schedule as regards the proportion of sulphur dioxide contained.

(2) No person shall import into England or Wales any cream intended for sale which contains any thickening substance.

PART IV.

Miscellaneous.

12. The provisions of these Regulations with respect to prohibiting any preservative or colouring matter or thickening substance in articles of food and requiring the labelling of certain articles of food and of articles sold as preservatives shall not apply in the case of any article which is intended to be exported or re-exported or (*d*) intended for use as ships' stores.

13.—(1) In any proceedings under these Regulations the certificate of the Government Chemist or the public analyst, as the case may be, of the result of the chemical examination of a sample shall be sufficient evidence of the facts therein stated unless the defendant requires that the person who made the examination be called as a witness.

(*a*) Words " any added colouring matter being one of those " substituted by Regulations of 1927 for words " any of the colouring matters."

(*b*) Words " otherwise than in item 4 thereof " added by Regulations of 1927.

(*c*) Proviso (iii) added by Regulations of 1927.

(*d*) Words " in the case of butter " omitted in pursuance of Regulations of 1926.

(2) In any proceedings under these Regulations, where the fact that any article has been dealt with contrary to these Regulations has been proved, if the respondent desires to rely upon the exceptions or provisions contained in these Regulations with reference to such article being sold for consumption on the premises or being intended for export or re-export or for use as ships' stores it shall be incumbent upon him to prove that the article was so sold or was intended for export or re-export or for use as ships' stores.

14. A person shall, if so required, give to any officer of Customs and Excise or of any local authority who is acting in the execution of these Regulations all reasonable assistance in his power, and shall, in relation to anything within his knowledge, furnish any such officer with all information which he may reasonably require for the purposes of these Regulations including information as to the persons from whom or places from which any article to which these Regulations apply has been obtained and to whom and to which it has been consigned or otherwise disposed of.

15. The Public Health (Milk and Cream) Regulations, 1912, the Public Health (Milk and Cream) Regulations, 1912, Amendment Order, 1917, and so much of the Public Health (Imported Food) Regulations, 1925, as relates to paragraph (*f*) of the First Schedule thereto are hereby revoked, but without prejudice to any proceedings begun or other action taken in pursuance of any of those Regulations.

SCHEDULES.

THE FIRST SCHEDULE.

PART I.—ARTICLES OF FOOD WHICH MAY CONTAIN PRESERVATIVE AND NATURE AND PROPORTION OF PRESERVATIVE IN EACH CASE:

The articles of food specified in the first column of the following table may contain the preservative specified in the second column in proportions not exceeding the number of parts (estimated by weight) per million specified in the third column :—

Food.	Preservative.	Parts per million.
1. Sausages and sausage meat containing raw meat, cereals and condiments.	Sulphur dioxide . .	450
2 (*a*). Fruit and fruit pulp (not dried) for conversion into jam or crystallised glacé or cured fruit as defined in items 6 and 7 :		
(*a*) Cherries	Do. . .	3,000
(*b*) Strawberries and raspberries . .	Do. . .	2,000
(*c*) Other fruit	Do. . .	1,500
3. Dried fruit :		
(*a*) Apricots, peaches, nectarines, apples and pears.	Do. . .	2,000
(*b*) Raisins and sultanas . . .	Do. . .	750
4. Unfermented grape juice and non-alcoholic wine made from such grape juice if labelled in accordance with the rules contained in the Second Schedule to these Regulations.	Benzoic acid . .	2,000
5. Other non-alcoholic wines, cordials and fruit juices, sweetened or unsweetened.	Either Sulphur dioxide or Benzoic acid .	350 600
6 (*a*). Jam (including marmalade and fruit jelly prepared in the way in which jam is prepared)	Sulphur dioxide .	40
7 (*a*). Crystallised glacé or cured fruit (including candied peel)	Do. . .	100
7*a* (*a*). Fruit and fruit pulp not otherwise specified in this Schedule	Do. . .	350
8 (*b*). Sugar (including solid glucose) and cane syrups	Do. . .	70
8*a* (*b*). Cornflour (maize starch) and other prepared starches	Do. . .	100

Food.	Preservative.	Parts per million.
9. Corn syrup (liquid glucose).	Sulphur dioxide.	450
10. Gelatine	Do.	1,000
11. Beer	Do.	70
12. Cider	Do.	200
13. Alcoholic wines.	Do.	450
14. Sweetened mineral waters	Either Sulphur dioxide	70
	or Benzoic acid	120
15. Brewed ginger beer	Benzoic acid	120
16. Coffee extract	Do.	450
17. Pickles and sauces made from fruit or vegetables	Do.	250

(*a*) Amended forms of items 2, 6, and 7 substituted, and new item 7A added, by Regulations of 1926.

(*b*) Amended form of item 8 substituted, and new item 8A added, by Regulations of 1927.

Part II.—Colouring Matters which may not be added to Article of Food.

1. *Metallic Colouring Matters.*

Compounds of any of the following metals :—

Antimony,
Arsenic,
Cadmium,
Chromium,
Copper,
Mercury,
Lead,
Zinc.

2. *Vegetable Colouring Matter.*

Gamboge.

3. *Coal Tar Colours.*

Number in Colour Index of Society of Dyers and Colourists, 1924.	Name.	Synonyms.
7	Picric acid	Carbazotic acid.
8	Victoria yellow	Saffron substitute ; Dinitro-cresol.
9	Manchester yellow	Naphthol yellow ; Martius yellow.
12	Aurantia.	Imperial yellow.
724	Aurine	Rosolic acid ; yellow coraline.

THE SECOND SCHEDULE.

Labelling of Articles of Food containing Preservative and of Preservatives.

1. The articles of food containing preservative to which the Rules as to labelling set out in this Schedule apply are sausages, sausage-meat, coffee extract, pickles, and sauces, and (where the proportion of benzoic acid exceeds 600 parts per million) grape juice and wine.

2.—(1) Where any of the said articles of food contains preservative it shall bear a label on which is printed the following declaration or such other declaration substantially to the like effect as may be allowed by the Minister :—

(a) CONTAIN(S)
PRESERVATIVE.

Appendix II.

(2) The declaration shall be completed by inserting at (*a*) the word " This " or " These," followed by the name of the food as used in paragraph 1 of this Schedule.

(3) In the case of grape juice or wine to which these Rules apply there shall be added to the declaration the words " and is not intended for use as a beverage."

3.—(1) An article sold as a preservative shall bear a label on which is printed the following declaration or such other declaration substantially to the like effect as may be allowed by the Minister :—

> **THIS PRESERVATIVE CONTAINS**
> **(a) PER CENT. OF SULPHUR DIOXIDE.**

(2) Where the article contains benzoic acid the words " Benzoic Acid " shall be substituted for the words " Sulphur Dioxide."

(3) The declaration shall be completed by inserting at (*a*) in words and figures excluding fractions (*e.g.* " seventy (70) ") the true percentage of the sulphur dioxide or benzoic acid present in the article.

4. The prescribed declaration shall in each case be printed in dark block type upon a light-coloured ground within a surrounding line and no other matter shall be printed within such surrounding line. The type used shall be not less than one-eighth of an inch in height, or, in the case of grape juice or wine to which these Rules apply, one-sixteenth, of an inch in height.

5. The label shall be securely affixed to the article or be part of or securely affixed to the wrapper or container, and in any case shall be so placed as to be clearly visible. If the article bears a label containing the name, trade mark, or design representing the brand of the article or the name and address of the manufacturer or dealer the prescribed declaration shall on and after the 1st day of July, 1927 (*a*), be printed as part of such label (*b*).

6. No comment on or explanation of the prescribed declaration (other than any direction as to use in the case of a preservative) shall be placed on the label or on the wrapper or container.

Note.—The Public Health Act, 1896, provides by sub-section (3) of section 1 that if any person wilfully neglects or refuses to obey or carry out, or obstructs the execution of any regulations made under any of the enactments mentioned in that Act, he shall be liable to a penalty not exceeding £100, and, in the case of a continuing offence, to a further penalty not exceeding £50 for every day during which the offence continues.

The power of making regulations under the Public Health Act, 1896, and the enactments mentioned in that Act, is enlarged by the Public Health (Regulations as to Food) Act, 1907.

The Food and Drugs (Adulteration) Act, 1928, contains in section 1, section 2, sub-section (4) of section 7, paragraph (*j*) of sub-section (1) of section 12, and sub-section (3) of section 27 further provisions under which a person contravening the provisions of these Regulations may be guilty of an offence under that Act and be liable to a penalty ranging from a fine not exceeding £20 to imprisonment for a period not exceeding six months.

GAS WORKS.

ORDER IN COUNCIL DATED 9TH DAY OF NOVEMBER, 1920.

WHEREAS by subsections (3) and (4) of section 3 of the Ministry of Health Act, 1919, it is provided that His Majesty may from time to time by Order in Council transfer from the Minister of Health to any other government department any of the powers and duties of the Minister which appear to His Majesty not to relate to matters affecting or incidental to the health of the public, and may make such incidental, consequential and supplemental provisions as may be necessary or

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(*a*) Words " on and after the 1st day of July, 1927," added by Regulations of 1926.

(*b*) In the case of imported food, the provisions of section 16 of the Merchandise Marks Act, 1887 (50 & 51 Vict. c. 28), must also be complied with if the label bears the name or trade mark of a dealer or merchant in the United Kingdom.

expedient for the purpose of giving full effect to any transfer of powers or duties by or under that section, and may make such adaptations in the enactments relating to such powers or duties as may be necessary to make exercisable by such other government department and its officers the powers and duties so transferred:

AND WHEREAS the Minister of Health as successor to the Local Government Board exercises and performs certain powers and duties in relation to gas undertakings of local authorities which appear to His Majesty not to relate to matters affecting or incidental to the health of the people:

NOW, THEREFORE, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Ministry of Health (Transfer of Powers as to Gas Undertakings) Order, 1920.
2. As from the 16th November, 1920, the powers and duties of the Minister of Health specified in the second column of the schedule to this Order shall be transferred to the Board of Trade, and in relation to the powers and duties so transferred the enactments mentioned in the first column to that schedule shall be construed as if references to the Board of Trade were substituted for references to the Local Government Board.

Schedule.

Enactment.	Powers and duties transferred.
The Gas and Water Works Facilities Act, 1870, and the Gas and Water Works Facilities Act, 1870 (Amendment) Act, 1873, as applied by section 161 of the Public Health Act, 1875.	All powers and duties in relation to gas undertakings of local authorities.
The Public Health Act, 1875, s. 162.	Power to sanction the purchase by an urban authority of a gas company's undertaking.
The Gas (Standard of Calorific Power) Act, 1916.	Power to substitute a standard of calorific power, etc., in respect of gas supplied by a local authority.
The Statutory Undertakings (Temporary Increase of Charges) Act, 1918.	Power to modify statutory provisions regulating charges to be made by local authorities carrying on gas undertakings.

S. R. & O., 1922, No. 187.

THE GAS (SPECIAL ORDERS) RULES, 1922, DATED MARCH 1, 1922, MADE BY THE BOARD OF TRADE WITH RESPECT TO APPLICATIONS FOR SPECIAL ORDERS UNDER SECTION 10 OF THE GAS REGULATION ACT, 1920.

I. Applicants for an Order shall publish an advertisement of their intended application once in a local newspaper circulating in the area to which the application relates and also in the London or Edinburgh Gazette as the case may require. The advertisement shall contain—

(1) the description and address of the applicants;

(2) a statement of the objects of the application including a description of any proposed area of supply, any proposed new works and any land which it is proposed to use for the purpose of gasworks;

(3) an intimation to the effect and (as nearly as may be) in the form of paragraph (1) of Rule V.;

(4) a list of the addresses at which, in accordance with paragraph (4) of Rule II., copies of the Draft Order and of the maps (if any) have been deposited for public inspection;

(5) the address of an office situate within the existing or proposed areas of supply at which copies of the Draft Order may be purchased at a price of not more than one shilling each.

II. On or before the date on which publication of the advertisement is completed, the applicants shall—

(1) serve a copy of the advertisement personally or by registered post on—
  (*a*) every authority, company or person supplying or authorised to supply gas within any area proposed to be supplied by the applicants;
  (*b*) the owner, lessee and occupier of every dwelling-house situate within 300 yards of any land proposed to be used for the construction of works for the manufacture or storage of gas or the manufacture or conversion of residual products;
  (*c*) the owner and lessee of every railway, tramway, or canal along or across which it is proposed to lay any pipes or which it is proposed otherwise to affect or interfere with.

(2) deposit a copy of the advertisement and of the Draft Order—
  (*a*) at the office of the local authority of every district wholly or partly within the existing and any proposed areas of supply;
  (*b*) at the Home Office (or, where the application relates to Scotland, the Scottish Office), Ministry of Health (or, where the application relates to Scotland, the Scottish Board of Health), Office of Works, Office of Woods and General Post Office, and where the Draft Order affects the Duchy of Lancaster or the Duchy of Cornwall at the office of such Duchy.

(3) deposit a copy of the maps required by paragraphs (5) and (6) of Rule III. (if any) at the Office of the Clerk of the Parliaments, House of Lords and at the Private Bill Office, House of Commons.

(4) deposit, for public inspection, a copy of the Draft Order and of the maps required by paragraphs (5) and (6) of Rule III. (if any)—
  (*a*) at an office situate within the existing or proposed areas of supply;
  (*b*) at the office of the Clerk of the Peace of every county, riding or division of England and Wales wholly or partly within the existing and any proposed areas of supply;
  (*c*) at the office of the principal sheriff clerk for each county in Scotland wholly or partly within the existing and any proposed areas of supply and, where any such county is divided into districts for sheriff court purposes, at the office of the sheriff clerk in each of such districts wholly or partly within the existing and any proposed areas of supply.

(5) deposit a sufficient number of copies of the Draft Order at the office referred to in paragraph (5) of Rule I.

III. The application for an Order shall be made in writing to the Director of Gas Administration, Board of Trade, Great George Street, London, S.W.1. within seven days of the date on which publication of the advertisement is completed and the applicants shall deposit therewith—

(1) a copy of the newspaper and gazette containing the advertisement;

(2) lists of the names and addresses of the authorities, companies and persons upon whom a copy of the advertisement has been served in accordance with paragraph (1) of Rule II.;

(3) a list of the local authorities with whom a copy of the advertisement and of the Draft Order have been deposited in accordance with paragraph (2) (*a*) of Rule II.;

(4) four copies of the Draft Order;

(5) where it is proposed to authorise the applicants (*a*) to use any lands for the manufacture or storage of gas or the manufacture or conversion of residual products or (*b*) to supply gas in any area in which they are not already authorised to supply gas, an ordnance map on a scale of not less than one inch to the mile showing the situation of the proposed works and of the existing works (if any) and the boundaries of the proposed area of supply and of the area (if any) in which the applicants are already authorised to supply gas;

(6) where it is proposed to authorise the use of any land for the construction of works, an ordnance map on the scale of 25 inches to the mile showing the land to be used;

(7) where the applicants are a local authority and borrowing powers are sought,
  (*a*) a statement of the amounts borrowed and authorised to be borrowed (if any) for the purposes of the gas undertaking; and
  (*b*) a certified statement showing under separate heads the purposes for which the borrowing powers are sought, and the amount required for each purpose;

where the applicants are not a local authority,
  (*a*) a statement of the existing capital and borrowing powers (if any) showing the amounts authorised, raised and expended; and
  (*b*) where capital or borrowing powers are sought, a certified statement showing under separate heads the purposes for which the capital or borrowing powers are required and the amount required for each purpose;

(8) a copy of the printed accounts of the undertaking for the half-year or year next before the date of the application;

(9) if the applicants are a company incorporated under the provisions of the Companies Acts, a copy of their memorandum and articles of association and of every registered special resolution of the company;

(10) a list of every special Act of Parliament and Order having the force of an Act relating to the undertaking;

(11) a cheque for £35 payable to the Assistant Secretary for Finance, Board of Trade.

IV. The applicants or their agents shall prove compliance with the provisions of the foregoing rules. Six days' notice will be given of the day and hour at which they shall attend for the purpose at the office of the Board of Trade if so required.

V.—(1) Any local or other public authority, company or person desiring to bring before the Board of Trade any objection to the Draft Order may do so by registered letter addressed to the Director of Gas Administration, Board of Trade, Great George Street, London, S.W.1, and despatched on or before [a date to be stated in the advertisement which shall not be earlier than 30 days after the date on which publication of the advertisement will be completed]. Any such objection shall state:—

(*a*) the specific grounds of objection; and

(*b*) the omissions, additions or modifications asked for.

A copy of the objection shall be forwarded to the applicants for the Order or their agents at the same time as it is sent to the Board of Trade.

(2) No part of the month of August shall be included in calculating the above mentioned period of 30 days.

(3) As soon as practicable after the period allowed for objections has expired, the applicants shall furnish the Board of Trade (*a*) with replies to any objections which have been made and (*b*) with three copies of the Draft Order showing any amendments which the applicants wish to be made therein. A copy of the replies to the objections shall at the same time be sent to the respective objectors.

VI. The applicants shall furnish the Board of Trade with such information and documents as they may require in connection with the application, including:—

(1) Where it is proposed to authorise the use of any lands for the manufacture or storage of gas or the manufacture or conversion of residual products, the deed of conveyance or lease to, or the contract for purchase by, the applicants of all lands to be so used. (These documents will be returned to the applicants when they have been inspected on behalf of the Board of Trade.)

(2) Where the applicants are a company (*a*) applying for capital or borrowing powers or (*b*) proposing to purchase or amalgamate with another undertaking, a certified copy of a resolution approving the application, passed by shareholders or stockholders qualified to vote at ordinary meetings of the company who were present (either in person or by proxy) at a general meeting and who held at least three fourths of the paid up capital of the company represented by the votes at such meeting. A certified copy of the notice convening the meeting should also be furnished.

(3) Where the applicants propose to purchase, or to amalgamate with, another undertaking proof will be required that the purchase or amalgamation is approved by the proprietors of the other undertaking concerned.

VII. In addition to the fee of £35 any extraordinary expenses incurred by the Board of Trade in connection with an inquiry into the application or otherwise shall be payable by the applicants.

VIII. In these rules:—

The expression "the local authority" means, in England and Wales, the council of a county, county borough, urban district and rural district, and in Scotland, the county council and the town council;

The expression "occupier" applies only to ratepayers and to other persons not being ratepayers whose interests in the premises occupied is not less than that of a quarterly tenant.

IX. The Gas Regulation Act (Special Orders) Rules, 1920 (S. R. & O. 1920, No. 2160), are hereby revoked.

S. R. & O., 1922, No. 403.

THE GAS REGULATION ACT (APPEAL PROCEDURE) RULES, 1922, DATED APRIL 11, 1922, MADE BY THE BOARD OF TRADE, WITH REFERENCE TO PROCEDURE IN APPEALS UNDER SECTION 6 OF THE GAS REGULATION ACT, 1920.

The Board of Trade, under the powers conferred upon them by section 6 of the Gas Regulation Act, 1920, and of all other powers enabling them in that behalf, hereby make the following rules:—

1.—(i) These rules may be cited as the Gas Regulation Act (Appeal Procedure) Rules, 1922.

(ii) In these rules, unless the context otherwise requires:—

"The Act" means the Gas Regulation Act, 1920; and

"The respondents" means in the case of an appeal under sub-section (1) of section 6 of the Act, the gas referees, and in the case of an appeal under sub-section (2) of that section, the local authority or local authorities by whom the gas examiner whose report is appealed against was appointed, or in any case in which a gas examiner has been appointed by Quarter Sessions, the Clerk of the Peace for such Quarter Sessions.

2. An appeal under sub-section (1) or sub-section (2) of section 6 of the Act shall be made by sending to the Chief Gas Examiner, Board of Trade, S.W.1, within the time specified in the sub-section of section 6 of the Act under which the appeal is made, a notice of such appeal signed by the appellants or by their duly authorised agents, together with the original prescription or report appealed against, or a true copy thereof.

3. The appellants shall, at the same time, send a copy of such notice of appeal to the respondents.

4. The appellants shall send to the chief gas examiner and to the respondents, either with their notice of appeal or within 14 days thereafter, a concise statement in writing of the facts and contentions on which they rely.

5. The respondents shall, within 28 days of the receipt by them of the appellant's statement, notify the chief gas examiner whether, and to what extent, they admit the facts stated in the appellants' documents, and shall send to the chief gas examiner a concise statement of the facts and contentions on which they rely.

6. If the appeal be made under sub-section (2) of section 6 of the Act, the respondents shall, in addition to the statement above-mentioned, send to the chief gas examiner copies of reports (if any) made by the gas examiner during a period of 10 days both before and after the date to which the report appealed against relates.

7. The respondents in any appeal shall, within the time provided by Rule 5, send to the appellants a copy of the statement of facts and contentions upon which they rely.

8. Where in any appeal under sub-section (1) of section 6 of the Act it shall appear to the chief gas examiner that any person or body other than the appellants and respondents is interested, the appellants and respondents shall, upon being requested so to do by the chief gas examiner, forward to such person or body a copy of any statement or other document submitted by them to the chief gas examiner.

9. Any such person or body so interested shall within 28 days of the receipt by them of such statement and other documents forward to the chief gas examiner and to the appellants and the respondents a concise statement setting out the facts and contentions upon which they rely, and in any such case the appellants and respondents shall within 14 days of the receipt of such statement be entitled to submit a statement in reply which shall be sent by them to the chief gas examiner and a copy thereof to such person or body interested.

10. The chief gas examiner may, at any stage of the proceedings, allow the amendment of any notice, statement, or particulars upon such terms as he may think fit.

11. The chief gas examiner may at any time require the appellants, the respondents, or the person or body interested as aforesaid, to submit in writing such further particulars as he may think necessary.

12. Unless the appeal be withdrawn, the chief gas examiner shall notify the appellants, the respondents, and the person or body interested as aforesaid, of the place, date and time for hearing the appeal.

13. At the hearing the appellants, the respondents and the person or body interested as aforesaid shall, subject to the direction of the chief gas examiner, be entitled to call such evidence as they may think fit.

14. The costs of any appeal, including the costs of the hearing, shall be in the discretion of the chief gas examiner who may direct to and by whom, and in what manner, those costs or any part thereof shall be paid, and may tax or settle the amount of costs to be so paid, or any part thereof.

15. The chief gas examiner, may, if he thinks fit, and subject to such conditions as he may impose, proceed with the consideration of any appeal, notwithstanding any failure or omission by any persons to comply with any of the requirements of these rules, or the non-attendance of any party at the hearing.

S. R. & O., 1922, No. 380.

THE GAS (CHARGES ORDERS) RULES, 1922, DATED APRIL 3, 1922, MADE BY THE BOARD OF TRADE WITH RESPECT TO APPLICATIONS FOR ORDERS UNDER SECTION 1 OF THE GAS REGULATION ACT, 1920 (10 & 11 GEO. 5, c. 28).

I. Application to the Board of Trade for an Order under section 1 of the Gas Regulation Act, 1920, shall be made to the Director of Gas Administration, Board of Trade, Great George Street, London, S.W.1.

II. The application shall state :

(*a*) the standard or maximum price or prices per therm which the undertakers applying for the Order (hereinafter called "the undertakers") propose shall be substituted (in accordance with the provisions of sub-section (3) of section 1 of the Act) for the standard or maximum price or prices per 1,000 cubic feet authorised by the statutory or other provisions other than an Order issued under the Statutory Undertakings (Temporary Increase of Charges) Act, 1918 (8 & 9 Geo. 5, c. 34), affecting the charges which may be made by the undertakers ;

(*b*) the amendments which the undertakers propose shall be made in any other existing statutory or other provisions affecting the charges which may be made for gas supplied by them ;

(*c*) the additional charges (if any) which the undertakers desire to be authorised to make in respect of gas supplied by means of prepayment meters.

III. The application shall be accompanied by the following documents :—

(*a*) A schedule (in triplicate) in the prescribed form showing in detail the cost to the undertakers of supplying gas for the periods specified in the form and a copy of the published accounts of the undertakers for the specified periods together with a statement of the price or prices charged for gas during each of those periods.

(*b*) A list of the enactments and other provisions requiring the undertakers to supply gas of any particular illuminating or calorific value.

(*c*) A list of the statutory and other provisions affecting the charges to be made by the undertakers.

IV.—(1) Notice of the application shall be published in the *London* or *Edinburgh Gazette*, as the case may be, and in at least one newspaper circulating within the limits of supply of the undertakers and shall also be served on the local authority. For the purposes of these rules the expression "local authority" shall mean every county, county borough and urban district council the whole or any part of whose area is within or partly within the limits of supply of the undertakers. Where any portion of the city of London is within such limits the notice shall also be served on the common council of the city of London.

(2) The notice shall state the standard or maximum price or prices per 1,000 cubic feet authorised by the enactments and other provisions other than an Order under the Statutory Undertakings (Temporary Increase of Charges) Act, 1918, relating to the undertakers and the prices per therm which the undertakers propose should be substituted therefor; and also the amendments which the undertakers propose shall be made in any other existing statutory or other provisions affecting the charges which may be made for gas supplied by them and the additional charges per therm which the undertakers desire to be authorised to make in respect of gas supplied by means of prepayment meters.

(3) The notice shall also state that a copy of the application and of all the documents submitted to the Board of Trade therewith may be inspected, free of charge, at the office of the undertakers within the limits of supply during office hours, that representations with regard to the application may be made to the Board of Trade before a date to be fixed in the notice, which shall be not less than 21 days (excluding any part of the month of August) after the date on which the publication and service of the notice will be completed, and that a copy of such representations must at the same time be sent to the undertakers. The notice served on the local authority shall also state that a copy of the application and of all the documents submitted to the Board of Trade therewith may be obtained at the office of the undertakers on payment of the usual charges for copying.

(4) As soon as possible after the publication and service have been completed a marked copy of the *Gazette* and newspaper containing the notice and a certified copy of the notice served on the local authority, endorsed with a list of the councils on which it has been served and the date of service, shall be forwarded to the Board of Trade.

V. After the date mentioned in the notice, the undertakers shall furnish to the Board of Trade their observations on any representations which have been made in accordance with the foregoing Rule IV. (3) and shall send a copy of such observations to the local authority or person making the representations.

VI. The fee payable in connection with the application shall be as specified in the schedule to these rules and a cheque for the appropriate amount, made payable to the Assistant Secretary for Finance, Board of Trade, should accompany the application. In addition any extraordinary expenses incurred by the Board of Trade in connection with a local inquiry into the application or otherwise will be payable by the undertakers.

VII. The rules, dated September 28, 1920, made by the Board of Trade with respect to applications for Orders under section 1 of the Gas Regulation Act, 1920 (S. R. & O., 1920, No. 1826), are hereby revoked.

Schedule.

SCALE OF FEES FOR ORDERS UNDER SECTION 1 OF THE GAS REGULATION ACT, 1920.

Where the undertakers supplied during the last complete year ended 31st December :—

	£
Up to 100,000,000 c. ft. of gas	10
100,000,000 c. ft. and less than 500,000,000 c. ft.	20
500,000,000 c. ft. and over	30

Appendix II.

S. R. & O., 1923, No. 439.

THE GAS (AMENDING ORDERS) RULES, 1923, DATED 16TH APRIL, 1923, MADE BY THE BOARD OF TRADE WITH RESPECT TO APPLICATIONS FOR AMENDING ORDERS UNDER SUB-SECTION (3) OF SECTION 1 OF THE GAS REGULATION ACT, 1920.

1. Application for an Amending Order for revising the powers of charging authorised by an Order made under section 1 of the Gas Regulation Act, 1920, may be made to the Board of Trade by the undertakers of the original Order, or by a local authority, or, where the local authority are the Undertakers, by twenty consumers. The application should be made by letter addressed to the Director of Gas Administration, Board of Trade, Great George Street, S.W.1.

2. When the applicants are themselves the Undertakers the procedure to be followed shall be that prescribed in respect of applications for original Orders in the Gas (Charges Orders) Rules, 1922, references therein to a standard or maximum price per thousand cubic feet being read as applying to the standard or maximum price per therm authorised by the original Order. Rules 3 to 6 hereof, both inclusive, shall not then apply.

3. When the Applicants are not the Undertakers, not less than twenty-eight days' preliminary notice (excluding any part of the month of August) of the intended application shall be given in writing by the local authority or twenty consumers as the case may be, to the Undertakers and to all the local authorities in the area of supply of the Undertakers.

4. An application for an Amending Order shall be accompanied by the following documents :—

(*a*) A statement in duplicate, showing by reference in detail to the published accounts of the Undertakers the alterations in the costs of the production and supply of gas by the Undertakers, upon which the application is founded.

(*b*) Proof of the service of the preliminary notices required by Rule 3.

5. The applicants shall, at the time of making the application to the Board of Trade—

(i) inform all the parties upon whom the preliminary notice was served of the fact that an application is being made,

(ii) furnish the said parties with a copy of the statement referred to in Rule 4 (*a*), and

(iii) notify them that any representations may be made to the Board of Trade within twenty-one days (excluding any part of the month of August) and that copies of any such representations should also be sent to the applicants.

6. After expiry of the period referred to in Rule 5 the applicants shall furnish to the Board of Trade their observations on any representations which have been made and shall transmit a copy thereof to the parties making the representations.

7. The fee payable in connection with an application for an Amending Order shall be in accordance with the scale specified in the Schedule to these Rules, and a cheque for the appropriate amount made payable to the Assistant Secretary for Finance, Board of Trade, shall accompany the application.

In addition any extraordinary expenses incurred by the Board of Trade in connection with a local inquiry into the application, or otherwise, will be payable by the applicants, but the fee will include the costs which the Board of Trade may incur in connection with the advertisement of the application where the applicants are not the Undertakers.

8. For the purposes of these Rules the term " local authority " shall mean every county, county borough, and urban district council the whole or any part of whose area is within the limits of supply of the Undertakers.

9. These Rules may be cited as the Gas (Amending Orders) Rules, 1923, and shall take effect from the date hereof.

Note.—Special Rules, in substitution for these Rules, were made on July 23, 1926, with regard to applications based upon the increased cost of coal due to the stoppage of the coal industry.

SCHEDULE.

SCALE OF FEES FOR AMENDING ORDERS UNDER SECTION 1 OF THE GAS REGULATION ACT, 1920.

Where the undertakers in respect of whom it is proposed that an Amending Order shall be made supplied during the last complete year ended 31st December :—

	£
Up to 500,000 therms	10
500,000 therms and less than 2,500,000 therms . .	20
2,500,000 therms and over	30

S. R. & O., 1926, No. 1188.

GAS AND WATER, ENGLAND AND WALES.

SUPPLY UNDER GAS AND WATER WORKS FACILITIES ACTS.

THE GAS AND WATER ORDERS (COMBINED PURPOSES) PROCEDURE RULES, 1926, DATED 1ST OCTOBER, 1926, MADE BY THE MINISTER OF HEALTH AND THE BOARD OF TRADE UNDER THE GAS AND WATER WORKS FACILITIES ACTS.

Whereas by section 4 of the Gas and Water Works Facilities Act, 1870 (hereinafter referred to as " the Act of 1870 ") it is enacted that Provisional Orders, authorising any gas undertaking or water undertaking under the authority of that Act may be obtained by any company, companies, or person, and by section 5 provision is made with regard to the procedure to be followed in making application for such Provisional Orders ;

And whereas by section 14 of the Gas and Water Works Facilities Act, 1870, Amendment Act, 1873 (hereinafter referred to as " the Act of 1873 ") the Board of Trade were empowered from time to time to make and when made to rescind, annul, or add to rules with respect to the procedure to be had before the Board under the Act of 1870 or the Act of 1873 and matters connected therewith ;

And whereas by the Ministry of Health (Transfer of Powers as to Water Undertakings) Order, 1920, made under section 3 of the Ministry of Health Act, 1919, by His Majesty in Council all the powers and duties of the Board of Trade under the Act of 1870 and the Act of 1873 in relation to water undertakings in England and Wales have been transferred to the Minister of Health, but the Board of Trade still retain the powers and duties vested in them by the said Acts with reference to gas undertakings :

And whereas the Minister of Health has this day made Rules, entitled the Water Orders Procedure Rules, 1926, for regulating the procedure in connection with applications under the said Acts for Provisional Orders which relate only to water undertakings, and it is desirable that Rules should also be made for regulating the procedure in connection with applications for Provisional Orders which relate to both a gas undertaking and a water undertaking :

Now therefore, the Minister of Health and the Board of Trade, in pursuance of their powers in that behalf, hereby make jointly the following rules :—

Preliminary.

1.—(1) These Rules may be cited as " the Gas and Water Orders (Combined Purposes) Procedure Rules, 1926," and shall come into operation on the date hereof.

(2) These Rules shall apply to any application for a Provisional Order under the Acts of 1870 and 1873 which is made by undertakers carrying on both a gas undertaking and a water undertaking, and which includes or relates to matters affecting both such undertakings.

2.—(1) In these Rules, unless the context otherwise requires,—

(*a*) " The Minister " means the Minister of Health ;

(*b*) " The district " means the district affected or proposed to be affected by the Order ;

(c) Other expressions have the same meanings as the like expressions have in the Act of 1870.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Notice as to objections to Intended Application.

3. The notice in writing required to be given by paragraph (1) of section 5 of the Act of 1870 and the notice by advertisement and notice in writing required to be given by paragraph (2) of that section, shall state that every person desirous of bringing before the Minister of Health and the Board of Trade any objection respecting the application for a Provisional Order may do so by letters addressed to the Secretary, Ministry of Health, Whitehall, London, S.W.1, and the Director of Gas Administration, Board of Trade, Great George Street, London, S.W.1, on or before the 15th day of January next following the date of the said notice or advertisement, that a copy of such objection must at the same time be sent to the undertakers or their agent, and that in forwarding to the Minister and to the Board of Trade such objection the objectors or their agents shall state that they have complied with this requirement.

Deposit of Plans and Sections.

4.—(1) On or before the 30th day of November of the year in which the notice referred to in Rule 3 hereof is given (hereinafter referred to as " the same year ") the undertakers shall deposit at the offices of the Minister and of the Board of Trade:—

(a) The documents required under Part II. of Schedule B to the Act of 1870 to be deposited, and

(b) an ordnance map of the district on a scale of not less than one inch to the mile showing the area and, by distinctive colouring, the boundaries of the proposed or existing limits of supply, the sites of any proposed works and any proposed extension of the existing limits of supply.

(2) Plans and sections deposited under Part II. of Schedule B of the Act of 1870 or under sub-paragraph (a) of paragraph (1) of this Rule shall be such plans and sections as would be required by the Standing Orders for the time being of the Houses of Parliament to be deposited in Parliament if the undertakers instead of applying for a Provisional Order were proceeding by a Private Bill.

(3) Plans and sections deposited with the Clerk of the Peace under Part II. of Schedule B of the Act of 1870 shall, subject to the Standing Orders for the time being of the Houses of Parliament, be deposited in duplicate.

Notice of Intention to make Application.

5.—(1) On or before the 15th day of December in the same year where the application is for a Provisional Order for constructing water works or works connected therewith of gas works or works connected therewith whereby it is proposed to lay any pipes along or across any railway, tramway, canal, or navigable river, or over any county bridge, or otherwise to affect or interfere with such railway, tramway, canal, navigable river or county bridge, the undertakers shall serve notice in writing of the intention to make such application upon the owner or reputed owner and upon the lessee or reputed lessee of such railway, tramway or canal, and upon the county council with respect to such county bridge, and upon the conservators or other body having statutory powers of control in respect of the navigable river, and such notice shall state the place or places at which the plans of the works to be authorised by such order have been or will be deposited, and that any objections are required to be sent to the Minister and the Board of Trade within the time and in the manner hereinbefore specified. Every such notice must be accompanied by a copy of Rules 11 and 12 of these Rules, and must state where copies of the Draft Provisional Order, when deposited at the offices of the Minister and of the Board of Trade, can be obtained.

(2) Where it is proposed to use any land for the manufacture or storage of gas or the manufacture or conversion of residual products, the undertakers or their agents

shall, on or before the 15th day of December in the same year, serve a notice on the owner, lessee and occupier of every dwelling house situate within three hundred yards of any point on the said land. The notice shall contain a description of the said land and shall state that any objections are required to be sent to the Minister and to the Board of Trade within the time and in the manner hereinbefore specified.

6.—(1) On or before the 23rd day of December in the same year the undertakers shall deposit, in accordance with the provisions hereafter in this Rule contained,—

(*a*) The documents required under Part III. of Schedule B to the Act of 1870 to be deposited.

(*b*) A complete list of every railway, tramway, canal, navigable river, and county bridge along or across which it is proposed to lay any pipe, or which it is proposed otherwise to affect or interfere with, together with the names and addresses of the persons or bodies on whom notice is to be served in respect thereof under Rule 5 (1).

(*c*) A list of the local and road authorities in whose districts the proposed works are situated, including the county council, where it is proposed to interfere with any main road or any county bridge.

(*d*) A complete list of every company, corporation, or person supplying water or gas within the district.

(*e*) A complete list of such owners or reputed owners, lessees or reputed lessees and occupiers of mills and manufactories or other works as are referred to in paragraph (2) of section 5 of the Act of 1870, together with a certified copy of the notice which has been served upon them in accordance with the provisions of the said paragraph.

(*f*) A complete list of such owners, lessees and occupiers as are referred to in paragraph (2) of Rule 5, together with a certified copy of the notice which has been served upon them in accordance with the provisions of the said paragraph.

(*g*) A statement of the existing capital (including loan capital) of the undertakers, showing the amounts respectively authorised, raised and expended, and, in the case of an application for power to raise additional capital (including loan capital), a further statement setting forth, under separate heads, all the purposes for which the additional capital is required. The statements shall be furnished whether the undertakers have parliamentary powers or not:

(*h*) A copy of the printed accounts presented to the shareholders for the half-year or other period next preceding the date of the application:

(*i*) The deed of conveyance or lease to, or the contract for purchase by, the undertakers of all lands to be used for such purposes of the Order as relate to their water undertaking:

(*j*) The deed of conveyance or lease to, or the contract for purchase by, the undertakers of all lands to be used for such purposes of the Order as relate to their gas undertaking; and

(*k*) A list of all Provisional and other Orders or Acts of Parliament (if any) of the undertakers together with one copy of each Order and Act; and where the undertakers are a company incorporated under the Companies Acts, a printed copy of the Memorandum of Association, Articles of Association, and any registered special resolution of the company; and in the case of a company incorporated in any other manner, a copy of every instrument of incorporation.

(2) Of the documents referred to in the preceding paragraph of this Rule those specified in sub-paragraphs (*e*) and (*i*) shall be deposited at the offices of the Minister: those specified in sub-paragraphs (*f*) and (*j*) shall be deposited at the offices of the Board of Trade, and the remainder shall be deposited at the offices both of the Minister and of the Board of Trade.

(3) On or before the 10th day of January immediately succeeding the making of the application the undertakers shall pay a fee of £50 in such manner as the Minister and the Board of Trade shall direct: Provided that such further security, if any, shall be given by the undertakers as the Minister or the Board of Trade (as the case may be) may from time to time require with respect to the costs of any inquiry or other matter arising out of the application.

(4) The Memorial referred to in Part III. of Schedule B to the Act of 1870 shall be addressed both to the Minister and to the Board of Trade.

(5) The following provisions shall have effect with respect to the preparation and deposit of the draft of the Provisional Order :—

- (*a*) The draft of the Provisional Order and the printed copies thereof referred to in Part III. of Schedule B to the Act of 1870 shall be on foolscap paper and be printed on one side only of each sheet of paper, and any schedule thereto shall begin on a new page ;
- (*b*) There shall be scheduled to the draft Order any land which it is proposed to acquire or use for the purposes of the water undertaking of the undertakers, or for the manufacture or storage of gas or the manufacture or conversion of residual products ;
- (*c*) The names and addresses of the agent of the undertakers shall be printed on the outside of the draft Order, which shall contain a notice at the end of it stating that any objections are required to be sent to the Minister and to the Board of Trade within the time and in the manner hereinbefore specified ;
- (*d*) The draft of the Provisional Order deposited with the Minister and with the Board of Trade shall in each case be in triplicate ; and
- (*e*) A copy of the draft Order shall, on the 23rd day of December aforesaid, or within seven days thereafter, be deposited with the Office of Works, the Commissioners of Crown Lands, the Home Office and the Postmaster-General and, where the draft Order affects the Duchy of Lancaster or the Duchy of Cornwall, at the Office of such Duchy.

Approval of Shareholders or Proprietors.

7.—(1) Where the undertakers are a company (*a*) applying for capital or borrowing powers, or (*b*) proposing to purchase or amalgamate with another undertaking or to enter into an agreement with another undertaking jointly to supply water or gas, a certified copy of a resolution approving the application, passed by shareholders or stockholders qualified to vote at ordinary meetings of the company who were present (either in person or by proxy) at a general meeting, and who held at least three-fourths of the paid-up capital of the company represented by the votes at such meeting, shall be furnished to the Minister before the application can be entertained. A certified copy of the notice convening the meeting must also be furnished.

(2) Where the undertakers propose to purchase, or to amalgamate with, another undertaking, or to enter into an agreement with another undertaking jointly to supply water or gas, proof must also be furnished that the purchase or amalgamation is approved by the proprietors of the other undertaking concerned.

(3) This Rule shall have effect subject to the provisions of Rule 14 hereof.

Proof of Compliance with Statutory Requirements.

8.—(1) The undertakers shall prove compliance with the provisions of—

- (i) Section 5 and Parts I., II. and III. of Schedule B of the Act of 1870 ; and
- (ii) these Rules :

by statutory declaration made by the undertakers or their agent to be deposited in the offices of the Minister on or before the 15th day of January immediately succeeding the making of the application or such later date as the Minister may allow.

(2) The following documents shall be annexed as exhibits :—

- (*a*) Copies of all notices served upon local authorities, road authorities, companies, corporations, and persons in pursuance of the Act of 1870 and of these Rules ;
- (*b*) Copies of the newspaper containing the advertisements ; and
- (*c*) A copy of the London Gazette in which the advertisement was inserted.

(3) This Rule shall have effect subject to the provisions of Rule 14 hereof.

9.—(1) On or before the 15th day of January aforesaid there shall be deposited in the offices of the Minister—

- (*a*) a statutory declaration showing that the requirements of the Standing Orders of both Houses of Parliament have been complied with, as regards the deposit with the Clerk of the Parliaments and at the Private Bill Office of duplicates of every map, plan, section, and book of reference deposited with the Minister; and

(b) a statutory declaration proving compliance with the Standing Order of the House of Commons with regard to the taking of houses occupied wholly or partially by thirty or more persons of the working classes, or where the taking of the land will not involve the acquisition of any house or houses so occupied, a statutory declaration for the purpose of showing that the Standing Order does not apply.

(2) The statutory declaration referred to in paragraph (1) (a) of this Rule shall be made by the undertakers or their agent and by the person by whom the deposits were made, and the statutory declaration referred to in paragraph (1) (b) of this Rule shall be made by the undertakers or their agent.

(3) This Rule shall have effect subject to the provisions of Rule 14 hereof.

Objections.

10.—(1) Any objection to an application for a Provisional Order shall be lodged with the Minister and with the Board of Trade on or before the 15th day of January immediately succeeding the making of the application.

(2) When an objection is lodged with the Minister and with the Board of Trade, the objector or his agent shall state that he has at the same time forwarded a copy of such objection to the undertakers or their agent.

(3) Every memorial, objection, and other such document deposited or lodged with the Minister and with the Board of Trade, shall be on foolscap paper.

(4) As soon as practicable after the 15th day of January, the undertakers shall furnish the Minister and the Board of Trade with replies to any objections which have been made. A copy of the reply to each objection shall at the same time be sent to the objector or his agent.

Proposals for Amendment of Draft Order.

11. If any local or road authority, or railway, tramway or canal company, or any other company, body or person desires to have any clause or other amendment inserted in the Order they must deliver the proposed clause or amendment to the undertakers or their agent and also to the Minister and to the Board of Trade on or before the 8th day of February immediately succeeding the making of the application: Provided that such delivery shall not prejudice the right of the party making such delivery to oppose the Order in Parliament.

12.—(1) On or before the 22nd day of February immediately succeeding the making of the application the undertakers or their agent shall deliver to the Minister and to the Board of Trade, (a) a printed draft of the Provisional Order in triplicate containing in manuscript all such clauses or other amendments as have been agreed between the several parties concerned and, (b) a certified copy of any resolution passed before that date by any local authority and by any road authority (where such exists distinct from the local authority for the purposes of the Act of 1870) whose consent is required under section 4 of the Act of 1870 approving the application.

(2) If any of the proposed clauses or other amendments which have been delivered to the undertakers or their agent and to the Minister and the Board of Trade have not been settled with the consent of all the parties concerned, the undertakers or their agent shall, so far as they can, on or before the 22nd day of February immediately succeeding the making of the application furnish to the Minister and the Board of Trade in writing a statement showing what are the amendments, if any, which each party would be willing to accept.

(3) After the said 22nd day of February no further proposals for clauses will be entertained by the Minister and the Board of Trade.

Procedure after Making of Order.

13.—(1) After a Provisional Order has been made, and before it is introduced into a Confirmation Bill in Parliament, the undertakers shall, within fourteen days after the day on which the Provisional Order shall have been sent to them, transmit to the Minister a statutory declaration made by them or their agent proving that the

Provisional Order was published on or before the 25th day of April immediately succeeding the making of the Order, in conformity with paragraph 3 of Part IV. of Schedule B of the Act of 1870, and that paragraphs 1 and 2 of the said part of that Schedule have been complied with.

(2) Copies of the Provisional Order and of the newspaper containing the advertisement of the Order, shall be annexed to the declaration as exhibits.

(3) The advertisement shall have a short heading stating that the Order has been made by the Minister and the Board of Trade under the Act of 1870 for the purpose of being introduced into a Confirmation Bill in Parliament, and must also state the office where printed copies of the Order can be obtained, which shall be the office named in the original advertisement of the application for the Order.

(4) The declaration shall state that a sufficient number of printed copies of the Order have been deposited for sale at the office named in the original advertisement, and the price, not exceeding one shilling for each copy, for which they may be obtained.

(5) This Rule shall have effect subject to the provisions of Rule 14 hereof.

General.

14. If on or before the 31st day of December in the year in which the application is made the undertakers or their agent shall receive notice by letter from the Minister and the Board of Trade that the documents required by Rules 7, 8, 9 and 13 to be deposited with the Minister should be deposited with the Board of Trade instead of with the Minister, the undertakers shall deposit such documents accordingly.

15. The Minister and the Board of Trade may if they think fit and subject to such conditions as they may impose, exercise their powers under the Act of 1870, notwithstanding the failure of the undertakers to comply with any of the requirements of these Rules other than statutory requirements.

S. R. & O., 1929, No. 531.

THE GAS (BORDERING PREMISES) RULES, 1929, DATED JUNE 28, 1929, MADE BY THE BOARD OF TRADE WITH RESPECT TO APPLICATIONS FOR ORDERS UNDER SECTION 5 OF THE GAS UNDERTAKINGS ACT, 1929 (19 & 20 GEO. 5, C. 24).

Rule I. Interpretation.

I. Unless the context otherwise requires, words and expressions used in these Rules have the same meanings as in the Gas Undertakings Act, 1920 and 1929.

Rule II. By whom application to be made.

II. Any application for an Order shall be made by the undertakers (hereinafter called "the applicants") wishing to be authorised to furnish the supply desired by an owner or occupier of premises outside the applicants' limits of supply.

Rule III. Advertisement of application.

III. The applicants for an Order shall publish an advertisement of their intended application in a local newspaper circulating within their limits of supply and within the area in which are situate the premises proposed to be supplied with gas under the Order (hereinafter called "the bordering area"). The advertisement shall contain—

(*a*) the description and address of the applicants;

(*b*) particulars of the premises proposed to be supplied with gas and of the route along which it is proposed to lay pipes in order to effect the supply;

(*c*) a short statement of the modifications of the enactments applying to the applicants which, in their opinion, are necessary in order to give full effect to the proposed Order;

(*d*) an intimation to the effect and (as nearly as may be) in the form of paragraph (1) of Rule VI.

Rule IV. Deposit of

IV. On or before the date of publication of the advertisement, the applicants shall deposit a copy of the advertisement with—

Appendix II.

(*a*) the local authorities within whose areas are situate the premises proposed to be supplied with gas and the route outside the limits of supply of the applicants along which it is proposed to lay pipes in order to effect the supply;

(*b*) the undertakers authorised to supply gas within the bordering area;

(*c*) the owners and lessee of every railway tramway and canal along or across which it is proposed to lay any pipes or which it is proposed otherwise to affect or interfere with.

copy of advertisement with local authorities and undertakers, etc.

Rule V. Deposits at the Board of Trade.

V. The application for an Order shall be made in writing to the Director of Gas Administration, Board of Trade, Great George Street, London, S.W.1, within seven days after the date of publication of the advertisement and the applicants shall deposit therewith—

(*a*) a copy of the local newspaper containing the advertisement;

(*b*) a list of the local authorities companies and persons with whom a copy of the advertisement has been deposited in accordance with Rule IV., showing separately the names of the local authorities within whose areas the premises proposed to be supplied are situate and of the undertakers authorised to supply gas in the bordering area. The list shall be certified by a responsible officer of the applicants as containing the name of every local authority company and person with whom a copy of the advertisement is required to be deposited in pursuance of that Rule;

(*c*) a list, certified by a responsible officer of the applicants, of every special Act of Parliament and Order having the force of an Act relating to the applicants;

(*d*) a statement in writing signed by the owner or occupier of the premises proposed to be supplied with gas declaring that such owner or occupier desires to obtain a supply of gas from the applicants.

Rule VI. Objections to proposed Order.

VI.—(1) Any local or other public authority, company or person desiring to bring before the Board of Trade any objection to the application may do so by registered letter addressed to the Director of Gas Administration, Board of Trade, Great George Street, London, S.W.1, and despatched on or before [a date to be stated in the advertisement which shall not be earlier than 14 days after the date of publication of the advertisement]. Any such objection shall state the specific grounds of objection and a copy of the objection shall be forwarded to the applicants or their agents at the same time as it is sent to the Board of Trade.

(2) No part of the month of August shall be included in calculating the above mentioned period of 14 days.

(3) As soon as practicable after the period allowed for objections has expired, the applicants shall furnish the Board of Trade with replies to the objections. A copy of the replies shall at the same time be sent to the respective objectors.

Rule VII. Information required by Board of Trade.

VII. The applicants shall furnish the Board of Trade with such information and documents as they may require in connection with the application, including such Ordnance Maps as may be necessary for the consideration of the application.

Rule VIII. Consent of local authority and undertakers.

VIII.—(1) The Board of Trade, before making an Order, will send a draft thereof, in the form in which they propose to make it, to the local authorities and undertakers respectively named on the list deposited under Rule V. (*b*) as local authorities within whose areas the premises proposed to be supplied are situate and as undertakers authorised to supply gas in the bordering area with a request to be informed within 14 days, whether the local authority and undertakers respectively consent or refuse consent to the making of the Order. If any local authority or undertakers refuse consent they shall, within the 14 days aforesaid, send to the Board of Trade and to the applicants a statement of the points in regard to which their objection deposited in accordance with Rule VI. has not been met and of their ground for maintaining their objection.

(2) In the event of a written request for an inquiry being sent to the Board of Trade within the 14 days aforesaid by any local authority or undertakers refusing consent, together with an undertaking on the part of such local authority or undertakers to be represented at any inquiry to be held, the Board of Trade may, if they think it advisable, direct an inquiry to be held into the question whether or not the consent of such local authority or undertakers is unreasonably withheld, and the applicants and the local authority or undertakers shall in such case be entitled to be represented and to be heard at the inquiry.

Appendix II.

(3) The costs of any inquiry held under the provisions of this Rule shall be payable by such of the parties to the inquiry as the Board of Trade may determine, whether upon the recommendation of the person appointed to hold the inquiry or otherwise.

Rule IX. Short title.

IX. These Rules may be cited as the "Gas (Bordering Premises) Rules, 1929," and shall come into operation from the date hereof.

Dated this 28th day of June, 1929.

H. P. HAMILTON,
Secretary to the Board of Trade.

HOUSING.

For all references in the various documents to Housing Acts prior to 1925 should now be substituted references to the corresponding sections of the consolidating Act of 1925. To assist readers in doing this and also in referring to cases prior to 1925 in which the reports contain references to the Acts consolidated, the following table has been inserted here:—

HOUSING ACT, 1925.

TABLE TO FACILITATE REFERENCES PREPARED WHEN THE BILL WAS IN PROGRESS.

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
	HOUSING OF THE WORKING CLASSES ACT, 1890. (53 & 54 Vict. c. 70.)		
S. 1 . .	Short title	—	Unnecessary.
	PART I.		
S. 2 . .	Definitions . . .	—	Definition of "this Part of this Act" repealed 1923. Expression "Acts relating to nuisances" occurs only in s. 21 of the Act of 1890, and that section was repealed by 1923.
S. 3 . .	Application of Part I. . .	35 (3), 56 (1)	
S. 4 . .	Local authority as result of official representation, to make scheme for improvement of unhealthy district.	35	
S. 5 . .	Official representation, by whom to be made.	36	
S. 6 . .	Requisites of improvement schemes of local authorities.	38	
S. 7 . .	Publication of notices . .	39	
S. 8 . .	Making and confirmation of provisional order.	40, 41	Sub-s. (6) repealed 1909.
S. 9 . .	Costs	—	Repealed 1909.
S. 10 . .	Inquiry on refusal of local authority to make improvement scheme.	50	
S. 11 . .	Requisites of improvement scheme as to accommodation of working classes.	38 (4)	Sub-s. (1) repealed 1919, s. 13.
S. 12 . .	Duty of local authorities to carry confirmed schemes into execution.	42	Sub-s. (5) repealed 1909.
S. 13 . .	Completion of scheme on failure by local authority.	43	

HOUSING OF THE WORKING CLASSES ACT, 1890—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 14 . .	Notice by placard to occupiers	—	Repealed 1919.
S. 15 . .	Power of confirming authority to modify authorised scheme.	44	Sub-s. (2) repealed 1909.
S. 16 . .	Inquiry on default of medical officer.	48	
S. 17 . .	Proceedings at local inquiry .	—	Repealed 1909.
S. 18 . .	Publication of notice of inquiry.	—	
S. 19 . .	Power to administer oath .	—	
S. 20 . .	Acquisition of land . .	—	Repealed 1923.
S. 21 . .	Special provision as to compensation.	—	
S. 22 . .	Extinction of rights of way, &c.	45	
S. 23 . .	Application of lands for accommodation of working classes.	38 (6)	
S. 24 . .	Formation of improvement Fund.	—	Repealed 1923.
S. 25 . .	Borrowing Powers . .	84	
S. 26 . .	Provision in case of absence of medical officer of health.	—	Repealed 1923.
S. 27 . .	Forms of advertisements, etc.	—	Repealed 1909.
S. 28 . .	Power to dispense with publication of same.	—	
	PART II.		
S. 29 . .	Definitions	135	Definitions of "closing order" repealed 1923.
S. 30 . .	Representation of medical officer of health.	9	
S. 31 . .	Representation on householders' complaint.	10, 23	
S. 32 . .	Closing of dwelling house unfit for habitation.	—	Repealed 1909.
S. 33 . .	Order for demolition . .	—	
S. 34 . .	Execution of demolition order and provision as to site.	15	
S. 35 . .	Appeal against order of local authority.	15, 16, 22, 27	
S. 36 . .	Grant of annuity to owner on completion of works.	16 (1) (2), 32 (3)	Sub-s. (4) repealed 1923.
S. 37 . .	Incidence of charge . .	16 (3), 32	
S. 38 . .	Purchase and demolition of obstructive buildings.	19, 20	
S. 39 . .	Reconstruction schemes. .	37, 40, 42, 43, 44, 45	
S. 40 . .	Accommodation of working-class persons.	38 (4)	
S. 41 . .	Compensation: Arbitration provisions.	21, 46, Sch. I.	Sub-s. (5), (7), (8), (9), (10), (11), repealed 1923.
S. 42 . .	Expenses	81	
S. 43 . .	Borrowing	84, 89	
S. 44 .	Annual presentation of accounts.	—	Repealed 1923.
S. 45 . .	Powers of county councils .	25	
S. 46 . .	Application of Part II. to London.	28, 56, 82, 184	Sub-s. (4), repealed S.L.R. 1908.
S. 47 . .	Provision as to superior Landlord.	29	

HOUSING OF THE WORKING CLASSES ACT, 1890—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 48 . .	Saving of rights of owner .	31	
S. 49 . .	Service of notices . . .	—	Repealed 1923.
S. 50 . .	Description of owner in proceedings.	126	
S. 51 . .	Penalty for contravention .	124	
S. 52 . .	Report by county medical officer.	33	
	PART III.		
S. 53 . .	Definition of purposes of Labouring Classes Lodging Houses Acts.	57 (4)	Sub-s. (2) repealed 1909.
S. 54 . .	Adoption of Part III. . .	—	Repealed 1909.
S. 55 . .	Procedure on adoption by rural sanitary authority.	—	Repealed 1900 and 1909.
S. 56 . .	Powers of local authority .	57 (3)	
S. 57 . .	Acquisition of land . .	63, 65	Sub-s. (2) repealed 1919.
S. 58 . .	Acquisition of existing lodging houses.	66 (1)	
S. 59 . .	Erection of lodging houses .	57	
S. 60 . .	Sale and exchange of lands .	—	Repealed 1919.
S. 61 . .	Management of lodging houses	67	
S. 62 . .	Regulation of lodging houses .	68	
S. 63 . .	Disqualification for tenancy of tenants in receipt of parish relief.	—	Repealed 1909.
S. 64 . .	Sale of unnecessary or expensive lodging houses.	—	Repealed 1919.
S. 65 . .	Expenses	81	The whole section, except paragraph (ii) repealed 1909 and 1923.
S. 66 . .	Borrowing	84	
S. 67 . .	Loans by Public Works Commissioners.	90	
S. 68 . .	Powers to companies, societies, etc.	71	
S. 69 . .	Supply of gas and water .	79	
S. 70 . .	Inspection of lodging houses .	69	
S. 71 . .	Application of penalties .	68 (4)	
	PART IV.		
S. 72 . .	Limit of area to be dealt with on official representation.	56 (2)	
S. 73 . .	Cases in which county of London are to act.	56 (3)	
S. 74 . .	Amendment of 45 & 46 Vict. c. 38.	78	Sub-s. (1) of s. left outstanding.
S. 75 . .	Implied condition in "lettings" that house is fit for human habitation.	—	Practically spent.
S. 76 . .	Medical officer of health in county of London.	130 (3), (4)	
S. 77 . .	Power to enter and value premises.	—	Repealed 1909.
S. 78 . .	Compensation for compulsory removal expenses.	42 (7)	
S. 79 . .	Duties of medical officer of health.	130 (1), (2)	
S. 80 . .	Accounts and audits . .	95 (2)	Sub-s. (1) repealed 1923.

HOUSING OF THE WORKING CLASSES ACT, 1890—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 81 . .	Appointment of committees .	111 (1)	
S. 82 . .	Application of proceeds of sale of land acquired for housing purposes.	96	
S. 83 . .	Rates of loans . . .	90 (6)	
S. 84 . .	Application of certain provisions as to byelaws.	68 (3), (4)	
S. 85 . .	Local inquiries . . .	116	
S. 86 . .	Orders, notices, etc. . .	120	
S. 87 . .	Service of notices, etc., on local authority.	119	
S. 88 . .	Penalty for voting as member of local authority when beneficially interested.	125	
S. 89 . .	Penalty for obstructing execution of Act.	123	
S. 90 . .	Punishment of offences and recovery of fines.	—	Unnecessary.
S. 91 . .	Powers of Act to be cumulative.	134	
S. 92 . .	Definition of "local authority," "local rate," and "district."	34, 56, 80, 81	
S. 93 . .	Other definitions . . .	135	
	PART V.		
	Apply only to Scotland.		
	PART VI.		
	Apply only to Ireland.		
	PART VII.		
S. 102 . .	Repeal of Acts . . .	—	Unnecessary.
S. 103 . .	Temporary provisions . .	—	Spent.
Sch. I. . .	Areas, authorities, and rates .	34, 56, 80, 81	
Sch. II. .	Provisions with respect to the purchase and taking of lands in England otherwise than by agreement, and other amendments of the Lands Clauses Acts.	Sch. II.	The whole Schedule except paragraphs (10) and (12) repealed 1923.
Sch. III. .	Enactments applied for the purpose of proceedings for closing premises in England, Scotland and Ireland, respectively.	—	Repealed 1909.
Sch. IV. .	Forms of Notices, Summonses, and Closing Orders.	—	
Sch. V. . .	Forms of Charging Orders, etc.	—	
Sch. VI. .	Byelaws to be made in all cases (except where lodging house is used as separate dwelling).	68 (2)	
Sch. VII. .	Enactments repealed . .	—	Repealed S. L. R., 1908.

LONDON COUNCIL (GENERAL POWERS) ACT, 1890.

(53 & 54 Vict. c. ccxliii.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 25 . .	Purchase of land by agreement for artisan schemes.	55	

HOUSING OF THE WORKING CLASSES ACT, 1890—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
	LOCAL GOVERNMENT ACT, 1894. (56 & 57 Vict. c. 73.)		
S. 6 (2) . .	Power to parish councils to make complaints as to unhealthy dwellings or obstructive buildings.	10, 19 (2)	
	HOUSING OF THE WORKING CLASSES ACT, 1894. (57 & 58 Vict. c. 55.)		
S. 1 . .	Borrowing powers under a scheme for reconstruction.	84	
S. 2 . .	Short title	—	Unnecessary.
	HOUSING OF THE WORKING CLASSES ACT, 1900. (63 & 64 Vict. c. 59.)		
S. 1 . .	Exercise of powers outside district.	57, 80, 88	
S. 2 . .	Adoption of Part III. by rural district councils.	—	Repealed 1909.
S. 3 . .	Provisions as to metropolitan borough councils.	81, 84	
S. 4 . .	Accounts	95	
S. 5 . .	Leases by local authorities for building lodging houses.	—	Repealed 1919.
S. 6 . .	Power of county council to act in default of rural district council.	—	Repealed 1909.
S. 7 . .	Arbitration as to acquisition of land.	—	
S. 8 . .	Short title and extent . .	—	Unnecessary.
Sch. . .	Repeals	—	Unnecessary.
	HOUSING OF THE WORKING CLASSES ACT, 1903. (3 EDW. 7, c. 39.)		
S. 1 . .	Maximum term for repayment of loans.	84, 88	
S. 2 . .	Transfer of Home Office powers and duties to Local Government Board.	—	Spent.
S. 3 . .	Re-housing obligations when land is taken under statutory powers.	98	
S. 4 . .	Provisions on failure of local authority to make a scheme.	48, 50	
S. 5 . .	Amendment of procedure for confirming improvement scheme.	40	Sub-s. (1) repealed 1919, paragraphs (*a*) and (*b*) of sub-s. (2) repealed 1909.
S. 6 . .	Power to modify schemes .	—	Repealed 1909.
S. 7 . .	Amendments as to scheme of reconstruction.	38 (1) (*a*)	
S. 8 . .	Amendment of procedure for closing orders.	—	Repealed 1909.
S. 9 . .	Power to recover cost of demolition.	15 (2)	

HOUSING OF THE WORKING CLASSES ACT, 1903—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 10 . .	Recovery of possession from occupying tenants in pursuance of closing orders.	13	
S. 11 . .	Powers in connection with provision of dwelling accommodation or lodging houses.	107	
S. 12 . .	Condition in contracts for letting houses for the working classes.	1	
S. 13 . .	Service of notices . . .	119	Sub-s. (1) repealed 1923.
S. 14 . .	Agreements between London County Council and metropolitan borough councils.	82	
S. 15 . .	Provisions consequential on extension of period for repayment of loans.	84	
S. 16 . .	Substitution of Secretary of State for Local Government Board.	—	Repealed 1909.
S. 17 . .	Short title and extent . .	—	Unnecessary.
Sch. . .	General provisions with respect to the provision of dwelling accommodation for persons of the working class.	Sch. V.	

HOUSING, TOWN PLANNING, ETC., ACT, 1909.

(9 EDW. 7, c. 44.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 1 . .	Part III. of the principal Act to take effect without adoption.	57, 80	Effect given to giving the powers under Part III. to local authorities without adoption.
S. 2 . .	Acquisition of land under Part III. of principal Act.	58 (3), 64	
S. 3 . .	Public Works loans to local bodies.	89	
S. 4 . .	Public Works loans to public utility societies.	90 (5)	Sub-s. (2) repealed 1919.
S. 5 . .	Payment of purchase or compensation money to be on direction of Local Government Board.	129	
S. 6 . .	Provision of public streets .	—	Repealed 1919.
S. 7 . .	Expenditure of money for housing purposes in case of settled land.	—	Left outstanding, to be incorporated in the Settled Land Consolidation Bill.
S. 8 . .	Donations for housing purposes.	114	
S. 9 . .	Money applicable under trusts for housing purposes.	132	
S. 10 . .	Power of Local Government Board to enforce exercise of powers of local authorities.	23, 73	
S. 11 . .	Power of Local Government Board to order schemes, etc., to be carried out within a limited time.	24, 51	

HOUSING, TOWN PLANNING, ETC., ACT, 1909—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 12 . .	Power of county council to act in default of rural district council.	76	
S. 13 . .	Power of county council to exercise powers of rural district council under Part III. of principal Act.	77	
S. 14 . .	Extension of s. 75 of principal Act.	1 (1)	
S. 15 . .	Condition as to keeping houses let to persons of the working classes in repair.	1, 3 (9)	Sub-s. (3)–(6) and (8) repealed 1923.
S. 16 . .	Extension of power of making byelaws with respect to lodging houses for the working classes.	—	Repealed 1919.
S. 17 . .	Duty of local authority as to closing of dwelling houses unfit for human habitation.	8, 11, 18	
S. 18 . .	Demolition orders . .	14	
S. 19 . .	Redemption of annuities charged by charging orders.	32 (5)	
S. 20 . .	Priority of charges under s. 37 of principal Act.	32 (1)	
S. 21 . .	Restriction on power of court of summary jurisdiction to extend time for execution of works, etc.	29 (3)	
S. 22 . .	Amendment of s. 4 of the principal Act as to official representation.	35	
S. 23 . .	Amendment of the principal Act as to contents of schemes.	38 (1) (*d*)	
S. 24 . .	Amendment of 3 Edw. 7, c. 39, s. 5.	40	
S. 25 . .	Modification of schemes .	44	
S. 26 . .	Inquiries by Local Government Board inspectors as to unhealthy areas.	48	
S. 27 . .	Amendment as to the vesting of water pipes, etc.	45	
S. 28 . .	Amendment of s. 38 of the principal Act as to distribution of compensation money and as to betterment charges.	20 (4)	
S. 29 . .	Explanation of ss. 21 (2) and 41 (3) of principal Act.	Sch. I. Pt. I. (2) and Pt. II. (2)	So far as s. 21 of Act of 1890 is concerned the section is virtually repealed by 1923.
S. 30 . .	Amendment as to application of money borrowed for the purpose of the Dwelling House Improvement Fund.	—	Repealed 1923.
S. 31 . .	Expenses of rural district council under Part III. of principal Act.	81 (2)	
S. 32 . .	Application of proceeds of land sold under Part III. of the principal Act.		Repealed 1919.

HOUSING, TOWN PLANNING, ETC., ACT, 1909—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 33 . .	Mode in which contributions by London borough councils to the County Council or *vice versâ* may be made.	82 (3)	
S. 34 . .	Exemption from s. 133 of 8 and 9 Vict. c. 18.	131	
S. 35 . .	Exemption of working class lodging houses from Inhabited House Duty.	—	Repealed, Finance Act, 1924.
S. 36 . .	Power of entry . . .	121, 127	
S. 37 . .	Power of Local Government Board to obtain a report on any crowded area.	117	
S. 38 . .	Joint action by local authorities.	112	
S. 39 . .	Appeals to Local Government Board.	115	
S. 40 . .	Sale and disposal of dwellings	113	
S. 41 . .	Power to prescribe forms and to dispense with advertisements and notices.	122	
S. 42 . .	Publications in *London Gazette.*	—	Unnecessary; no provisions in Bill requiring publication in *London Gazette.*
S. 43 . .	Prohibition of back-to-back houses.	17	
S. 44 . .	Revocation of unreasonable byelaws.	—	Repealed 1923.
S. 45 . .	Saving of sites of ancient monuments, etc.	64, 105	
S. 46 . .	Minor amendments of Housing Acts.	—	Effect given in the clauses reproducing the various sections amended.
S. 47 . .	Provisions of Part I. to be deemed to be part of the appropriate Part of principal Act.	—	Effect given by incorporating the provisions in the appropriate Part of this Bill.
S. 48 . .	Amendment of definitions in Part I. of the principal Act.	135	
S. 49 . .	Amendment of definitions for purpose of Part II. of principal Act.	135	
S. 50 . .	Definition of "cottage" .	57 (4)	
S. 51 . .	Definition of "Housing Acts."	—	Unnecessary.
S. 52 . .	Extension of 63 & 64 Vict. c. 59, and 3 Edw. 7, c. 39, to Scotland.	—	Apply only to Scotland.
S. 53. . .	Application of Housing Acts to Scotland.	—	
S. 69 . .	Duty of clerk of rural district, etc., council to furnish information to county medical officer of health.	25 (4), (5) (6)	Left outstanding as respects duties of district medical officers as being of general application and not confined to the Housing Acts.
S. 73 . .	Provisions as to commons and open spaces.	103	

HOUSING, TOWN PLANNING, ETC., ACT, 1909—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 74 . .	Provisions as to land in neighbourhood of royal palaces or parks.	104	
S. 75 . .	Repeals	—	Unnecessary.
S. 76 . .	Short title and extent . .	—	Unnecessary.
Sch. I. . .	Provisions as to the compulsory acquisition of land by a local authority for the purposes of Part III. of the principal Act.	Sch. III.	
Sch. II. .	Minor amendments of Housing Acts.	—	Effect given in clauses reproducing the various sections amended.
Sch. VI. .	Enactments repealed . .	—	Unnecessary.

PUBLIC WORKS LOANS ACT, 1914.

(4 & 5 Geo. 5, c. 33.)

S. 4 . .	Partial revival of s. 83 of Act of 1890.	90 (6)	

HOUSING, TOWN PLANNING, ETC., ACT, 1919.

(9 & 10 Geo. 5, c. 35.)

S. 1 . .	Duty of local authority to prepare housing schemes under Part III. of principal Act.	60	Sub-s. (8) spent.
S. 2 . .	Duty of local authority to carry out schemes.	61	
S. 3 . .	County council to act in place of defaulting local authority.	74	
S. 4 . .	Power of Local Government to act in place of local authority.	75	
S. 5 . .	Power to act in default of local authority under Parts I. and II. of principal Act.	52	
S. 6 . .	Inspection by county medical officer of health.	26, 49	
S. 7 . .	Power to recoup losses . .	—	Repealed with saving 1923.
S. 8 . .	Housing of employees of county councils.	72, 85, 89	
S. 9 . .	Assessment of compensation for land compulsorily acquired.	46	
S. 10 . .	Power of entry on land acquired.	106	
S. 11 . .	Amendment of procedure for compulsory acquisition of land.	Sch. III.	Sub-s. (3) spent.
S. 12 . .	Additional powers as to acquisition of land and houses.	57, 58	
S. 13 . .	Power to acquire lands before improvement schemes actually made.	54	
S. 14 . .	Power to acquire water rights	108	
S. 15 . .	Power of dealing with land acquired.	59	

HOUSING, TOWN PLANNING, ETC., ACT, 1919—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 16 . .	Power of Local Government Board to assist in preparation of schemes.	—	Repealed 1923.
S. 17 . .	Tenancy under local authority not to disqualify holder for election to local authority.	125 (1)	
S. 18 . .	Powers of promoting and assisting public utility societies.	70, 81, 83, 84, 85	
S. 19 . .	Power of contributing to costs incurred by public utility societies and housing trusts.	—	Repealed with saving 1923.
S. 20 . .	Loans to public utility societies.	90 (1), (4),	S. 20 (2) (*c*) omitted as spent.
S. 21 . .	Loans to private persons .	—	Spent.
S. 22 . .	Loans by local authorities for the improvement of housing accommodation.	84, 88, 91	
S. 23 . .	Provisions as to sale of building materials.	—	Left outstanding as expiring in 1924.
S. 24 . .	Relaxation of byelaws . .	99	
S. 25 . .	Consent of local authority to erection and use of buildings.	—	Left outstanding as temporary provision continued by Expiring Laws Continuance Acts.
S. 26 . .	Byelaws respecting houses divided into separate tenements.	6, 7, 32 (1)	
S. 27 . .	Power to authorise conversion of house into several tenements.	102	
S. 28 . .	Repair of houses . . .	3	
S. 29 . .	Information to tenants of working class houses.	5	
S. 30 . .	Power to authorise superior landlord to enter and execute works.	30	
S. 31 . .	Extension of powers under Settled Land Acts.	—	Left outstanding to be incorporated in the Settled Land Consolidation Bill.
S. 32 . .	Penalty on reletting house ordered to be closed.	12	
S. 33 . .	Amendment of s. 11 of principal Act.	38 (4)	
S. 34 . .	Arrangements between Local Government Board and other departments.	118	
S. 35 . .	Exclusion of Increase of Rent, etc., Act, 1915.	128	
S. 36 . .	Compensation in cases of subsidence.	—	Not reproduced as section only applies to schemes to which section 7 of the Act of 1919 extends.
S. 37 . .	Application to New Forest .	133	
S. 38 . .	Extension of powers of Commissioners of Woods.	66 (2)	
S. 39 . .	Procedure and minor amendments of Housing Acts.	—	Effect given in clause reproducing the sections amended.

Appendix II.

HOUSING, TOWN PLANNING, ETC., ACT, 1919—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 40 . .	Construction . . .	59 (4), 135	Effect given to the first part of the section by incorporating provisions in the appropriate Part of this Bill.
S. 41 . .	Application to London of certain provisions of the Housing Acts.	6, 80	Sub-s. (2) repealed 1921. The last words of sub-s. (3) omitted as applying only to schemes to which s. 7 of the Act of 1919 extends.
Sch. I. . .	Rules for determining the amount of reduction of compensation.	46	
Sch. II. .	Procedure and minor amendments of Housing Acts.	—	Effect given in clauses reproducing the various sections amended.
Sch. V. . .	Enactments repealed . .	—	Unnecessary.

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.
(9 & 10 Geo. 5, c. 57.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 7 (1) in part	Effect of Act on Housing Acts	46, Sch. I.	

HOUSING (ADDITIONAL POWERS) ACT, 1919.
(9 & 10 Geo. 5, c. 99.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 1 . .	Provision for payment of money to persons constructing houses.	—	Repealed 1923.
S. 2 . .	Aggregate amount of grants .	—	
S. 3 . .	Provisions as to expenses under 9 & 10 Geo. 5, c. 35, s. 16.	—	
S. 4 . .	Amendment of s. 7 of 9 & 10 Geo. 5, c. 35.	—	
S. 5 . .	Restriction on building operations.	—	Repealed 1921.
S. 6 . .	Prohibition on demolition of dwelling-houses.	—	Expired.
S. 7 . .	Powers of borrowing for purposes of Housing Acts.	87, 94	
S. 8 . .	Perpetuation of 6 & 7 Geo. 5, c. 69, s. 2 (1).	—	Left outstanding, as being of general application, and not confined to Housing Acts.
S. 9 . .	Power of trustees to invest in securities issued by local authorities.	—	Left outstanding to be incorporated in the Trustee Consolidation Bill.
S. 10 . .	Acquisition of land for garden cities and town planning schemes.	—	Left outstanding to be incorporated in the Town Planning Bill.
S. 11 . .	Meaning of local authority .	87 (i)	Left outstanding so far as it applies to the provisions not repealed.

HOUSING, (ADDITIONAL POWERS) ACT, 1919—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 12 . .	Execution of Act in London .	—	Unnecessary as respects the provisions of the Act reproduced in the Bill.
S. 13 . .	Application to Scotland. .	—	Applies only to Scotland.
S. 14 . .	Application to Ireland . .	—	Applies only to Ireland.
S. 15 . .	Short title and duration. .	—	Unnecessary.
Sch. . .	Provisions as to local bonds .	Sch. IV.	

AGRICULTURAL ACT, 1920.

(10 & 11 Geo. 5, c. 76.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 32 . .	Application to dwelling-houses occupied by workmen engaged in agriculture.	2	

HOUSING ACT, 1921.

(11 & 12 Geo. 5, c. 19.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 1 . .	Amendment of s. 1 of 9 & 10 Geo. 5, c. 99.	—	Repealed 1923.
S. 2 . .	Repeal of s. 5 of 9 & 10 Geo. 5, c. 99.	—	Unnecessary.
S. 3 . .	Execution of works by local authorities outside their own district.	62, 86, 93	
S. 4 . .	Extension of s. 7 (2) of 9 & 10 Geo. 5, c. 99.	94	
S. 5 . .	Rate of interest on certain advances and expenses.	3 (3)	Left outstanding so far as it amends the Small Dwellings Acquisition Act, 1899. So far as it applies to s. 15 of the Act of 1909 virtually repealed 1923.
S. 6 . .	Amendment of certain definitions in 9 & 10 Geo. 5, c. 35 and c. 99.	90 (8), 135	So far as it amends 1919 (A.P.), s. 10, left outstanding.
S. 7 . .	Advances for development of garden cities.	—	Left outstanding to be incorporated in the Town Planning Bill.
S. 8 . .	Amendment of s. 41 of 9 & 10 Geo. 5, c. 35.	—	Repealed 1923 with saving.
S. 9 . .	Subscriptions by local authorities to local savings committees.	97	
S. 10 . .	Application to Ireland . .	—	Applies only to Ireland.
S. 11 . .	Short title, extent and repeal .	—	Unnecessary.

PUBLIC WORKS LOANS ACT, 1922.

(12 & 13 Geo. 5, c. 33.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 4 . .	Loans to companies for housing	90 (5)	

HOUSING, ETC., ACT, 1923.
(13 & 14 Geo. 5, c. 24.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
Ss. 1–4	Temporary provisions for encouraging the provision of housing accommodation.	—	Left outstanding as temporary.
S. 5	Power of local authority to make advances, etc., for the purpose of increasing housing accommodation.	84, 92	
S. 6	Repeal of superseded enactments subject to saving for existing liabilities.	—	Left outstanding as temporary.
S. 7	Partial repeal of 9 & 10 Geo. 5, c. 35, s. 15.	59, 110	
S. 8	Provisions as to housing schemes outside area of local authority	109	
S. 9	Provisions as to licensed premises included in Part I. and Part II. schemes.	47	
S. 10	Repairs of houses.	1, 3, 4, 84	
S. 11	Power to enter on land for purposes of scheme under Part I. or Part II.	106	
S. 12	Provisions as to byelaws relating to new streets.	100	
S. 13	Amendment of s. 44 of Act of 1909.	101	
S. 14	Byelaws respecting houses divided into separate tenements.	6	
S. 15	Simplification of Housing Acts	—	*See* Schedule I.
S. 16	Minor amendments	—	Effect given in clause reproducing the various sections amended.
S. 17	Construction of Part I.	—	Effect given by incorporating the provisions in the appropriate Part of this Bill.
Sch. I. (1)	Assimilation of procedure under Parts I. and II. of Act of 1890.	38, 40	
(2)	Partial repeal of Second Schedule to Act of 1890.	Sch. II.	
(3)	Extension of s. 41 of Act of 1890 to buildings other than dwelling houses.	Sch. I.	
(4)	Local authorities for purposes of Part I. and II. of Act of 1890 in London.	56	
(5) (6)	Compensation for obstructive buildings.	Sch. I.	
(7)	Abolition of Dwelling House Improvement Fund.	81	
(8)	Accounts	95	
(9) (10) (11)	Service of Notices	121	

HOUSING, ETC., ACT, 1923—*continued.*

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
Sch. II.	Minor amendments	—	Effect given in clauses reproducing the sections amended. The schedule so far as it amends ss. 59 and 69 (2) of Act of 1909 left outstanding.
Sch. III.	Enactments repealed	—	Unnecessary.

HOUSING (FINANCIAL PROVISIONS) ACT, 1924.
(14 & 15 Geo. 5, c. 35.)

Section of Act.	Subject matter.	Clause of Bill.	Remarks.
S. 12	Powers of county councils	83, 84, 85, 88, 89, 92	
Sch. II.	Minor Amendments of Housing etc., Act, 1923.	92	

FORMS AND INSTRUCTIONS WITH REFERENCE TO PART I. AND PART II. SCHEMES (*a*).

(*The following forms are suggested by the Ministry of Health subject to any necessary adaptations.*)

PART I. (IMPROVEMENT) SCHEMES.

1.—FORM OF OFFICIAL REPRESENTATION OF THE MEDICAL OFFICER OF HEALTH.

Name of local authority__________________________

HOUSING ACTS, 1890 TO 1919.

Designation of Area ______________________________

OFFICIAL REPRESENTATION OF THE MEDICAL OFFICER OF HEALTH.

To the council of

of

I, , medical officer of health for the do hereby represent (*b*) that in my opinion, within a certain area, described in the schedule hereto

(*a*) there are certain houses, courts and alleys which are unfit for human habitation,

or (*b*) the narrowness, closeness and bad arrangement, or the bad condition of the streets and houses or groups of houses within such area, or the want of light, air, ventilation or proper conveniences or other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants of the buildings in the said area or of the neighbouring buildings,

---

(*a*) Part I. and Part II. Schemes are now IMPROVEMENT and RECONSTRUCTION SCHEMES respectively made under Part II. of the Housing Act, 1925, *ante*, p. 1409. The notes to that part of the Act should be carefully considered in taking all steps in connection with the preparation, etc. of Schemes. The forms must be altered when necessary to refer to the corresponding provision of the 1925 Act.

(*b*) The medical officer of health when making his representation should bear in mind the remarks of Lord HANWORTH, M.R., cited in note (*a*) to s. 35, *ante*, p. 1410.

and that the most satisfactory method of dealing with the evils connected with such houses, courts or alleys, and the sanitary defects in such area, is an improvement scheme for the re-arrangement and re-construction of the streets and houses within such area, or of some of such streets and houses.

Dated this day of 19 .

(Signature)
Medical officer of health.

SCHEDULE.

The area to which the above official representation relates is coloured red on the map annexed hereto and is bounded by a line commencing (set out the entire boundary line).

2.—RESOLUTION OF LOCAL AUTHORITY DECIDING THAT IMPROVEMENT SCHEME SHOULD BE MADE, AND GIVING NECESSARY INSTRUCTIONS FOR ITS PREPARATION.

The official representation of the medical officer of health under the Housing Acts, 1890 to 1919, was submitted.

RESOLVED :—

1. That the council, having taken into consideration the official representation of the medical officer of health, dated , 19 , and being satisfied of the truth thereof and of the sufficiency of their resources, declare that the area described in such representation is an unhealthy area, and that an improvement scheme ought to be made in respect of the area (*a*).

2. That the clerk be instructed to prepare a draft scheme, in accordance with the provisions of Part I. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, and that the surveyor prepare the necessary plans, particulars and estimates.

3.—MAPS, PARTICULARS, ESTIMATES, ETC.

Maps.

The following maps (*b*) should be prepared in connection with the scheme :—

Map No. 1, on the scale of 1/500, or on a scale approximating to this, showing the lands included in the improvement scheme, the unhealthy area being coloured pink, and any " neighbouring lands " which have been included in the scheme in order to make it efficient being coloured blue.

The several properties should be numbered consecutively on this map. Each parcel of land, notwithstanding that several may belong to one owner, should be separately numbered, the outside boundaries of each parcel being defined by hard lines, and the buildings (if any) on each parcel being linked into it, so that it may be seen to what properties each number applies.

Map No. 2 on the scale of 1/500, or on a scale approximating to this, showing the proposals for dealing with the cleared area, indicating any proposed new dwelling accommodation, street planning, open spaces or playgrounds or other intended developments. On this map any lands proposed to be used for re-housing should be coloured yellow and any lands proposed to be appropriated as open spaces green.

Map No. 3 on the scale of 6 inches to the mile, showing any site or sites where re-housing accommodation is to be provided which is not within the area comprised in the scheme, and the position of each site in relation to the area included in the scheme.

(NOTE.—The Minister of Health will require two copies, mounted on linen, of each of the above maps. If in any case the lands included in the scheme as " the unhealthy area " do not comprise all the lands to which the official representation extended, a copy of the map prepared in connection with the official representation should be supplied to the Ministry.)

(*a*) If the local authority decide to exclude any part of the area or to include any neighbouring lands under s. 38 (1) (*a*), *ante*, p. 1413, the resolution should be extended so as to indicate this.

(*b*) The maps should be carefully checked. It is important that all buildings and boundaries should be correctly shown. All buildings should be hatched, and buildings other than dwelling-houses and their appurtenances should have their character lettered upon them. A certificate by the competent official as to the correctness of the map must be given on the map itself.

Particulars of the Scheme.

The scheme should be accompanied by a statement giving the following particulars :—

(i) The acreage of the area comprised in the scheme ;
(ii) The number of persons of the working classes who will be displaced by the scheme ;
(iii) The number of persons for whom dwelling accommodation is to be provided ;
(iv) Where the accommodation is to be provided ;
(v) Any other necessary information or explanations.

Estimates.

The estimates should distinguish the cost of the acquisition of the lands comprised in the scheme and the cost of the laying out and construction of new streets and the erection of new buildings, and should also specify the estimated value of any surplus lands and recoupments.

The Book of Reference.

The book of reference should be in the following form and should be prepared on the ground at the same time as, and in conjunction with, the Map No. 1, each parcel of land being numbered to correspond with that map, and being described so as to show clearly what properties are covered by each number.

NAME OF LOCAL AUTHORITY ______________________________

HOUSING ACTS, 1890–1919.

Designation of Improvement Scheme ______________________________

BOOK OF REFERENCE.

Book of reference to the Map No. 1 of the area included in the above-mentioned scheme.

Number on Map No. 1.	Description of Lands.	Situation.	Names and addresses of		Occupiers.
			Owners or reputed Owners.	Lessees or reputed Lessees.	

4.—FORMS OF CLAUSES FOR IMPROVEMENT SCHEMES.

The purposes for which Part I. or Part II. schemes may be made are substantially the same, and it is suggested that the following clauses should be used as the basis for any scheme so far as they are applicable, and with any necessary adaptations or additions.

SHORT TITLE.

This scheme may be cited as the Improvement Scheme, 19 .

INTERPRETATION.

In this scheme the council means the .

LIMITS OF SCHEME AND UNHEALTHY AREA.

All the lands coloured pink on the map marked Map No. 1, annexed to this scheme, are included in the scheme as an unhealthy area.

[*Alternative form for use when "Neighbouring Lands" are included to make the scheme efficient.*

LIMIT OF SCHEME.

All the lands coloured pink and blue on the map marked Map No. 1, annexed to this scheme, are included in this scheme.

Appendix II.

LIMITS OF UNHEALTHY AREA.

The lands coloured pink on the said Map No. 1 are included in the scheme as an unhealthy area.

The lands coloured blue on the said map are not part of the unhealthy area, but are included in order to make the scheme efficient.]

ACQUISITION OF LANDS.

All the lands included in the scheme are intended to be acquired compulsorily in default of agreement.

CLEARANCE OF AREA.

After obtaining possession of the lands included in the scheme the council shall cause all the buildings (*or* the following buildings *or* except the following buildings) within the limits of the scheme to be demolished and the sites to be cleared.

LAY-OUT OF THE CLEARED AREA.

The council shall lay out the cleared area in the manner shown on Map No. 2 annexed to this scheme.

All the existing highways in the area may be closed, appropriated, widened, or diverted by the council so far as may be necessary for the purposes of the scheme.

RE-HOUSING UPON AREA.

On the lands coloured yellow on Map No. 2 the council shall erect in accordance with plans to be approved by the Minister of Health, suitable dwellings for the accommodation of persons of the working classes.

OPEN SPACES.

The lands coloured green on Map No. 2 shall be appropriated for the purposes of an open space.

DISPOSAL OF SURPLUS LANDS.

Such of the lands in the scheme as shall not be required for the purpose of providing accommodation for persons of the working class or for the laying out of new streets or the improvement of streets or for the purpose of open spaces may, with the approval of the Minister of Health, be sold, leased or otherwise disposed of as the council may think fit(*a*).

5.—RESOLUTION OF LOCAL AUTHORITY MAKING IMPROVEMENT SCHEME.

RESOLVED—

That the Improvement Scheme under Part I. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, now submitted, for the unhealthy area, together with the plans, particulars and estimates relating to the scheme, be, and the same are, hereby made and adopted, and that all necessary steps be taken to obtain confirmation thereof.

6.—FORM OF ADVERTISEMENT.

HOUSING ACTS, 1890 to 1919.

Advertisement of an Improvement Scheme.

Notice is hereby given that the council of have, in pursuance of the powers vested in them for that purpose by Part I. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, made a scheme for the improvement of the area [*or areas*] the limits of which are stated in the schedule hereunder.

A copy of the scheme, accompanied by maps, particulars and estimates, has been deposited at the (*specify the place of deposit, which must be within the area, or in the vicinity thereof*) and may be seen at all reasonable hours.

SCHEDULE.

(One of the alternative forms should be used as may be convenient. If the scheme includes more than one area, the particulars indicated should be given as regards each area.)

The area to which the scheme relates is bounded as follows :—

On the north by

On the south by

(*a*) See as to this provision *R.* v. *M. of H.*, *ante*, p. 1409.

On the east by
On the west by

or

The area to which the scheme relates is bounded by a line commencing (*set out the entire linear boundary*) :

Dated this day of , 19 .

Signature of clerk of local authority____________________

FORM OF NOTICE TO OWNERS AND LESSEES.

HOUSING ACTS, 1890 TO 1919.

Notice to owner or reputed owner, lessee or reputed lessee of intention to take lands compulsorily under an Improvement Scheme.

To (*insert name, residence, or place of business, and description, where known, of owner or reputed owner, lessee or reputed lessee, as the case may require*).

TAKE NOTICE that a petition is about to be presented by the council of to the Minister of Health, in pursuance of Part I. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, praying that an Order may be made confirming an Improvement Scheme whereby it is proposed to take compulsorily the lands described in the schedule hereunder, in which lands you are believed to be interested, as owner or reputed owner, or lessee or reputed lessee.

You are therefore hereby required to return to me on or before the day of next an answer in writing stating whether you dissent or not in respect of the taking of the lands described in the said schedule.

A copy of the said scheme, accompanied by maps, particulars and estimates, has been deposited at and may be seen at all reasonable hours.

SCHEDULE REFERRED TO IN THE FOREGOING NOTICE.

Name of Street, Court, Alley, or other Place.	Description of Lands (*a*) proposed to be taken.	Owner or reputed Owner.	Lessee or reputed Lessee.	Occupier.

Dated this day of , 19 .

Signature of clerk of local authority____________________

FORM OF NOTICE TO OCCUPIERS.

HOUSING ACTS, 1890 TO 1919.

Notice to occupier or occupiers (not being owners or reputed owners, or lessees, or reputed lessees, or tenants for a month or a less period than a month) of intention to take lands compulsorily under an Improvement Scheme.

To (*insert name of occupier*) the occupier of the land

or

[To the occupier or occupiers of the house] (*b*)
which in the schedule hereunder is described as the lands proposed to be taken.

TAKE NOTICE that a petition is about to be presented by the council of to the Minister of Health in pursuance of Part I. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, praying that an Order may be made confirming an Improvement Scheme whereby it is proposed to take compulsorily the lands described in the schedule hereunder.

(*a*) "Lands" includes messuages, tenements, hereditaments, houses, and buildings of any tenure, and any right over land.

(*b*) The alternative address within these brackets is available only where the property to be taken is a house.

A copy of the said scheme, accompanied by maps, particulars and estimates, has been deposited at (*a*)   and may be seen at all reasonable hours.

SCHEDULE REFERRED TO IN THE FOREGOING NOTICE.

Name of Street, Court, Alley, or other Place.	Description of Lands (*b*) proposed to be taken.

Dated this   day of   , 19   .

Signature of clerk of local authority________________________________

7.—INSTRUCTIONS AS TO APPLICATION FOR CONFIRMATION OF PART I. (IMPROVEMENT) SCHEME.

The application must be made by a petition which should be accompanied by :—

(1) A copy of the official representation.
(2) Two copies of the Improvement Scheme.
(3) Particulars and estimates as specified on page 3363.
(4) Two copies, mounted on linen, of the maps specified on page 3362.
(5) The book of reference.
(6) Information as to the rates of mortality in the area comprised in the scheme, as compared with the rates for the whole of the district.
(7) A detailed statement showing as regards each house in the area comprised in the scheme which is occupied by persons of the working classes—
    (*a*) the number of such occupants ;
    (*b*) the weekly rent paid ;
    (*c*) the occupations and places of employment of the tenants.
(8) A detailed statement showing the number of empty houses fit for habitation and suitable for persons of the working classes, within a distance of half a mile from the area comprised in the scheme, together with information as to the rentals of such houses.
(9) A certificate signed by the clerk to the local authority, or other person competent to give such certificate, of the publication of an advertisement in accordance with the requirements of section 7 (*a*) of the Act of 1890 as amended by section 5 of the Act of 1903, and section 39 of the Act of 1919 (*c*).
(10) A certificate signed by the clerk to the local authority, or other person competent to give such certificate, of compliance with the requirements of section 7 of the Act of 1890, as amended by section 5 of the Act of 1903 and section 39 of the Act of 1919 (*c*), as to the service of notices.

8.—FORM OF PETITION.

HOUSING ACTS, 1890 TO 1919.

IMPROVEMENT SCHEME, 19   .

TO THE MINISTER OF HEALTH :—

Petition of the   (*name of local authority*).
(hereinafter called "the council.")

SHEWETH AS FOLLOWS :—

1. An official representation, of which a copy is annexed, has been made to the council by their medical officer of health pursuant to the provisions of Part I. of the Housing of the Working Classes Act, 1890.

2. The official representation was taken into consideration by the council at a meeting held on the   day of   , 19   ; and the council, being satisfied of the truth thereof and of the sufficiency of their resources, passed a resolution to the effect that an Improvement Scheme ought to be made in respect of the area referred to in the resolution.

(*a*) The place of deposit must be within the area or in the vicinity thereof, see s. 39 (*a*), *ante*, p. 1414.

(*b*) See note (*a*) on page 3365.

(*c*) See s. 39 of the 1925 Act, *ante*, p, 1414.

3. A copy of the scheme made by the council, with maps, particulars and estimates (in duplicate) is annexed.

4. The names of the owners, or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking of their lands for the purposes of the scheme are set out in the schedule hereto.

The Council Pray that an Order may be made confirming the scheme.

THE SCHEDULE REFERRED TO.

Owners or reputed Owners.	Lessees or reputed Lessees.	Number of property in book of reference.

(Signed ______________________

L.S.

Chairman of Council.

(Date) ______________________

____

Clerk.

PART II. (RECONSTRUCTION) SCHEMES.

1 (*a*).—FORM OF REPORT OF THE MEDICAL OFFICER OF HEALTH (*a*).

Name of local authority ______________________

HOUSING ACTS, 1890 TO 1919.

Designation of Area ______________________

Report of the medical officer of health with a view to proceedings under section 39 of the Housing of the Working Classes Act, 1890.

TO THE ______________________

(*Name of local authority*) of ______________________

I, medical officer of health for , do hereby report that orders have been made for the demolition of the buildings described in the schedule hereto, and, in my opinion, it would be beneficial to the health of the inhabitants of the neighbouring dwelling-houses if the area of the dwelling-houses of which such buildings form or formed part were used for all or any of the following purposes, that is to say—(*delete what is not relevant*)—(1) dedicated as a highway or open space, or (2) appropriated, sold or let, for the erection of dwellings for the working classes, or (3) exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on exchange will be appropriated, sold or let for such erection.

The reasons for my opinion are :—

SCHEDULE REFERRED TO.

(*Here specify buildings in respect of which Demolition Orders have been made.*)

____

(Signature of medical officer of health) ______________________

(Date) ______________________

(*a*) This form is included for the purpose of any case arising under s. 37 (a) but the majority of cases will no doubt fall under s. 37 (b) for the purposes of which the following form is suggested. See the section set out at p. 1411, *ante*.

Appendix II.

1 (*b*).—FORM OF REPORT OF THE MEDICAL OFFICER OF HEALTH.

*Name of local authority*________________________

HOUSING ACTS, 1890 TO 1919.

*Designation of area*________________________________

Report of the medical officer of health with a view to proceedings under section 39 of the Housing of the Working Classes Act, 1890.

TO THE________________________

(*Name of local authority*)________________________

I, medical officer of health for , do hereby report that in my opinion the closeness, narrowness, and bad arrangement or bad condition of the buildings comprised in the area described in the schedule hereto, or the want of light, air, ventilation or proper conveniences, or other sanitary defects in such buildings are dangerous or prejudicial to the health of the inhabitants, of the said buildings or of the neighbouring buildings, and that the demolition or the reconstruction and re-arrangement of the said buildings or of some of them is necessary to remedy the said evils.

(Signature of medical officer of health)____________________

(Date)______________, 19___.

SCHEDULE REFERRED TO.

(*Here define area of improvement scheme. The area may also be coloured on an accompanying map.*)

____

____

2.—RESOLUTION OF LOCAL AUTHORITY DIRECTING A SCHEME TO BE PREPARED FOR AN IMPROVEMENT SCHEME UNDER SECTION 39 (1) (*b*) IN PART II. OF THE HOUSING OF THE WORKING CLASSES ACT, 1890.

RESOLVED—

(1) That the council, having taken into consideration the report of the medical officer of health, dated the day of , 19 , with reference to the area (*insert description of area*) , and being of opinion that the area is one to which the provisions of section 39 (1) (*b*) of the Housing of the Working Classes Act, 1890, apply, hereby direct a scheme to be prepared for the improvement of the area (*a*).

RESOLVED—

(2) That the clerk be instructed to prepare a draft scheme in accordance with the provisions of Part II. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, and that the surveyor prepare the necessary plans, particulars and estimates.

3.—MAPS, PARTICULARS, ESTIMATES, ETC.

As in Part I. scheme, see page 3362.

4.—FORM OF CLAUSES FOR PART II. SCHEMES.

As in Part I. scheme, see page 3363.

5.—RESOLUTION OF LOCAL AUTHORITY MAKING AN IMPROVEMENT SCHEME UNDER SECTION 39 (1) (*b*) IN PART II. OF THE HOUSING OF THE WORKING CLASSES ACT, 1890.

RESOLVED—

That the scheme under section 39 (1) (*b*) in Part II. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, now submitted, for the improvement of the area (*insert description of area*), together with the plans, particulars, and estimates relating to the said scheme be, and the same are hereby made and adopted, and that all necessary steps be taken for obtaining sanction thereto.

(*a*) If neighbouring lands are added to make the scheme efficient the resolution should be extended.

I.

6.—FORM OF NOTICE TO OWNERS AND LESSEES.

HOUSING ACTS, 1890 TO 1919.

Notice to owner or reputed owner, lessee or reputed lessee, of improvement scheme under section 39 *of the Housing of the Working Classes Act*, 1890.

To (*name, residence, or place of business, and description, where known, of owner or reputed owner, lessee or reputed lessee, as the case may require*).

TAKE NOTICE that a petition is about to be presented by the (*description of local authority*) to the Minister of Health in pursuance of Part II. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, praying that an Order may be made sanctioning an improvement scheme, whereby it is proposed to take by agreement or compulsorily the lands described in the schedule hereunder, in which lands you are believed to be interested, as owner or reputed owner, or lessee or reputed lessee.

You are therefore hereby required to return to me on or before the day of next an answer in writing stating whether you dissent or not in respect of the taking of the lands described in the said schedule.

A copy of the said scheme, accompanied by maps, particulars and estimates, has been deposited at (*a*) and may be seen at all reasonable hours.

SCHEDULE REFERRED TO IN THE FOREGOING NOTICE.

Name of Street, Court, Alley, or other Place.	Description of Lands (*b*) proposed to be taken.	Owner or reputed Owner.	Lessee or reputed Lessee.	Occupier.

Dated this day of , 19 .

Signature of clerk of local authority________________________________

II.

FORM OF NOTICE TO OCCUPIERS (*c*).

HOUSING ACTS, 1890 TO 1919.

Notice to occupier or occupiers (not being owners or reputed owners or lessees or reputed lessees of an improvement scheme under section 39 *of the Housing of the Working Classes Act*, 1890).

To (*insert name of occupier*) the occupier of the land
or
[To the occupier or occupiers of the house] (*d*)
which in the schedule hereunder is described as the lands proposed to be taken.

TAKE NOTICE that a petition is about to be presented by the (*insert designation of local authority*) to the Minister of Health in pursuance of Part II. of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, praying that an Order may be made sanctioning an improvement scheme, whereby it is proposed to take by agreement or compulsorily the lands described in the schedule hereunder.

A copy of the said scheme, accompanied by maps, particulars and estimates, has been deposited at (*e*) and may be seen at all reasonable hours.

(*a*) The place of deposit should be within the area or in the vicinity thereof.

(*b*) " Lands " includes messuages, tenements, hereditaments, houses, and buildings of any tenure, and any rights over land.

(*c*) Application may be made to the Minister of Health to dispense under s. 122 (2) (*ante*, p. 1473) with the service of this notice in the case, for instance, of a tenant for a month or a less period than a month.

(*d*) The alternative address within these brackets is available only where the property to be taken is a house.

(*e*) The place of deposit should be within the area or in the vicinity thereof.

Appendix II.

SCHEDULE REFERRED TO IN THE FOREGOING NOTICE.

Name of Street, Court, Alley, or other Place.	Description of Lands (*a*) proposed to be taken.

Dated this day of , 19 .

Signature of clerk of local authority____________________

7.—INSTRUCTIONS AS TO APPLICATION FOR SANCTION TO PART II. (RECONSTRUCTION) SCHEME.

Application must be by a petition, which should be accompanied by :—

(1) A copy of any relevant report of the medical officer of health or of a committee in regard to the area to which the scheme relates.

(2) A copy of the resolution of the local authority under section 39 (1) of the Act of 1890.

(3) The documents and particulars specified under headings (2) to (8), on page 3366.

(4) A certificate signed by the clerk to the local authority, or other person competent to give such certificate, of compliance with the requirements of sections 39 (2) and 7 (*b*), (*c*) and (*d*) of the Act of 1890 as amended by section 5 of the Act of 1903 and section 39 of the Act of 1919 (*b*), as to the service of notices.

(5) A statement of the names of all the owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking of their lands.

8.—FORM OF PETITION.

Name of local authority____________________

HOUSING ACTS, 1890 TO 1919.

____________________Improvement Scheme, 19 .

TO THE MINISTER OF HEALTH.

Petition of the____________________(*name of local authority*).

(hereinafter called " the council.")

SHEWETH AS FOLLOWS :—

1. A report, a copy of which is annexed, has been made to the council by their medical officer of health, relating to an area specified in the report.

2. The report was taken into consideration by the council at a meeting held on the day of , 19 , and as it appeared to them that the area was one to which the provisions of section 39 (1) (*b*) of the Housing of the Working Classes Act, 1890, as amended by subsequent Acts, apply, they passed a resolution to that effect and directed a scheme to be prepared for the improvement of the area referred to in the resolution.

3. A copy of the scheme made by the council, with maps, particulars and estimates (in duplicate) is annexed.

4. The names of the owners or reputed owners, lessees or reputed lessees, who have dissented in respect of the taking of their lands for the purposes of the scheme, are set out in the schedule hereto.

The Council pray that an Order may be made sanctioning the scheme.

(*a*) " Lands " includes messuages, tenements, hereditaments, houses, and buildings of any tenure, and any right over land.

(*b*) See s. 39 of the 1925 Act, *ante*, p. 1914.

THE SCHEDULE REFERRED TO.

Owners or reputed Owners.	Lessees or reputed Lessees.	Number of Property in Book of Reference.

(Signed)

L.S. Chairman of Council.

(Date) 19 .

Clerk.

HOUSING, TOWN PLANNING, ETC. ACT, 1909: RULES WITH REFERENCE TO COSTS OF ARBITRATIONS (*a*).

WHEREAS [*paragraph* (9) *of the First Schedule to the Housing, Town Planning, etc. Act,* 1909, *is recited*].

NOW THEREFORE, we, with the concurrence of the Lord Chancellor, for the purpose of fixing the scale of costs to be applicable on an arbitration under the First Schedule to the Act, do hereby make the following rules, that is to say :—

RULE 1.—Where the compensation awarded by the arbitrator to the claimant does not exceed the sum specified in the first column of the Scale No. 1 set forth in the schedule hereto, the sum payable to the claimant for his costs of the arbitration shall be the sum specified in the second column of such scale, which sum shall include and cover all disbursements, except for the attendances of witnesses, for which attendances the sums specified in the third column of such scale shall be allowed. No charge for briefs to, or attendance of, counsel shall be allowed.

RULE 2.—Where the compensation awarded by the arbitrator exceeds the sum of three hundred pounds, but does not exceed the sum of five hundred pounds, the costs and charges of the claimant in the arbitration shall be allowed and (if necessary) taxed or determined, in accordance with the provisions of the Scale No. 2 set forth in the schedule hereto, and no costs or charges other than those specified in such scale or in accordance therewith, shall be allowed.

RULE 3.—Where the compensation awarded by the arbitrator exceeds the sum of five hundred pounds, the costs and charges of the claimant in the arbitration shall be allowed, and (if necessary) taxed or determined, in accordance with the provisions of the Scale No. 3 set forth in the schedule hereto, and no costs or charges other than those specified in such scale, or in accordance therewith, shall be allowed.

RULE 4.—So much of the First Schedule to the Arbitration Act, 1889, as provides that the arbitrator may award costs to be paid as between solicitor and client, shall not apply to an arbitration to which these rules apply. In any case in which the arbitrator determines the amount of costs to be paid to the claimant in the arbitration these rules shall apply to and govern such determination of costs by the arbitrator.

RULE 5.—These rules shall not apply to an arbitration in which an arbitrator has been appointed before the rules come into operation.

RULE 6.—Nothing in these rules shall authorise an arbitrator to hear counsel or expert witnesses, except in such cases as the Local Government Board direct, and if counsel or expert witnesses are heard by an arbitrator without such direction, no costs shall be allowed in respect thereof.

RULE 7.—(1) If, having regard to the nature or importance of the case, the interests of the parties, the general conduct of the proceedings, and the skill, labour, and

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(*a*) These rules are, it seems, no longer operative, and the provisions of s. 5 of the Acquisition of Land, etc., Act, 1919, *ante*, p. 1274, as to costs will now apply.

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responsibility involved, the taxing officer shall on special grounds consider to be inadequate the cost or allowances provided by any of the scales set forth in the schedule hereto, he may make such further or increased allowances as he shall in his discretion consider reasonable.

(2) The taxing officer may in any case where the owner or claimant is not represented by a solicitor on the arbitration make such allowance as he may consider reasonable towards the charges or expenses incurred by the owner or claimant in connection with the arbitration, but not exceeding in the aggregate the maximum amount which could otherwise have been allowed under the scale set forth in the schedule hereto, which is applicable to the case.

RULE 8.—These rules and the scales of costs set forth in the schedule hereto shall not apply to the fees or remuneration properly payable to or charged by the arbitrator, which fees, if and when paid by the claimant, shall be recoverable by him from the party who is liable to pay the same.

RULE 9.—In these rules :—

(1) " The arbitrator " means an arbitrator appointed under the First Schedule to the Act.

(2) " Taxing officer " includes the arbitrator when costs are determined by him.

RULE 10.—These rules shall come into operation on the ninth day of September, 1912, and may be cited as the Housing, etc. (Costs of Arbitration) Rules, 1912.

SCHEDULE.

SCALE No. 1.

Scale of fixed costs where the compensation awarded does not exceed £300 :—

Compensation awarded. 1.	Amount of Costs other than for Witnesses. 2.			Costs of attendance of Witnesses. 3.		
	£	*s.*	*d.*	£	*s.*	*d.*
Any sum not exceeding fifty pounds . . .	3	3	0	2	2	0
Any sum exceeding fifty pounds, but not exceeding one hundred pounds	5	5	0	3	3	0
Any sum exceeding one hundred pounds, but not exceeding three hundred pounds :—						
For every fifty pounds or part of fifty pounds exceeding one hundred pounds the following sums in addition to those prescribed for compensation which exceeds fifty pounds . .	2	2	0	1	1	0

SCALE No. 2.

Costs where the compensation awarded exceeds £300, but does not exceed £500 :—

(*a*) The amount payable to the claimant for the costs of the arbitration shall be the sum of £20, which sum shall include all charges and disbursements of every kind, except those hereinafter specially mentioned.

*(*b*) In addition to the said sum of £20, there shall be allowed to the claimant the charges and expenses of one expert witness for qualifying and giving evidence as to the value of the claimant's lands, or interest in land, or the amount of compensation to which the claimant is entitled : which charges and expenses shall be taxed and allowed in accordance with the provisions of Scale No. 3, hereinafter set forth.

*(*c*) If counsel is employed by the claimant, there shall be allowed to him, in addition for preparing and delivering briefs to and obtaining the attendance of counsel, such fees as, having regard to all the circumstances of the case, the taxing officer shall think fit.

SCALE No. 3.

Scale of costs and allowances where the compensation exceeds £500 :—

		£	s.	d.
1.	Instructions for claim and attendances on owner or claimant in respect thereof	1	1	0
2.	Correspondence and attendance on the clerk to the council or council's solicitor thereon, including drawing and copy claim	1	1	0
*3.	Attending on each witness (if two witnesses) instructing him to qualify and subsequently perusing his report, or if the arbitrator is a surveyor on one witness only	0	13	4
4.	Attending on the arbitrator and on the clerk to the council or council's solicitor arranging appointment for the day of hearing	0	13	4
5.	Notice to each witness to attend	0	5	0
6.	If a view is reasonably necessary attendances on the arbitrator and the clerk to the council or council's solicitor arranging for view	0	13	4
7.	Attending view with them	3	3	0
8.	Paid travelling expenses.			
*9.	If counsel employed, instructions to counsel to attend view	0	6	8
*10.	Paid his fee and clerk	5	10	0
11.	Instructions for attending before the arbitrator and to conduct the claimant's case	2	2	0
*12.	If counsel employed in lieu of last item instructions for brief	2	2	0
*13.	Drawing case and minutes of evidence, at per folio, 1*s.*; and if counsel attending, brief copy for counsel at per folio, 4*d.*			
*14.	Paid counsel's fee.			
*15.	Attending him	0	6	8
*16.	Paid counsel's conference fee	1	6	0
	Ditto ditto (if a leader)	2	7	0
*17.	Attending to appoint and on conference	1	0	0
18.	Solicitor attending reference and conducting case, case completed on each side (solicitor and clerk)	5	5	0
19.	If reference not held in town in which the solicitor carries on business, for hotel expenses of solicitor	1	1	0
	Ditto ditto of clerk	0	15	0
	(And for travelling expenses the sum actually paid.)			
20.	If reference not concluded, for each subsequent day the same charges.			
*21.	If counsel in attendance, solicitor attending each day on reference	3	3	0
22.	And if not in solicitor's town, for hotel expenses (and travelling expenses actually paid)	1	1	0
*23.	Paid witnesses (according to the scale or allowances in the Supreme Court Taxing Office).			
24.	Drawing bill of costs and copy for taxing, at per folio, 8*d.*			
25.	Copy for the clerk to the council or council's solicitor, at per folio, 4*d.*			
26.	Notice of taxing	0	4	0
27.	Attending taxing	0	13	4
28.	Paid taxing (the fee payable in the Supreme Court Taxing Office on taxing costs)			
29.	Letters and messengers	1	1	0
30.	In agency cases for correspondence between solicitor and London agent	1	1	0

* See Rule 6 as to employment of counsel and expert witnesses.

Given under the Seal of Office of the Local Government Board, this fifth day of September, in the year one thousand nine hundred and twelve.

JOHN BURNS, *President.*

H. C. MONRO, *Secretary.*

I concur,
HALDANE, C.

S. R. & O., 1919, No. 1429.

THE HOUSING TRUSTS (FINANCIAL ASSISTANCE) REGULATIONS, 1919. DATED OCTOBER 6TH, 1919 (*a*).

Whereas by sub-section (1) of section 19 of the Housing, Town Planning, etc. Act, 1919, it is enacted that where a housing trust as defined by that Act has submitted to the Local Government Board a scheme for the provision of houses for the working

(*a*) See also the amending Regulations of 1920, 1921, and 1924, *post*, pp. 3381, 3390, 3395.

Appendix II. classes and the scheme is approved by the Board, then, if the scheme is carried out within such period after the passing of that Act as may be specified by the Board, with the consent of the Treasury, the Board may pay or undertake to pay out of moneys provided by Parliament such contributions towards the cost of carrying out the scheme as may be determined to be payable under regulations made by the Board, with the approval of the Treasury, subject to such conditions (including conditions as to audit of accounts by district auditors) as may be prescribed by those regulations;

And whereas by sub-section (2) of the said section it is enacted that the regulations shall provide that the amount of any annual payment to be made under the section shall be equivalent to thirty per centum of the annual loan charges which would have been payable in accordance with the regulations on the total capital expenditure incurred by the housing trust for the purposes of the scheme if the amount of that expenditure had been borrowed from the Public Works Loan Commissioners;

And whereas by section 40 of that Act the expression "housing" is defined as follows:—

> "The expression 'housing trust' means a corporation or body of persons which, by the terms of its constituent instrument, is required to devote the whole of its funds, including any surplus which may arise from its operations, to the provision of houses for persons the majority of whom are in fact members of the working classes, and to other purposes incidental thereto":

Now therefore, the Minister of Health, in pursuance of his powers under the recited enactments and under any other statutes in that behalf, hereby makes the following regulations:—

ARTICLE I.—In these regulations, unless the contrary intention appears—

(*a*) The expression "the Minister" means the Minister of Health;

(*b*) The expression "the Act of 1919" means the Housing, Town Planning, etc. Act, 1919;

(*c*) The expressions "housing trust" and "public utility society" have the same meaning as in the Act of 1919;

(*d*) The expression "local authority" means the local authority within the meaning of Part III. of the Housing of the Working Classes Act, 1890, for the district in which the houses are built or to be built by the housing trust.

ARTICLE II.—Subject to the provisions of these regulations and provided that these regulations are complied with:—

(1) An annual contribution out of moneys provided by Parliament (herein-after referred to as "the Exchequer subsidy") may be made by the Minister towards the cost of carrying out a scheme submitted by a housing trust and approved by the Minister, and the amount of the Exchequer subsidy shall be calculated as herein-after provided.

(2) The amount of the Exchequer subsidy shall be [(*a*) *the equivalent during the period ending on the thirty-first day of March*, 1927, *of fifty per cent. and thereafter of forty per cent. of the annual charges*] and which would have been payable, in respect of interest and repayment of principal, on the capital expended by the trustees for the purpose of the approved scheme if that capital had been raised by way of a loan advanced by the Public Works Loan Commissioners, on the same terms as those granted for the time being to a public utility society for the like purposes:

Provided that the Minister may reduce the amount of the Exchequer subsidy in any case in which he is satisfied that the capital expenditure incurred by the trustees has been excessive.

(3) The Exchequer subsidy shall be payable in two half-yearly instalments or in such other manner as the Minister may think fit during the period of fifty years from the date on which the scheme is approved by the Minister, and for the purposes of sub-division (2) of this article that date shall be the date from which the annual charges therein referred to shall be deemed to become payable.

(*a*) Words substituted by later order dated January 2nd, 1924, *post*, p. 3395.

ARTICLE III.—(1) The Exchequer subsidy shall cease to be payable—

(*a*) [*Revoked by amending regulations of July* 21*st*, 1921, post, *p*. 3390.]

(*b*) in respect of any scheme or part of a scheme not carried into effect before the expiry of a period of three years from the passing of the Act of 1919, or such later date as the Minister may allow, regard being had to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme.

(2) For the purposes of these regulations a scheme or part of a scheme shall be deemed to have been carried into effect when all the houses to be provided thereunder are let or available for letting.

ARTICLE IV.—(1) The scheme as submitted for approval, shall be accompanied by detailed plans, specifications, and estimates of the cost of the works.

(2) The carrying out of the works shall be subject to the supervision of the Minister, exercised either through his own officers or through the local authority.

ARTICLE V.—The capital expenditure in respect of which the annual charges referred to in Article II. (2) of these regulations shall be deemed to be payable shall not include any sum in respect of the professional charges to be paid by the trustees in excess of five per centum of the gross capital expenditure approved by the Minister.

ARTICLE VI.—The rents to be charged for houses included in the scheme shall be subject to the approval of the Minister, and shall not be altered without the consent of the Minister.

ARTICLE VII.—The trustees shall not sell any land or houses included in the scheme, except with the consent of and subject to conditions laid down by the Minister.

ARTICLE VIII.—[*See article substituted by amending Order of July* 21*st*, 1921, post, *p*. 3390.]

ARTICLE IX.—These regulations may be cited as "The Housing Trusts (Financial Assistance) Regulations, 1919," and shall, unless and until revoked or altered by the Minister, with the approval of the Lords Commissioners of His Majesty's Treasury, apply and have effect with respect to any scheme made by a housing trust and approved by the Minister in accordance with these regulations:

Provided that, in any case where a difficulty arises with regard to the application of these regulations, the Minister may, by Order, make such minor modification of these regulations as may be necessary, in regard to any particular scheme, for the purpose of giving effect to the intention of these regulations.

THE LOCAL AUTHORITIES (ASSISTED HOUSING SCHEMES) REGULATIONS, 1919 (*a*).

(31st December, 1919.)

WHEREAS by sub-section (1) of section 7 of the Housing, Town Planning, &c. Act, 1919, it is enacted that if it appears to the Local Government Board that the carrying out by a local authority, or by a county council to whom the powers of a local authority have been transferred under that Act, of any scheme approved under section 1 of that Act or the carrying out of a re-housing scheme in connection with a scheme made under Part I. or Part II. of the Housing of the Working Classes Act, 1890, including the acquisition, clearance and development of land included in the last-mentioned scheme, and whether the re-housing will be effected on the area included in that scheme or elsewhere, has resulted or is likely to result in a loss, the Board shall, if the scheme is carried out within such period after the passing of that Act as may be specified by the Board with the consent of the Treasury, pay or undertake to pay to the local authority or county council, out of moneys provided by Parliament, such part of the loss as may be determined to be so payable under regulations made by the Board with the approval of the Treasury, subject to such conditions as may be prescribed by those regulations;

And whereas by sub-section (2) of the said section 7 it is enacted that such regulations shall provide that the amount of any annual payment to be made under the

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(*a*) See the amending Regulations of 1921, 1925, 1927, 1928, and 1929, *post*, pp. 3390, 3392, 3421, 3432, 3434, 3435.

Appendix II. section shall, in the case of a scheme carried out by a local authority, be determined on the basis of the estimated annual loss resulting from the carrying out of any scheme or schemes to which the section applies, subject to the deduction therefrom of a sum not exceeding the estimated annual produce of a rate of one penny in the pound levied in the area chargeable with the expenses of such scheme or schemes:

NOW THEREFORE, the Minister of Health, in pursuance of his powers under the recited enactments and under any other statutes in that behalf, hereby makes the following regulations:—

ARTICLE I.—(1) These regulations may be cited as "The Local Authorities (Assisted Housing Schemes) Regulations, 1919."

(2) The Housing (Assisted Scheme) Regulations, 1919, so far as they are in force at the date of this Order, are hereby revoked.

ARTICLE II.—(1) In these regulations unless the contrary intention appears:—

(*a*) The expression "the Minister" means the Minister of Health;

(*b*) The expression "local authority" means any local authority referred to in section 7 of the Housing, Town Planning, etc. Act, 1919, and includes a county council to whom the powers of a local authority have been transferred under that Act;

(*c*) The expression "the Housing Acts" means the Housing Acts, 1890 to 1919;

(*d*) The expression "the Act of 1890" means the Housing of the Working Classes Act, 1890;

(*e*) The expression "the Act of 1919" means the Housing, Town Planning, etc. Act, 1919;

(*f*) The expression "rate" means the rate out of which the expenses of the execution of Part III. of the Act of 1890 are defrayed;

(*g*) The expression "the produce of a rate of one penny in the pound" means the amount certified as such in accordance with the rules set out in Schedule A to these regulations.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

ARTICLE III.—For the purposes of these regulations—

(1) The schemes towards the losses on which the Minister is liable to contribute under section 7 of the Act of 1919, out of moneys provided by Parliament, shall include:—

(*a*) Any scheme under Part III. of the Act of 1890, including any proposals to which sub-section (8) of section 1 of the Act of 1919 applies; and

(*b*) Any re-housing scheme in connection with a scheme under Part I. or Part II. of the Act of 1890, including the acquisition, clearance and development of land included in the last-mentioned scheme, and whether the re-housing will be effected on the area included in that scheme or elsewhere;

in so far (in each case) as the scheme is approved by the Minister; and all such schemes, in so far as they are carried out at the expense of any Local Authority, shall be regarded together as one scheme, and, if a payment may be made as herein provided in respect thereof, are herein-after together referred to as an "assisted scheme."

(2) No such payment shall continue to be made:—

(i) In the case of a scheme under Part III. of the Act of 1890 unless the Minister is satisfied that reasonable progress has been made with the carrying into effect of the scheme within twelve months from the passing of the Act of 1919, or such further period as the Minister may allow;

(ii) In the case of a scheme under Part I. or Part II. of the Act of 1890, unless the Minister is satisfied that reasonable progress has been made with the carrying into effect of the scheme within four years from the passing of the Act of 1919, or such further period as the Minister may allow;

(iii) In the case of any scheme or part of a scheme under Part III. of the Act of 1890, unless such scheme or part of a scheme is carried into effect within three years from the passing of the Act of 1919, or such further period as the Minister may allow; or

(iv) In the case of any scheme or part of a scheme under Part I. or Part II. of the Act of 1890, unless such scheme or part of a scheme is carried into effect within six years from the passing of the Act of 1919, or such further period as the Minister may allow.

(3) No such payment shall be made :—

(i) In respect of the cost of acquiring or clearing a site under Part I. or Part II. of the Act of 1890 where the site was acquired or cleared (as the case may be) before the 6th day of February, 1919; or

(ii) In respect of any scheme made or carried into effect by the Minister or the County Council in default of the local authority, unless the Minister otherwise directs.

(4) In determining whether a further period may be allowed as herein-before provided the Minister shall have regard to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme, and if part only of a scheme has been carried into effect within the periods allowed under paragraphs (iii) and (iv) of sub-division (2) of this Article, that part of the scheme may, with the approval of the Minister, and subject to the provisions of these regulations, be regarded as the assisted scheme.

(5) [*See paragraph substituted by amending Order of* 17*th December*, 1921, *post*, p. 3392.]

ARTICLE IV.—(1) The local authority shall for the purposes of an assisted scheme or a scheme which, in the opinion of the Minister, is likely to become an assisted scheme, keep separate accounts, to be called "The Housing (Assisted Scheme) Accounts," including a separate revenue account, to be called "The Housing (Assisted Scheme) Revenue Account."

(2) They shall cause to be credited to the Housing (Assisted Scheme) Revenue Account in each financial year :—

(*a*) the produce of a rate of one penny in the pound levied in the area chargeable with the expenses of the assisted scheme, or such less amount as may be necessary to meet the deficit for the financial year;

(*b*) the rents (inclusive of rates where rates are payable by the owner) in respect of any houses provided or acquired by them under the assisted scheme; and

(*c*) any other income which in the opinion of the Minister may properly be credited to the said account.

(3) They shall cause to be debited to the Housing (Assisted Scheme) Revenue Account in each financial year :—

(*a*) the sums required for interest and repayment of principal in respect of all moneys borrowed by them for the purposes of the assisted scheme (including moneys borrowed for the purchase of land which is approved by the Minister as part of the assisted scheme) which in the opinion of the Minister may properly be debited to the said account;

(*b*) the rates, taxes, rents or other charges payable by them in respect of any land or houses acquired, leased or provided by them under the assisted scheme, including any sums payable by way of rent, with the approval of the Minister, to any other account of the local authority, in respect of land acquired by them for some other purpose and appropriated for purposes of the assisted scheme;

(*c*) the annual premium payable by them in respect of the insurance against fire of any houses acquired or provided by them for the purposes of the assisted scheme;

(*d*) the expenditure incurred in respect of supervision and management of the houses acquired or provided by them under the assisted scheme;

(*e*) the expenditure incurred by them in and about the repair or maintenance of any property acquired or provided by them for the purposes of the assisted scheme, whether such expenditure is incurred by way of a fixed annual contribution to a repairs fund or otherwise; and

(*f*) any other expenses which in the opinion of the Minister may properly be debited to the said account.

(4) (*a*) In the case of the council of a borough whose accounts under the Housing Acts are not otherwise subject to audit by the district auditor, the Housing (Assisted Scheme) Accounts shall be made up and shall be audited by the district auditor

Appendix II. in like manner, and subject to the same provisions, as the accounts of an urban district council, and for this purpose enactments relating to the audit by district auditors of those accounts, and to all matters incidental thereto and consequential thereon, shall apply, so far as necessary, in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit.

(*b*) In every case as soon as practicable after the conclusion of each financial year the local authority shall forward to the Minister a copy of the Housing (Assisted Scheme) Revenue Account, certified by the district auditor.

ARTICLE V.—Except with the approval of the Minister, the local authority shall not borrow moneys for the purposes of an assisted scheme, or a scheme which, in the opinion of the Minister, is likely to become an assisted scheme, at a higher rate of interest than that fixed for the time being in the case of loans by the Public Works Loan Commissioners to local authorities for the purposes of assisted schemes.

ARTICLE VI.—Subject to the provisions of these regulations and provided that these regulations are complied with the annual payment to be made by the Minister to the local authority out of moneys provided by Parliament (herein-after referred to as " the Exchequer subsidy ") shall be determined by the Minister as follows :—

(*a*) During the period (*a*) [*up to and including the* 31*st day of March*, 1930] the Exchequer subsidy shall be an amount equivalent to the deficit in the Housing (Assisted Scheme) Revenue Account made up at the conclusion of each financial year, in accordance with the provisions of Article IV. of these regulations ;

(*b*) during the period (*a*) [*if any, after the* 31*st day of March*, 1930] and before the whole of the assisted scheme has been carried into effect the Exchequer subsidy, in respect of that part of the assisted scheme which has been carried into effect, shall be calculated upon the basis of an estimate submitted to the Minister by the local authority and approved by the Minister, and, in respect of that part of the assisted scheme which has not been carried into effect, shall be an amount equivalent to the deficit under the last-mentioned part of the assisted scheme as shown by the entries relating thereto in the Housing (Assisted Scheme) Revenue Account at the conclusion of the financial year ;

(*c*) during the remainder of the period or periods allowed for the repayment of the loans raised by the local authority for the purposes of the assisted scheme the Exchequer subsidy shall be calculated upon the basis of estimates submitted to the Minister by the local authority and approved by the Minister (*a*) [of which the first shall be submitted to the Minister by the local authority as soon as possible after the 31st day of March, [1930], and subsequent estimates after the conclusion of the tenth financial year during the remainder of the period or periods last mentioned ;]

(*d*) [*Revoked by amending Order of 5th August*, 1925.]

(*e*) Each of the estimates referred to in paragraphs (*b*) and (*c*) of this Article shall be in a form approved by the Minister and (*a*) [*except where the Minister has dispensed with a decennial estimate*] shall be an estimate of the average annual income and expenditure of the local authority under the assisted scheme, or under that part of the assisted scheme which has been carried into effect (as the case may be), in respect of the period ending at the conclusion of the financial year after which the next estimate is to be submitted under these regulations ;

(*f*) The estimate shall in each case be accompanied by an estimate of the annual produce of a rate of one penny in the pound herein-before referred to, and in the framing of such estimate regard shall be had to the produce of a rate of one penny in the pound during the last financial year before the date of such estimate, and to any probable increase or decrease of the assessable value of the district of the local authority during the period to which the estimate relates ;

(*g*) The Exchequer subsidy, in so far as it is calculated upon an estimate, shall be determined on the basis of the average annual deficit to be incurred by

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(*a*) See amending Orders of August 5th, 1925, May 4th, 1927, May 8th, 1928, and April 22nd, 1929, *post*, pp. 3421, 3432, 3434, and 3435.

the local authority under the assisted scheme (or under that part of the assisted scheme which has been carried into effect, as the case may be), as shown by the estimate last made by the local authority under this Article, and shall be the equivalent of the amount of the said average annual deficit subject to the deduction from the said average annual deficit of the estimated produce of a rate of one penny in the pound herein-before referred to:

Provided that in the determination of the amount of the Exchequer subsidy during the period to which paragraph (*b*) of this Article applies, there shall be added to the amount of the said average annual deficit an amount equivalent to the deficit referred to in the said paragraph (*b*).

(*h*) In this Article the expression "part of the assisted scheme" means so much of the assisted scheme as will be carried out under Parts I. and II. of the Act of 1890, or under Part III. of the Act of 1890, as the case may be.

ARTICLE VII (1).—In any determination of the amount of the Exchequer subsidy, whether based on an estimate or otherwise, such deductions may be made from the amount of the deficit upon which the Exchequer subsidy is calculated as will in the opinion of the Minister represent—

(*a*) an item of expenditure or estimated expenditure which is excessive or not properly chargeable to the debit of the assisted scheme; or

(*b*) the omission from the account or estimate of any item of income which should be included therein; or

(*c*) any deficiency of income or estimated income which is due to the insufficiency of the rents charged or proposed to be charged by the local authority; or

(*d*) any deficiency of income or estimated income which is due to the failure of the local authority to secure due economy in the carrying out or administration of the scheme.

(2) For the purposes of sub-division (1) (*a*) of this Article the following items of expenditure, or estimated expenditure, in respect of any one financial year, shall not be regarded as excessive:—

(*a*) A charge, in respect of unoccupied houses and uncollected rents, not exceeding five per centum of the gross estimated rent;

(*b*) a contribution to a repairs fund not exceeding fifteen per centum of the gross estimated rent;

(*c*) a charge in respect of the cost of supervision and management not exceeding five per centum of the gross estimated rent; and

(*d*) any item of expenditure referred to in this sub-division of this Article which exceeds the percentages thereby prescribed, but which the Minister, having regard to the special circumstances of the case, considers to be reasonable.

(3) The Minister shall, not later than the 31st day of March, [1930] (*a*), after consultation with local authorities or with any associations of local authorities, and after such inquiry as he may consider necessary for the purpose, make such revision, if any, of the percentages mentioned in sub-division (2) of this Article as appears to him to be just and equitable.

(4) (*a*) In the event of any difference of opinion arising between the Minister and the local authority with regard to any of the matters referred to in paragraphs (*c*) or (*d*) of sub-division (1) of this Article the question at issue shall be referred for decision to a tribunal appointed as herein-after provided, and the decision of such tribunal shall be final and conclusive, and the amount of the Exchequer subsidy shall (if necessary) be altered accordingly.

(*b*) [*See Article substituted by Amending Order of* 12*th March*, 1921, *post*, p. 3390.]

(5) In any determination of the sufficiency of the rents charged or to be charged by the local authority, regard shall be had to the rules set out in Schedule B to these regulations.

(6) For the purposes of sub-division (2) of this Article the gross estimated rent shall be deemed to be the total amount of the rents, rates and water charges payable in respect of the houses included in the assisted scheme less the total amount of the rates and water charges payable in respect of the said houses during the financial year.

(7) Where the local authority apply any capital moneys, including any accumulated funds, belonging to them for defraying any expenditure incurred by them for pur-

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(*a*) See amending Order of April 22nd, 1929, *post*, p. 3435.

poses of an assisted scheme for which the local authority are authorised to borrow moneys, the rate of interest on the capital moneys or funds so applied shall be calculated as follows:—

(*a*) where moneys have been borrowed by the local authority for the purposes of the assisted scheme from sources other than moneys or funds belonging to the local authority, the rate of interest shall be the same as that payable on the moneys last previously so borrowed;

(*b*) where no moneys have been borrowed by the local authority as aforesaid the rate of interest shall be the same as that in force for the time being for loans for assisted schemes advanced by the Public Works Loan Commissioners.

ARTICLE VIII.—(1) The amount of the Exchequer subsidy, when determined under these regulations, shall not be varied by the Minister during the period for which the Exchequer subsidy was fixed except as herein-after provided or except with the concurrence of the Lords Commissioners of His Majesty's Treasury and of the local authority.

(2) The Exchequer subsidy in respect of any financial year shall be varied so far as may be necessary in consequence of any difference between the produce of a rate of one penny in the pound in that year and the estimate of the produce of the said rate submitted under Article VI. of these regulations.

(3) When any land or buildings included in an assisted scheme are leased or sold by the local authority, the Minister may (*a*) [*except where he has dispensed with a decennial estimate*] make such adjustment of the amount of the lease or sale and of the appropriation of the rents or proceeds of the sale:

Provided that the adjustment shall in no case be such as to increase the contribution to be made by the local authority from the rates towards the annual cost of the assisted scheme, and that if, as the result of the appropriation of the rents or proceeds of the sale, the annual deficit to be incurred by the local authority under the assisted scheme is reduced, a proportion of the amount by which the deficit is reduced shall, subject to such conditions as the Minister may determine, be applied under any such adjustment in reduction of the said contribution, as well as of the Exchequer subsidy.

(4) When the period allowed for the repayment of any of the loans raised by the local authority for the purposes of the assisted scheme has expired, the amount of the Exchequer subsidy shall be reduced by the Minister, so far as may be necessary, in consequence of such repayment.

ARTICLE IX.—The Exchequer subsidy shall be payable in such instalments as the Minister may think fit (including payments on account, during the periods mentioned in paragraphs (*a*) and (*b*) of Article VI. of these regulations, based on the probable deficit for the year as certified by the local authority), but the Minister may, if he thinks fit, withhold payment of the final instalment of the Exchequer subsidy until the provisions of sub-division (4) (*b*) of Article IV. of these regulations have been complied with.

ARTICLE X.—In any case where one area is affected by two or more assisted schemes the Minister may make such adjustments as may be necessary for securing that in the calculation of the total amount of the Exchequer subsidies, in any one financial year, under both or all the assisted schemes affecting the said area, there shall not be taken into account, in respect of that area, the produce, or estimated annual produce, of a rate of more than one penny in the pound.

SCHEDULE A.

RULES TO BE OBSERVED IN THE DETERMINATION OF THE AMOUNT PRODUCED BY A RATE OF ONE PENNY IN THE POUND.

1. The produce of a rate during any financial year shall be the amount actually realised during that year by the collection of that rate, in accordance with a return made by the duly authorised financial officer of the local authority and certified by the district auditor.

(*a*) See amending Order of August 5th, 1925, *post*, p. 3421.

2. For the purposes of the foregoing rule, the amount of the rate or rates collected during the financial year shall be regarded as having been collected in respect of the rate or rates made for that year.

3. The produce of a rate of one penny in the pound shall be that proportion of the produce of a rate which one penny bears to the total amount in the pound of the said rate.

4. Where it is desired to ascertain the amount of the produce of a rate of one penny in the pound levied in any area comprising two or more parts which are differentially rated, the said amount shall be separately ascertained in respect of each of these parts in accordance with the foregoing rules, and the sum of the amounts so ascertained shall be the produce of a rate of one penny in the pound levied in the said area.

SCHEDULE B.

RULES WITH REGARD TO THE DETERMINATION OF RENTS.

1. The local authority in first fixing the rents under an assisted scheme shall have regard to:—

(*a*) the rents obtaining in the locality for houses for the working classes;
(*b*) any increase in the rent of houses for the working classes authorised under the Increase of Rent and Mortgage Interest (War Restrictions) Act, 1915, and any Acts amending or extending that Act;
(*c*) any superiority in the condition or amenity of the houses to be let by them under the assisted scheme or in the accommodation provided therein; and
(*d*) the classes of tenant in the district for whom the houses are provided.

2. The rent to be charged after the 31st day of March, 1927, shall, if reasonably possible, having regard to the conditions then prevailing and to the classes of tenant in the district for whom the houses were provided, be sufficient to cover (in addition to the expenses of maintenance and management of the houses and a suitable allowance for depreciation) the interest which would have been payable on the capital cost of building the houses if they had been built after that date.

3. If it is not found reasonably possible after the 31st day of March, 1927, to obtain the rent prescribed by rule 2, the rent shall be the best rent which can reasonably be obtained from the classes of tenant in the district for whom the houses were provided, regard being had to any superiority of such houses in accommodation, construction or amenities as compared with houses previously built in the district.

S. R. & O., 1920, No. 135.

THE HOUSING TRUSTS (FINANCIAL ASSISTANCE) REGULATIONS, 1920. DATED JANUARY 30TH, 1920.

Whereas by section 4 of the Housing (Additional Powers) Act, 1919, the provisions of section 19 of the Housing, Town Planning, etc. Act, 1919, with respect to the amount of the annual payment to be made to a Housing Trust are varied, and it is expedient that certain consequential amendments should be made in the Housing Trusts (Financial Assistance) Regulations, 1919:

Now therefore, the Minister of Health, in pursuance of the powers conferred on him by section 19 of the Housing, Town Planning, etc. Act, 1919, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These regulations may be cited as the Housing Trusts (Financial Assistance) Regulations, 1920, and shall be construed as one with the Housing Trusts (Financial Assistance) Regulations, 1919, hereinafter called the principal regulations.

2.—(1) [*Revoked by Amending Regulations of 2nd January,* 1924.]

(2) [*Revoked by Amending Regulations of* 21*st July,* 1921, *post,* p. 3390.]

3. A tenant of a house included in a scheme submitted by a Housing Trust and approved by the Minister shall have undisturbed occupancy of his house and garden so long as—

(*a*) he fulfils the tenancy regulations made by the trustees; and
(*b*) he pays any rent or debts due from him to the trustees; and
(*c*) he and the occupants of his house avoid any conduct detrimental to good neighbourship.

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S. R. & O., 1920, No. 336.

THE COUNTY COUNCILS (ASSISTED SCHEMES FOR THE HOUSING OF EMPLOYEES) REGULATIONS, 1920. DATED MARCH 5TH, 1920.

To the councils of the several administrative counties in England and Wales :—

And to all others whom it may concern.

Whereas by sub-section (1) of section 7 of the Housing. Town Planning, etc. Act, 1919, it is enacted (amongst other things) that if it appears to the Local Government Board that the carrying out of any scheme approved by the Board for the provision of houses for persons in the employment of, or paid by, a county council, or a statutory committee thereof, has resulted or is likely to result in a loss, the Board shall, if the scheme is carried out within such period after the passing of that Act as may be specified by the Board with the consent of the Treasury, pay or undertake to pay to the county council, out of moneys provided by Parliament, such part of the loss as may be determined to be so payable under regulations made by the Board with the approval of the Treasury, subject to such conditions as may be prescribed by those regulations ;

And whereas by sub-section (2) of the said section 7, as altered by section 4 of the Housing (Additional Powers) Act, 1919, it is enacted that the regulations shall provide that the amount of any annual payment to be made under the section shall, in the case of a scheme for the provision of houses for persons in the employment of, or paid by, a county council, or a statutory committee thereof, be an amount equivalent during the period ending on the 31st day of March, 1927, to fifty per centum and thereafter to thirty per centum of the annual loan charges as calculated in accordance with the regulations on the total capital expenditure incurred by the county council for the purposes of the scheme :

Now therefore, the Minister of Health, in pursuance of his powers under the recited enactments and under any other statutes in that behalf, hereby makes the following regulations :—

ARTICLE I.—(1) These regulations may be cited as "The County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1920."

(2) The County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1919, are hereby revoked, without prejudice to any right, privilege or liability acquired, accrued or incurred thereunder.

ARTICLE II.—(1) In these regulations, unless the contrary intention appears :—

(*a*) The expression "the Minister" means the Minister of Health ;

(*b*) The expression "the Act of 1919" means the Housing, Town Planning, etc. Act, 1919 ; and

(*c*) The expression "county council" includes a statutory committee of a county council, the Lancashire Asylums Board, the West Riding of Yorkshire Asylums Board, and any other body constituted for the purpose of the administration of the Lunacy Acts on behalf of any combination of county councils and county borough councils.

(2) The Interpretation Act, 1889, applies to the interpretation of the regulations as it applies to the interpretation of an Act of Parliament.

ARTICLE III.—Subject to the provisions of Article IV. of these regulations :—

(1) An annual contribution out of moneys provided by Parliament (hereinafter referred to as "the Exchequer subsidy") shall be made by the Minister towards the cost of carrying out a scheme submitted by a county council, and approved by the Minister, for the provision of houses for persons in the employment of, or paid by, the county council.

(2) The Exchequer subsidy shall be an amount equivalent during the period ending on the 31st day of March, 1927, to fifty per centum (*a*) [and thereafter to forty per centum of the annual charges] for interest and repayment of principal, in respect of the aggregate amount of the loans raised by the county council for the purposes of the approved scheme :

Provided that the Minister may reduce the amount of the Exchequer subsidy in any case in which he is satisfied that the capital expenditure incurred by the county council has been excessive.

(*a*) Words substituted by amending Order of 2nd January, 1924, *post*, p. 3396.

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(3) The Exchequer subsidy shall be payable in two half-yearly instalments or in such other manner as the Minister may think fit during the periods allowed for the repayment of the loans raised by the county council for the purposes of the approved scheme, and shall be reduced by the Minister so far as may be necessary as and when the period allowed for the repayment of any one of the said loans expires.

(4) For the purposes of this Article the annual charges in respect of the aggregate amount of the loans raised by the county council shall be ascertained by calculating the total amount which would be annually payable in respect of the several loans for principal and interest if the loans were repayable by equal annual instalments of principal and interest combined:

Provided that, save with the consent of the Minister, the rate of interest shall not for the purposes of this paragraph exceed the rate for the time being in force for loans advanced by the Public Works Loan Commissioners for the purposes of schemes to which section 7 of the Act of 1919 applies.

(5) The foregoing provisions of this Article shall apply to accumulated funds or capital moneys belonging to a county council and used by them for the purposes of an approved scheme as though such funds or moneys were loans, and for the purpose of the last preceding paragraph the rate of interest in respect of such funds or moneys shall be deemed to be—

(i) where moneys have been borrowed for the purposes of the scheme from sources other than funds or moneys belonging to the county council, the rate of interest payable in respect of the moneys last previously so borrowed; and

(ii) where no moneys have been borrowed for the purposes of the scheme from such sources as aforesaid, the rate in force for loans advanced by the Public Works Loan Commissioners for the purposes referred to in the last preceding paragraph at the date when the funds or moneys were so used.

ARTICLE IV.—(1) The Exchequer subsidy shall cease to be payable—

(*a*) in any case in which the Minister is not satisfied that reasonable progress has been made with the carrying into effect of the scheme within twelve months from the passing of the Act of 1919, or such later date as the Minister may allow, regard being had to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme; and

(*b*) in respect of any scheme or part of a scheme not carried into effect before the expiry of a period of three years from the passing of the Act of 1919, or such later date as the Minister may allow, regard being had to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme.

(2) For the purposes of these regulations a scheme or part of a scheme shall be deemed to have been carried into effect when all the houses to be provided thereunder are let or available for letting.

S. R. & O., 1920, No. 487.

THE HOUSING ACCOUNTS ORDER (LOCAL AUTHORITIES), 1920. DATED MARCH 31ST, 1920.

To the councils of the several administrative counties in England and Wales:—
To the councils of the several metropolitan boroughs, municipal boroughs and other urban districts, in England and Wales;—
To the councils of the several rural districts in England and Wales;—
And to all others whom it may concern.

Whereas by the Local Authorities (Assisted Housing Schemes) Regulations, 1919, the Minister of Health, with the approval of the Treasury, made regulations in pursuance of section 7 of the Housing, Town Planning, etc. Act, 1919, with regard to the payments to be made by the Minister to local authorities in respect of assisted

Appendix II. schemes (as defined in the said regulations) towards the losses on which the Minister is liable to contribute under the said section 7 out of moneys provided by Parliament;

And whereas by Article IV. of the said regulations it is provided that the local authority shall, for the purposes of an assisted scheme, or a scheme which in the opinion of the Minister is likely to become an assisted scheme, keep separate accounts to be called the Housing (Assisted Scheme) Accounts, and it is further provided that in the case of the council of a borough whose accounts under the Housing Acts, 1890 to 1919, are not otherwise subject to audit by the district auditor, the Housing (Assisted Scheme) Accounts shall be made up and shall be audited by the district auditor in the manner and subject to the provisions therein mentioned:

Now therefore, the Minister of Health, in pursuance of his powers under section 5 of the District Auditors Act, 1879, and all other enactments in that behalf, hereby orders and prescribes, subject to any departure to which he may from time to time assent, as follows:—

ARTICLE I.—This Order may be cited as "The Housing Accounts Order (Local Authorities), 1920."

ARTICLE II.—In this Order, unless the contrary intention appears:—

(*a*) The expression "the Minister" means the Minister of Health;

(*b*) The expression "the regulations" means the Local Authorities (Assisted Housing Schemes) Regulations, 1919;

(*c*) The expressions "local authority" and "assisted schemes" have the same meaning as the like expressions respectively have in the Local Authorities (Assisted Housing Schemes) Regulations, 1919;

(*d*) The expression "financial period" means, in the case of a local authority other than a rural district council, the year ending on the 31st day of March, and, in the case of a local authority being a rural district council, the half-year ending on the 31st day of March or the 30th day of September, as the case may require.

ARTICLE III.—The officer charged with the duty of keeping the Housing (Assisted Scheme) Accounts of the local authority (hereinafter referred to as "the accounting officer") shall punctually and accurately enter up the several accounts, books and statements relating to the assisted scheme which are prescribed by this Article, together with such other accounts or books of account as the Minister may direct or the local authority may decide to be necessary, that is to say:—

LEDGER ACCOUNTS.

(1) Ledger accounts on the double-entry system according to Form A in the Schedule to this Order.

(*a*) These accounts shall include—

Personal Accounts.

ACCOUNTS OF OFFICERS.

In all cases

Treasurer's account (the cash book),
Rent collectors' accounts,

and where circumstances require

Other cash officers' accounts,
Storekeepers' accounts.

ACCOUNTS OF DEBTORS.

In all cases

Tenants' (rent) account,
Council (rate contribution) account,
Minister of Health (Exchequer subsidy) account,

and where circumstances require

Mortgagors' accounts,
Investment accounts,
Other debtors' accounts.

ACCOUNTS OF CREDITORS.

In all cases

Mortgagees' (or other lenders) accounts,
Inland revenue (income tax) account,
Other creditors' account or accounts,

and where circumstances require

Purchaser's (instalments) account,
Tenant's (deposits) accounts.

Impersonal Accounts.

INCOME CLASSIFICATION ACCOUNTS.

In all cases

Rent income account,
Rate contribution account,
Exchequer subsidy account,

and where circumstances require

Other income accounts.

EXPENDITURE CLASSIFICATION ACCOUNTS.

In all cases

Repayment of loans account,
Loan interest account,
Rates, rents, insurance and other charges account,
Management expenses account,

and where circumstances require

Other expenditure accounts.

FUND OR FINAL ACCOUNTS.

In all cases

Housing (assisted scheme) revenue account,
Maintenance and repairs reserve fund account.

(*b*) An amount equal to the estimated annual provision required to cover the cost of maintenance and repair shall be transferred each year from the housing (assisted scheme) revenue account to the maintenance and repairs reserve fund account, to which shall be charged the actual expenditure upon maintenance and repair, and any deficiency which may arise in this account shall be made good forthwith by transfer from the housing (assisted scheme) revenue account.

(*c*) In connection with the capital outlay the following ledger accounts shall also be kept:—

Capital asset accounts;
Discharged capital outlay account;

and these accounts shall maintain a record of the original cost of the capital assets acquired and *per contra* of the portions thereof which have been defrayed out of revenue (1) by loan repayment, (2) by the setting aside of sinking funds, or (3) by direct charge.

(*d*) Where expenditures which do not create capital assets are spread over a period of years by the help of loans, there shall also be kept:—

Deferred charges accounts;

including, as far as they may be required, accounts of discount on stock issues and expenses of stock and bond issues. The balances of these accounts shall be reduced as and when the expenditures are defrayed out of revenue by loan repayment or otherwise.

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(e) Where sinking or redemption funds have to be compiled for the discharge of loan debt the following accounts shall also be kept:—

Sinking fund contributions account.
Treasurer's sinking (or redemption) fund account.
Sinking (or redemption) fund investment accounts.
Sinking (or redemption) fund expenses account.

(f) Where houses or other property are sold or instalments of purchase money are received a separate treasurer's account shall be kept in the ledger entitled the

Treasurer's (proceeds of sale) account.

Such items of loan repayment or sinking fund contribution as the Minister may from time to time direct shall be paid out of this account, and the sums remaining therein shall be invested in loans which the local authority is authorised to borrow, including loans for the purchase of other land for the purposes of Part III. of the principal Act, or in any other land for the purposes of Part III. of the principal Act, or in any securities in which trustees are for the time being authorised to invest. The income derived from these investments shall be carried to the housing (assisted scheme) revenue account.

(g) There shall be entered in the ledger a

Housing (assisted scheme) balance sheet;

the entries in which shall be arranged under the headings appearing in Form B in the schedule hereto or such of them as may be needed and in accordance with the directions set out at the foot of that form.

TERRIER OF HOUSING ESTATES.

(2) A terrier, in Form C in the schedule hereto, of all real property acquired by the local authority, giving the particulars set out in the form and in the instructions appended thereto.

REGISTER OF TENANCIES.

(3) A register in which one page or more is allotted to each house or other property available for letting. In this register there shall be entered from time to time the name of each tenant, the date when his occupation begins, the date when it ends, the agreed rent, any orders in regard to the writing-off of rents, and any other matters connected with the tenancies.

RENT ACCOUNT BOOK.

(4) A rent account book in Form D in the schedule hereto, or in such amplified form as may be better adapted to the requirements of the case, setting out in the same order and with the same reference numbers as appears in the register of tenancies and in columns provided for the purpose each house available for letting, the name of each tenant in occupation during the period of account, and the other particulars set forth in the form.

This book shall be totalled up and balanced at the close of each quarter or of such other periods as the local authority may direct.

SINKING (OR REDEMPTION) FUND RECORD.

(5) A book showing in respect of each sinking or redemption fund which has to be compiled for the discharge of loan debt, (a) the amount to which such fund should amount at the close of each financial year in the loan period; (b) the total amount of debt discharged by the fund up to the end of each financial year, and (c) the amount (if any) remaining on hand invested or uninvested.

ARTICLE IV.—(1) The accounts relating to the assisted scheme shall include, and shall be confined to, the items of income and expenditure falling due within, or at the close of, the financial period.

(2) The accounts, books and statements hereinbefore prescribed shall be duly made up and balanced immediately after the close of each financial period, and

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thereupon the accounting officer shall submit the ledger accounts and balance sheet to the local authority or appropriate committee.

(3) When the accounts have been approved by the local authority, their acceptance as accounts of the local authority shall be attested by the signature of the presiding chairman upon the housing (assisted scheme) balance sheet.

(4) It shall be the duty of the accounting officer to present at audit the housing (assisted scheme) accounts of the local authority, together with all vouchers, documents and evidence which are required for the purposes of audit.

ARTICLE V.—The treasurer and every officer or other person who receives or disburses money or materials on behalf of the local authority shall keep a personal book of account containing a prompt and accurate record of all such receipts and disbursements, shall balance such book of account at the close of each financial period and at such other dates as the local authority may direct, and shall submit the same at the audit together with such vouchers, documents and evidence as may be required for the purposes of audit.

ARTICLE VI.—(1) The rent collector shall deposit all sums which he has collected with the treasurer at the close of each week, or more frequently if the local authority so direct.

(2) He shall use such receipt check books as the local authority may direct, and shall preserve therein an accurate record of the amounts and dates of his collections.

(3) If, instead of or in addition to directing the use by the rent collector of receipt check books, the local authority elect to supply each tenant with a tenant's rent book, the collector shall mark and initial each rent payment in the rent book of the tenant.

(4) He shall make out and submit promptly after the close of each financial period, and at such other dates as the local authority may direct, a full statement of such of the rents which it was his duty to collect as may not in fact have been collected, and of the reason for such non-collection.

SCHEDULE.

FORM A.

Ledger Account.

Dr. *Cr.*

Date.	Folio of corresponding Credit.	Account of corresponding Credit.	Description of Item.	Amount.	Total.	Date.	Folio of corresponding Debit.	Account of corresponding Debit.	Description of Item.	Amount.	Total.
				£ *s.* *d.*	£ *s.* *d.*					£ *s.* *d.*	£ *s.* *d.*

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FORM B.

Housing (Assisted Scheme) Balance Sheet.

CAPITAL LIABILITIES. Stock or loans outstanding. Prospective purchasers' advances. Other special liabilities. Overspent loan balances.	CAPITAL ASSETS. Houses and other property (*a*). Loans owing to the council. Sinking Funds (investments and cash). Proceeds of sale (investments and cash). Loan monies in hand. Sundry debtors.
CAPITAL OUTLAY DISCHARGED. By Loan Repayment. By Sinking Fund provisions. By direct charge on revenue.	DEFERRED CHARGES. Expenses of Stock or Bond issues. Discounts on Stock issues.
REVENUE LIABILITIES. Tradesmen and others. Income Tax unpaid. Unclaimed dividends. Other special liabilities. Overspent cash balances.	REVENUE ASSETS. Rents uncollected. Exchequer subsidy receivable. Rate contribution receivable. Other uncollected income. Repairs fund investments. Cash balances in hand. Materials in hand.
FUND BALANCES. Repairs fund. Revenue Account.	FUND DEFICIENCIES. Revenue account.

Either on the balance sheet, or in connection therewith, the balances connected with each authorised borrowing are to be separately entered in such manner as to show their due correspondence.

FORM C.

Terrier of Housing Estates.

Reference No.	Address of House or other property.	Description.	Apportionment of original cost.			Date when ready for occupation.	Terms and particulars of Sale (if any). Signature of Clerk to the Council and date of entry.
			Items.	Amounts.	Loan period.		

(*a*) The asset is to be shown at original cost. Only those properties which remain in the possession of the Authority are to be included on the balance sheet.

This terrier should include all real property held by the council in connection with the assisted scheme.

The apportionment of original cost entered in the terrier should be brought to a total therein, and the agreement of this total with the capital outlay shown upon the balance sheet of the housing (assisted scheme) accounts should be established.

If loans are granted to purchasers on mortgage of the houses concerned, the amounts of such loans, together with the terms in regard to interest and repayment, should be entered.

If agreements are entered into for instalment payments by prospective purchasers, the numbers and amount of such instalments, the dates when they fall due, and any other terms of the agreement, together with the date of the agreement, should be entered.

FORM D.

Rent Account Book.

* * * * * *

S. R. & O., 1920, No. 683.

THE HOUSING ACCOUNTS ORDER (SOCIETIES AND TRUSTS), 1920, DATED MAY 4TH, 1920, MADE BY THE MINISTER OF HEALTH, UNDER SECTION 5 OF THE DISTRICT AUDITORS ACT, 1879.

NOTE.—This Order has been revoked so far as it relates to Housing Trusts by the amending Order of July 21st, 1921, *post*, p. 3390.

To all public utility societies registered under the Industrial and Provident Societies Acts, 1893 to 1913;

To the trustees of all housing trusts as defined in the Housing, Town Planning, etc. Act, 1919;

And to all others whom it may concern.

Whereas by the Public Utility Societies (Financial Assistance) Regulations, 1919 and 1920, and the Housing Trusts (Financial Assistance) Regulations, 1919 and 1920, the Minister of Health, with the approval of the Treasury, made regulations in pursuance of sub-section 1 of section 19 of the Housing, Town Planning, etc. Act, 1919, with regard to the contributions to be made by the Minister out of monies provided by Parliament, to public utility societies and housing trusts towards the cost of carrying out any approved scheme for the provision of houses for the working classes;

And whereas by Article VIII. of each of the said regulations it is provided that the societies and the trustees shall keep separate accounts relating to the approved scheme, and it is further provided that the accounts shall be audited by a district auditor in the manner and subject to the provisions therein mentioned.

Now therefore, the Minister of Health, in pursuance of his powers under section 5 of the District Auditors Act, 1879, and all other enactments in that behalf, hereby orders and prescribes, subject to any departure to which he may from time to time assent, as follows:—

ARTICLE I.—This Order may be cited as "The Housing Accounts Order (Societies and Trusts), 1920."

ARTICLE II.—In this Order, the expressions "society" and "trust" have the same meaning as the expressions "public utility society" and "housing trust" in the Housing, Town Planning, etc. Act, 1919.

ARTICLE III.—(1) The officer charged with the duty of keeping the accounts of the society or trust (hereinafter referred to as the "accounting officer") shall duly make up and balance a separate set of double-entry ledger accounts for the approved housing scheme of the society or trust comprising,—

A. Personal accounts of the creditors, debtors, and cash officers.

B. Revenue and net revenue accounts.

C. Capital account or accounts.

(2) There shall be entered in the ledger a housing (approved scheme) balance sheet in the form prescribed in the First Schedule to this Order.

ARTICLE IV.—Such primary books, as are necessary for keeping account with the several tenants and otherwise for the purposes of recording the transactions which have to be entered in the several ledger accounts, shall be kept by the officer or officers to whom the duties in connection therewith are allotted by the society or trust.

Each officer or other person who receives money or material pertaining to the approved housing scheme shall promptly enter up and duly balance a debit and credit account of his transactions.

ARTICLE V.—(1) The accounts of the approved scheme of the society or trust shall be made up and balanced to the 31st March in each year and submitted to the society or to the trust as soon as may be after that date.

(2) It shall be the duty of the accounting officer to submit these accounts to the district auditor at the time and place appointed by him for the audit.

(3) The officers or others who have personal accounts to render under this Order shall submit such accounts balanced to the 31st March in each case at the time and place appointed for the audit.

ARTICLE VI.—The accounting officer shall prepare and submit to the district auditor at every audit a financial statement in duplicate in the form prescribed in the second schedule to this Order, and shall affix to one of the said statements an audit stamp of the value prescribed in the First Schedule to the District Auditors Act, 1879.

SCHEDULES.

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S. R. & O., 1921, No. 330.

THE LOCAL AUTHORITIES (ASSISTED HOUSING SCHEMES) AMENDMENT REGULATIONS, 1921, DATED MARCH 12TH, 1921.

The Minister of Health in pursuance of his powers under section 7 of the Housing, Town Planning, etc. Act, 1919, and under any other statutes in that behalf, and with the approval of the Treasury, hereby makes the following regulations :—

1. These regulations may be cited as "The Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1921," and shall be read as one with the Local Authorities (Assisted Housing Schemes) Regulations, 1919 (hereinafter called "the principal regulations").

2. The following paragraph shall be substituted for paragraph (*b*) of subdivision (4) of Article VII. of the principal regulations :—

(*b*) Such tribunal shall consist of two members nominated by the Minister, one member nominated by the Association of Municipal Corporations and two members (of whom one only shall be entitled to act in any particular case) nominated by the Urban District Councils Association and the Rural District Councils Association jointly, and of a chairman to be appointed by the members so nominated :

Provided that if at a meeting of the tribunal four members nominated as aforesaid shall not be present, the tribunal shall be entitled to act through a committee consisting of the chairman and two members, one of whom shall be a member nominated by the Minister and the other shall be a member nominated either by the Association of Municipal Corporations or by the Urban District Councils Association and the Rural District Councils Association jointly, and any decision of such committee shall be deemed to be a decision by the tribunal.

S. R. & O., 1921, No. 1193.

THE HOUSING (SOCIETIES AND TRUSTS) AMENDMENT REGULATIONS, 1921, DATED JULY 21ST, 1921, MADE BY THE MINISTER OF HEALTH UNDER SECTION 19 (1) OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919 (9 & 10 GEO. 5, C. 35).

Note.—This Order was revoked in so far as it applied to Public Utility Societies, see Regulations of 9th March, 1925, *Art.* 1 (2), *post, p.* 3399.

The Minister of Health in pursuance of the powers conferred on him by subsection (1) of section 19 of the Housing, Town Planning, etc. Act, 1919, and of all powers thereunto enabling him, with the concurrence of the Public Works Loan Commissioners, hereby makes the following regulations :—

1. These regulations may be cited as the Housing (Societies and Trusts) Amendment Regulations, 1921.

2.—(1) The expression "sale" in paragraph (*h*) of Article 2 of the Public Utility Societies (Sale of Houses) Regulations, 1920, shall include in the case of any land comprised in a scheme in which the society has a leasehold interest only, the assignment of such leasehold interest, and the grant of an underlease where the yearly rent reserved by the underlease does not exceed by more than five per centum per annum such portion of the rent payable by the society as is properly attributable to the land comprised in the underlease.

(2) Paragraphs (2), (3), and (4) of the first schedule to the said regulations are hereby revoked.

3. Sub-paragraph (*a*) of paragraph (1) of Article 3 of the Public Utility Societies (Financial Assistance) Regulations, 1919, as amended by paragraph (2) of Article 2 of the Public Utility Societies (Financial Assistance) Regulations, 1920, and sub-paragraph (*a*) of paragraph (1) of Article 3 of the Housing Trusts (Financial Assistance) Regulations, 1919, as amended by paragraph 2 of Article 2 of the Housing Trusts (Financial Assistance) Regulations, 1920, are hereby revoked and shall be deemed never to have had effect.

4.—(1) There shall be substituted for Article 8 of the Housing Trusts (Financial Assistance) Regulations, 1919, the following :—

> "The trustees shall permit any district auditor or other officer of the Minister at all reasonable times to have access to and inspect the books, deeds, documents and accounts of the trust."

(2) The Housing Accounts Order (Societies and Trusts), 1920, so far as it relates to housing trusts is hereby revoked.

S. R. & O, 1921, No. 1385.

THE MINISTRY OF HEALTH (RATES OF INTEREST) ORDER, 1921, DATED AUGUST 26TH, 1921, MADE BY THE MINISTER OF HEALTH, WITH THE APPROVAL OF THE TREASURY, UNDER SECTION 5 OF THE HOUSING ACT, 1921 (11 & 12 GEO. 5, C. 19), FIXING THE RATE OF INTEREST ON ADVANCES UNDER SECTION 1 OF THE SMALL DWELLINGS ACQUISITION ACT, 1899 (62 & 63 VICT., C. 44), AND EXPENSES INCURRED BY LOCAL AUTHORITIES UNDER SECTION 15 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1909 (9 EDW. 7, C. 44), AND SECTION 28 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919 (9 & 10 GEO. 5, C. 35).

Note.—This Order was revoked by Regulations of 1*st September,* 1925, *post, p.* 3427, *except as regards advances under s.* 1 *of the S. D. A. Act,* 1899.

Whereas by section 5 of the Housing Act, 1921, the Minister of Health is empowered with the approval of the Treasury from time to time by Order to fix the rate of interest on advances under section 1 of the Small Dwellings Acquisition Act, 1899, and on expenses incurred by local authorities under section 15 of the Housing, Town Planning, etc. Act, 1909, and section 28 of the Housing, Town Planning, etc. Act, 1919, and different rates of interest may be fixed for different purposes and in different cases :

Now, therefore, the Minister of Health, in pursuance of the powers conferred on him by the said section and of all other powers enabling him in that behalf, with the approval of the Treasury, hereby makes the following Order :—

1. As from the 1st day of July, 1921, the rates of interest on advances under section 1 of the Small Dwellings Acquisition Act, 1899, and on expenses incurred by a local authority under section 15 of the Housing, Town Planning, etc. Act, 1909, and

section 28 of the Housing, Town Planning, etc. Act, 1919, respectively, shall be the rates specified in the schedule to this Order.

2. This Order may be cited as the Ministry of Health (Rates of Interest) Order, 1921.

SCHEDULE.

Statute.	Rate of interest.
Small Dwellings Acquisition Act, 1899 : section 1	Six-and-a-half per cent (*a*).
Housing, Town Planning, etc. Act, 1909 : *section* 15	*Six per cent* (*b*).
Housing, Town Planning, etc. Act, 1919 : *section* 28	*Six per cent* (*b*).

Given under the official seal of the Minister of Health this twenty-sixth day of August, in the year one thousand nine hundred and twenty-one.

(L.S.)

F. L. Turner,
Assistant Secretary, Ministry of Health.

We approve this Order.

James Parker,
J. Towyn Jones,
Two of the Lords Commissioners of His Majesty's Treasury.

(*a*) Altered to 5½ per cent. by Order of 5th December, 1922, *post*, p. 3394, and to 5¼ per cent. by Order of 28th January, 1926, *post*, p. 3431.

(*b*) Altered to 5 per cent. by Order of 1st September, 1925, *post*, p. 3427.

S. R. & O., 1921, No. 1928.

The Local Authorities (Assisted Housing Schemes) Amendment (No. 2) Regulations, 1921, dated December 17th, 1921, made by the Minister of Health.

The Minister of Health, in pursuance of his powers under sub-section (1) of section 7 of the Housing, Town Planning, etc. Act, 1919, and of all powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Local Authorities (Assisted Housing Schemes) Amendment (No. 2) Regulations, 1921.

2. The following paragraph shall be substituted for paragraph (5) of Article III. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919 :—

> "(5) An assisted scheme or part of an assisted scheme shall be deemed to have been carried into effect at the date on which all the houses to be provided or acquired thereunder are let or available for letting, or on which the final expenditure authorised by the Minister for the purpose of carrying the scheme or the part of the scheme into effect is incurred by the local authority whichever is the earlier date."

S. R. & O., 1922, No. 1035

The Ministry of Health (Temporary Relaxation of Building Byelaws) Regulations, 1922, dated September 16th, 1922, made by the Minister of Health under section 25 of the Housing, Town Planning, etc. Act, 1919, as extended by the Expiring Laws Act, 1922.

The Minister of Health, in pursuance of the powers conferred on him by sub-section (1) of section 25 of the Housing, Town Planning, etc. Act, 1919, as extended by the Expiring Laws Act, 1922, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Ministry of Health (Temporary Relaxation of Building Byelaws) Regulations, 1922.

2. A local authority, notwithstanding the provisions of any building byelaws (*a*), may, during the period for which section 25 of the Housing, Town Planning, etc. Act, 1919, as extended by the Expiring Laws Act, 1922 (*b*), and by any subsequent enactments may be in operation, consent to the erection and use for human habitation of any building erected or proposed to be erected, which complies with the conditions set out in the schedule hereto.

3. The deposit to be received from a person appealing to the Minister of Health against the neglect or refusal of a local authority to give such consent as aforesaid, or against the conditions on which such consent is given, or against the decision of the local authority as to the period for which the building may be allowed to be used for human habitation, shall be the sum of ten pounds: provided that the Minister of Health may in any case, if he thinks fit, require a deposit of less than ten pounds or may dispense with a deposit.

4. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

SCHEDULE.

CONDITIONS.

1. The whole ground or site of the building within the external walls shall, wherever the dampness of the site or the nature of the soil renders this precaution necessary, be covered with a layer of good cement concrete at least 4 inches thick finished shovel face.

2.—(1) Each external wall of the building shall either

(*a*) to a height of not less than 6 inches above the surface of the ground adjoining the wall, be constructed of good cement concrete not less than 6 inches thick, or of brickwork composed of good whole bricks or stonework, all brickwork or stonework in the wall to be properly bonded and solidly put together with good lime or cement mortar and to be not less than 4½ inches thick; or

(*b*) be carried at a height not less than 6 inches above the surface of the adjoining ground upon sufficient piers constructed of good bricks, stone, or other hard and suitable materials properly bonded and put together, or of good cement concrete, or in the case of a building erected before the 13th October, 1919, and not subsequently re-erected, upon wooden piles or other supports of sufficient strength and in good condition.

(2) Each external wall or pier of the building shall rest on concrete or on some other solid and sufficient foundation.

(3) Every wall or pier of the building shall be provided with a proper damp-proof course of asphalt or slates laid in cement, or of some other durable material impervious to moisture, beneath the level of the lowest floor and of the lowest timbers, and at a height of not less than 6 inches above the surface of the ground adjoining the wall:

Provided that where application is made to a local authority for their consent to the use for human habitation of a building of a permanent nature existing at the time when the application is made and there are no signs of dampness in the walls and the soil is dry, the provision of a damp-proof course shall not be required if the following conditions are satisfied, namely:—

An impervious paving shall be provided outside the house at the ground level and adjoining all the external walls. This paving shall extend for a distance of at least three feet from the walls, and shall be continuous with a skirting of impervious material carried up on the exterior walls for a distance of at least six inches, and shall be sloped so as effectually to carry away all rain and waste water that may fall thereon from the walls of the house.

3. Every external wall of the building shall be constructed of good and suitable material and so as to be of sufficient stability and weather-proof.

4. The roof of the building shall be so constructed and supported as to be of sufficient stability and shall be covered externally with suitable fire-resisting and weather-proofing material.

(*a*) Section 40 of the Housing, Town Planning, etc. Act, 1919, *ante*, p. 1269, contains a definition of "building byelaws."

(*b*) This section was extended by successive Expiring Laws Continuance Acts, but finally lapsed at the end of 1928, except as regards relaxations already granted under it. The section and these regulations are set out because these prior relaxations are preserved.

Provided that it shall not be necessary to cover the roof with fire-resisting material if the following conditions are observed, namely :—

(*a*) The building shall not be of more than two storeys in height and shall not comprise or form part of a block of more than 4 separate dwellings under one roof.

(*b*) (1) The building shall be distant
- (i) at least 10 feet from the boundary of its curtilage except at any point where its curtilage adjoins that of a dwelling-house forming part of the same block ;
- (ii) at least 20 feet from the nearest building, other than an out-building standing in the same curtilage or a dwelling-house forming part of the same block ;
- (iii) at least 30 feet from the nearest public carriageway used or likely to be used for through traffic ;
- (iv) at least 60 feet from the nearest boundary of any railway on which steam engines are used.

(2) Every block of 4 dwelling-houses having a roof not covered with fire-resisting material shall be isolated by a distance of 60 feet from any other dwelling-house having a roof not covered with fire-resisting material.

(3) Every group of 4 dwelling-houses having roofs not covered with fire-resisting material shall be isolated by a distance of at least 60 feet, every group of 24 such dwelling-houses by a distance of at least 180 feet, and every group of 96 such dwelling-houses by a distance of at least 540 feet, from any other such dwelling-house.

In this rule :—

A "group of 4 dwelling-houses" means any 4 dwelling-houses the buildings comprising which are so situated that there can be drawn, passing through all the buildings, a line on which the distance between one building and the next in succession is in every case less than 60 feet.

A "group of 24 dwelling-houses" means any 24 dwelling-houses the buildings comprising which are so situated that there can be drawn, passing through all the buildings, a line on which the distance between one building and the next in succession is in every case less than 180 feet.

A "group of 96 dwelling-houses" means any 96 dwelling-houses the buildings comprising which are so situated that there can be drawn, passing through all the buildings, a line on which the distance between one building and the next in succession is in every case less than 540 feet.

(4) For the purposes of this proviso all distances shall be measured horizontally to the nearest part of the building, other than the eaves or verge of the roof.

(*c*) Every chimney of the building shall be carried up to a height of not less than 5 feet above the ridge of the roof in brickwork or other solid incombustible material, which, where the chimney passes through the material forming the roof, shall be not less than 9 inches thick and rendered externally.

5. Where the building is intended to form two or more dwellings, the dwellings shall be separated by solid partitions of incombustible material not less than 3 inches thick, carried up to the under side of the roof-covering and resting throughout their entire length on solid continuous walls which as regards construction and damp-proof course shall comply with the provisions of paragraph 3 of this schedule :

Provided that where any such partition is over an open passage between two dwellings it may rest on a sufficient arch or bressummer of fire-resisting material.

S. R. & O., 1922, No. 1326.

THE MINISTRY OF HEALTH (RATES OF INTEREST) AMENDMENT ORDER (NO. 2), 1922, DATED DECEMBER 5TH, 1922, MADE BY THE MINISTER OF HEALTH, WITH THE APPROVAL OF THE TREASURY, UNDER SECTION 5 OF THE HOUSING ACT, 1921.

Note.—This Order was revoked by Regulations of 1*st September,* 1925, *post, p.* 3427, *except as regards advances under the S. D. A. Act,* 1899.

The Minister of Health in pursuance of the powers conferred on him by section 5 of the Housing Act, 1921, and of all other powers enabling him in that behalf, with the approval of the Treasury, hereby orders as follows :—

1. This Order may be cited as "The Ministry of Health (Rates of Interest) Amendment Order (No. 2), 1922."

Appendix II.

2. Subject as hereinafter provided the Ministry of Health (Rates of Interest) Amendment Order, 1922, and all Orders made before the date of this Order fixing special rates of interest in respect of particular local authorities are hereby revoked.

3. As from the date of this Order the Ministry of Health (Rates of Interest) Order, 1921, shall have effect as if the words " Five-and-a-half per cent," were substituted for the words " six-and-a-half per cent." and the words " five per cent." for the words " six per cent." in the schedule to the said Order:

Provided that nothing in this Order shall affect the rate of interest on any advance made or any expenses incurred by a local authority before the date of this Order.

S. R. & O., 1923, No. 940.

THE MINISTRY OF HEALTH (RATE OF INTEREST) AMENDMENT ORDER, 1923, DATED 14TH AUGUST, 1923, MADE BY THE MINISTER OF HEALTH, WITH THE APPROVAL OF THE TREASURY, UNDER SECTION 5 OF THE HOUSING ACT, 1921.

* * * * * *

2. The rate of interest on advances made on or after the date of this Order under section 1 of the Small Dwellings (Acquisition) Act, 1899, shall be 5 per cent. per annum, and the provisions of the Ministry of Health (Rates of Interest) Order, 1921, and the Ministry of Health (Rates of Interest) Amendment Order (No. 2), 1922, relating to the rate of interest on advances under that Act shall be modified and have effect accordingly.

3. The Orders specified in the Schedule hereto are hereby revoked, but nothing in this Order shall affect the rate of interest on any advance made by a local authority before the date of this Order.

SCHEDULE.

(Relating to four Rates of Interest Orders of local effect).

S. R. & O., 1924, No. 2.

THE HOUSING TRUSTS (FINANCIAL ASSISTANCE) AMENDMENT REGULATIONS, 1924, DATED 2ND JANUARY, 1924, MADE BY THE MINISTER OF HEALTH UNDER SECTION 19 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919, AND SECTION 6 OF THE HOUSING, ETC. ACT, 1923.

The Minister of Health, in pursuance of the powers conferred on him by section 19 of the Housing, Town Planning, etc. Act, 1919, and section 6 of the Housing, etc. Act, 1923, and of all other powers enabling him in that behalf, and with the approval of the Treasury, hereby makes the following Regulations:—

1. These Regulations may be cited as the Housing Trusts (Financial Assistance) Amendment Regulations, 1924, and shall be construed as one with the Housing Trusts (Financial Assistance) Regulations, 1919 (hereinafter referred to as " the principal Regulations ") the Housing Trusts (Financial Assistance) Regulations, 1920, and the Housing (Societies and Trusts) Amendment Regulations, 1921.

2. Paragraph (1) of Article 2 of the Housing Trusts (Financial Assistance) Regulations, 1920, is hereby revoked.

3. Paragraph (2) of Article II. of the principal Regulations shall have effect as though for the words " the equivalent of thirty per cent. of the annual charges " there were substituted the words " the equivalent during the period ending on the thirty-first day of March, 1927, of fifty per cent., and thereafter of forty per cent. of the annual charges."

Appendix II.

S. R. & O., 1924, No. 3.

THE COUNTY COUNCILS (ASSISTED SCHEMES FOR THE HOUSING OF EMPLOYEES) AMENDMENT REGULATIONS, 1924, DATED 2ND JANUARY, 1924, MADE BY THE MINISTER OF HEALTH UNDER SECTION 7 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919, AND SECTION 6 OF THE HOUSING, ETC. ACT, 1923.

The Minister of Health, in pursuance of the powers conferred on him by section 7 of the Housing, Town Planning, etc. Act, 1919, and section 6 of the Housing, etc. Act, 1923, and of all other powers enabling him in that behalf, and with the approval of the Treasury, hereby makes the following Regulations :—

1. These Regulations may be cited as the County Councils (Assisted Schemes for the Housing of Employees) Amendment Regulations, 1924, and shall be construed as one with the County Councils (Assisted Schemes for the Housing of Employees) Regulations, 1920 (hereinafter referred to as "the Regulations of 1920").

2. Paragraph (2) of Article III. of the Regulations of 1920 shall have effect as though for the words "and thereafter to thirty per centum of the annual charges" there were substituted the words "and thereafter to forty per centum of the annual charges."

S. R. & O., 1924, No. 1362.

THE HOUSING (DETERMINATION OF APPROPRIATE NORMAL RENTS) RULES, 1924, DATED 3RD DECEMBER, 1924, MADE BY THE MINISTER OF HEALTH UNDER SECTION 3 (3) OF THE HOUSING (FINANCIAL PROVISIONS) ACT, 1924.

* * * * * *

2. The local authority shall obtain particulars of the current rents of working-class houses of all types erected in their district before the 3rd day of August, 1914, in such numbers and proportions as are, in their opinion, fairly representative of all those houses in the district: Provided that—

(i) for this purpose parlour and non-parlour houses shall be treated as separate classes; and

(ii) if there are substantial differences in the rents payable in respect of houses in different parts of the area having similar accommodation, each of such parts shall for this purpose be treated as a separate area and appropriate normal rents shall be ascertained in respect of the houses in each of such parts accordingly.

3. The appropriate normal rent for each of the two classes of houses in the area or in any part of the area, as the case may be, shall be the average rent payable in respect of the houses of that class of which particulars have been obtained.

S. R. & O., 1924, No. 1363.

HOUSING, ENGLAND.

THE HOUSING (FORM OF UNDERTAKING) RULES, 1924, DATED 3RD DECEMBER, 1924, MADE BY THE MINISTER OF HEALTH, WITH THE APPROVAL OF THE TREASURY, UNDER SECTION 3 (1) AND (2) OF THE HOUSING (FINANCIAL PROVISIONS) ACT, 1924.

* * * * * *

2. (1) An undertaking for the purposes of sub-section (1) of section 3 of the Housing (Financial Provisions) Act, 1924, shall be authorised by resolution of the local authority.

(2) The undertaking shall be in the following form :—

The Council, by resolution dated the day of 19 , undertake that the conditions set out in sub-section (1) of section 3 of the Housing (Financial Provisions) Act, 1924, will be complied with in relation to the houses to be erected by them at .

3. (1) An undertaking by the local authority for the purposes of sub-section (2) of section 3 aforesaid shall be authorised by resolution of the local authority.

(2) The undertaking shall be in the following form :—

The Council, by resolution dated the day of 19 , undertake that the conditions set out in sub-section (2) of section 3 of the Housing (Financial Provisions) Act, 1924, will be complied with in relation to the houses the construction of which is being promoted by the said Council by a subsidy under the said Act.

4. (1) An undertaking by a society, body of trustees, or company for the purposes of sub-section (2) of section 3 aforesaid shall be in writing and under seal.

(2) The undertaking shall be in the following form :—

The Society [Trustees *or* Company] hereby undertake that the conditions set out in sub-section (2) of section 3 of the Housing (Financial Provisions) Act, 1924, will be complied with in relation to the houses to be erected by them at ,

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RULES FOR THE CALCULATION OF MEASUREMENTS UNDER SECTION 92 (2) OF THE HOUSING ACT, 1925.

These rules are set out in a circular issued by the M. of H. on August 20, 1924, the material part of which is set out here.

"The rules for the measurement of superficial area will be as follows :—

(*a*) The area will be measured within the external or containing walls of the house (so as to include the area of chimney breasts, bay windows and similar space), and, in the case of two-storey cottages, will be the combined areas, as so measured, of the two storeys.

(*b*) In the case of houses built in flats the space occupied by a staircase will not be included in measuring the area of a flat.

(*c*) Habitable accommodation provided in an attic or storey formed in the roof will be included without regard to the use to which it may be intended to be put. In determining whether accommodation is habitable regard should be had not only to its condition as shown in the plans, but also to the possibility of its conversion into habitable accommodation. The area of so much of the attic as is less than 5 feet in height will be excluded in measuring the habitable accommodation.

(*d*) Cellars will not be included.

(*e*) Outbuildings will be excluded if they are not an essential part of the house, but will be included if they provide accommodation which is necessary to the occupation of the house or is usually included within the containing walls of the house. Outbuildings are buildings not communicating with the house which are outside the containing walls of the house, whether attached thereto or not. Examples of an outbuilding to be included are a W.C., coal-house or scullery. A tool shed, wood shed or bicycle shed would not be included. The area of an outbuilding to be included will be measured within the containing walls of that area.

(*f*) With regard to covered areas, such as the area of a verandah or porch, the general principle is that where such small areas are covered by light structures which though attached to are outside the containing walls of the house, and consequently do not add to the bulk of the main building, the measurement of these areas should not be included. But the area of porches or other open air spaces included within the lines of the main containing walls of the house which do increase the bulk of the buildings should be included in the measurement of the house."

Appendix II.

CIRCULAR 555.

TO HOUSING AUTHORITIES, ETC.

MINISTRY OF HEALTH,
30*th January*, 1925.

HOUSING ACTS.

GUARANTEES TO BUILDING SOCIETIES.

SIR,—I am directed by the Minister of Health to invite the attention of local authorities to an arrangement recently concluded with the Building Societies' Association with regard to the guarantees which may be given by local authorities to building societies under section 5 (1) (*b*) of the Housing etc., Act, 1923, as amended by the Second Schedule to the Housing (Financial Provisions) Act, 1924, and applied to county councils by section 12 of the last-named Act. Many persons desiring to build houses for their own occupation are unable to find the difference between the cost of building and the loan which a building society will normally advance under its rules, and the object of the guarantee is to enable the building society to make an additional advance, and so help to bridge the gap. Such guarantees may be given both for houses for the working-classes which would qualify for subsidy assistance and also for houses of a larger type, provided that the local authority's valuation of the mortgagor's interest in the property does not exceed £1,500. The houses for which guarantees may be given are new houses to be built either within or without the district of the local authority. The construction of the houses must not have been commenced before the 25th April, 1923.

The following is a summary of the arrangements which have been agreed between the Minister and the Building Societies' Association :—

(1) The guarantee will apply in respect of the difference between the total loan to be advanced by the society and the loan which might normally have been advanced by the society under its rules without guarantee.

(2) The total loan to be advanced by the society with guarantee must not exceed 90 per cent. of the value of the mortgagor's interest in the property as assessed after a valuation made by the local authority in agreement with the building society.

(3) The local authority's liability under the guarantee will arise only if, upon the sale of the property by the society under the power of sale conferred upon them by the mortgage, the proceeds of the sale are insufficient to cover the principal, interest and costs due to the society under the mortgage.

(4) The local authority's maximum liability will then be the difference between the deficiency so arising on the sale and the deficiency which would have arisen if the total original loan had been that which the society would normally advance under its rules without guarantee.

(5) Within one calendar month after the happening of any of the events giving rise to the exercise of the power of sale under the mortgage, the building society shall give notice to the local authority and shall, if so required by the local authority, demand payment of the principal and interest owing on security of the mortgage and in default of payment proceed to the exercise of such power of sale. Subject to this, the building society may allow time to the mortgagor for payment.

(6) At any time after receipt of the notice mentioned in the preceding paragraph and during the continuance of the mortgage, the local authority may acquire the interest of the building society in the mortgage by payment to the society of the principal, interest and costs then owing on security of the mortgage.

(7) The guarantee will be determined when the amount of the loan has been reduced by repayment to 45 per cent. of the valuation.

The Building Societies' Association has prepared a model form of guarantee which embodies the arrangements agreed with the Minister, and this form of guarantee has been circulated to the building societies. The Minister has not accepted any responsibility for the precise form of the guarantee because he considers that this is a matter for the legal advisers of the local authority. He would be prepared to consider favourably proposals submitted to him by a local authority for a guarantee in this form, or in any form which, in the opinion of the local authority's advisers, gives effect to the above arrangements, and he would further be prepared to consider any minor modifications of these arrangements which may be thought necessary in view of any special local requirements.

Many building societies have considerable sums available for investment and the Minister has no doubt that co-operation between building societies and local authorities may have very useful results in encouraging the building of houses for their own occupation by those who have a small amount of savings available for investment.

I am, etc.

S. R. & O., 1925, No. 237.

THE PUBLIC UTILITY SOCIETIES REGULATIONS, 1925, DATED 9TH MARCH, 1925, MADE BY THE MINISTER OF HEALTH UNDER SECTION 19 OF THE HOUSING, TOWN PLANNING, ETC., ACT, 1919.

The Minister of Health in pursuance of the powers conferred on him by section 19 of the Housing, Town Planning, etc., Act, 1919, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

General.

1.—(1) These Regulations may be cited as the Public Utility Societies Regulations, 1925.

(2) The Regulations named in the First Schedule to these Regulations are hereby revoked, so far as they relate to Public Utility Societies, without prejudice, however, to the validity of any undertaking given or other act or thing done thereunder.

2. In these Regulations, unless the contrary intention appears :—

" The Minister " means the Minister of Health ;

" The Commissioners " means the Public Works Loans Commissioners ;

" Society " means a Public Utility Society ;

" The Act of 1919 " means the Housing, Town Planning, etc., Act, 1919 ;

" Local Authority " means the local authority within the meaning of Part III. of the Housing of the Working Classes Act, 1890, for the district in which the houses are provided or are to be provided by the Public Utility Society ;

" Scheme " means a scheme for the provision of houses for the working classes prepared by a society and approved by the Minister under sub-sect. (1) of section 19 of the Act of 1919 ;

" House " means a house comprised in a scheme and includes any yard, garden, outhouses and appurtenances belonging thereto.

PART II.

Exchequer Subsidy.

(3).—(1) Subject to the provisions of these Regulations and to the discharge by a society of its obligations thereunder the Minister may make out of moneys provided by Parliament an annual contribution (in these Regulations referred to as "the Exchequer subsidy") towards the cost incurred by the society in carrying out a scheme.

(2) The Exchequer subsidy shall during the period ending on the 31st day of March, 1927, be an amount equal to 50 per cent. of the annual charges in respect of interest and repayment of principal on the capital raised by the society under the scheme, and thereafter shall be an amount equal to 30 per cent. of those charges, or, if the conditions set out in the next succeeding paragraph are complied with, an amount equal to 40 per cent. :

Appendix II.

Provided that—

(i) in the case of the annual charges incurred by the society before the houses are completed if the balance of those charges, after deducting the Exchequer subsidy, is defrayed out of borrowed moneys, such moneys shall not, for the purposes of this article, be included as part of the capital raised by the society under the scheme;

(ii) the Minister may reduce the amount of the Exchequer subsidy in any case in which he is satisfied that the capital expenditure incurred by the society has been excessive; and

(iii) the Minister shall not be under any liability to pay to a society Exchequer subsidy at the rate of 40 per cent. so far as such subsidy is properly attributable to houses already sold by the society, in respect of which the liability of the Minister at the date of the sale has been or will be discharged by virtue of Article 16 of these Regulations.

(3) The conditions upon which the Exchequer subsidy shall, after the 31st day of March, 1927, be 40 per cent. instead of 30 per cent. of the annual charges are—

(i) that the society shall have paid all debts owing to the Crown in respect of materials supplied by the Department of Building Materials Supply; and

(ii) that in any case in which the Minister is satisfied that some person, firm, or body corporate carrying on business was instrumental in promoting the society for the purpose of providing houses for persons employed in such business, such person, firm, or body corporate shall, if the Minister so requires, guarantee by way of collateral security the repayment of any loan advanced by the Public Works Loan Commissioners and payment of interest thereon.

(4) The Exchequer subsidy shall be payable (and shall be deemed always to have been payable) half-yearly in arrear (or in such other manner as the Minister may think fit) during a period of 50 years commencing on the 1st day of April or the 1st day of October, as the case may be, immediately preceding such date as the Minister may have fixed or may fix, having regard to the dates on which the several items of capital expenditure on the scheme were from time to time incurred by the society, as the mean date of that expenditure.

(5) For the purposes of these Regulations the annual charges on the capital raised by the society shall be deemed to be the annual charges which would have been payable, by way of equal annual instalments of principal with interest combined, on the like amount of capital if it had been borrowed from the Commissioners on the terms granted for the time being to societies whether the capital has in fact been borrowed from the Commissioners or otherwise provided.

4.—(1) The Exchequer subsidy shall cease to be payable in respect of any scheme or part of a scheme not carried into effect before the expiry of a period of three years from the passing of the Act of 1919, or such later date as the Minister may allow, regard being had to the supplies of labour and material available from time to time and all other local or general circumstances affecting the carrying into effect of the scheme.

(2) For the purposes of these Regulations a scheme or part of a scheme shall be deemed to have been carried into effect when all the houses to be provided thereunder are let or available for letting.

5. The carrying out of the works shall be subject to the supervision of the Minister, exercised either through his own officers or through the local authority.

6. For the purposes of Article 3 (2) of these Regulations the sum to be included in the capital raised by the society under the scheme in respect of the professional charges paid or to be paid by the society, in connection with the building of the houses and the lay-out of the estate under the scheme, shall not exceed five per cent. of the gross capital expenditure approved by the Minister.

7. The rents to be charged for houses included in the scheme shall be subject to the approval of the Minister, and shall not be altered without the consent of the Minister.

8.—(1) The rules of the society and any amendment thereof shall be subject to the approval of the Minister.

(2) The rules of the society shall, unless the Minister otherwise allows, be so framed as to give effect to the following provisions:—

Appendix II.

(a) The objects of the society shall include the provision, improvement, and management of houses for the working classes.

(b) Every member of the society shall hold at least one share (of the value at the least of £1) in the society, and the board of management of the society shall not refuse to admit to membership of the society any person who has been for three months a tenant of the society.

(c) Tenants [*or* if the society so determine tenant members] may elect annually from among themselves a tenants' [*or* tenant members'] committee, and such committee shall have such rights, powers, and duties (in addition to those which are expressly conferred on or vested in them by the rules of the society), as the board of management of the society, with the concurrence of such committee, may determine. Each tenant [*or* tenant member] shall be entitled to one vote at the election of the members of the said committee.

(d) The management of the business of the society shall be vested in a board of management, of whose members (as from the date of the first annual general meeting of the society after the approval of the scheme) at least one-quarter shall be tenant members appointed by the tenants' [*or* tenant members'] committee.

(e) At all general meetings of the society each fully paid-up share against which there is no set-off in the books of the society shall carry one vote, and not less than five times that amount of loan stock held by a member shall carry one vote:

Provided that the possession of loan stock apart from membership shall not entitle its holder either to a vote or to attendance at meetings of the society:

Provided also that a limitation may be imposed on the number of votes which may be recorded at any meeting by any one member.

(f) Each tenant shall have undisturbed occupancy of his house and garden so long as—

(i) he fulfils the tenancy regulations made by the board of management; and

(ii) he pays any rent or debts due from him to the society; and

(iii) he and the occupants to his house avoid any conduct detrimental to good neighbourship:

Provided that the tenant shall not be given notice to quit by the board of management on the ground of conduct detrimental to good neighbourship except with the concurrence of the tenants' [*or* tenant members'] committee.

(g) Any profits remaining to the society after providing for—

(i) the annual charges, in respect of interest and repayment of principal, on the loans and loan stock raised by the society;

(ii) the taxes, rates, rents, insurance premiums, or other charges payable by the society in respect of any land or houses belonging to them;

(iii) the costs of administration and management and of repairs of property;

(iv) such allocations to a reserve fund as may be determined by the board of management;

(v) any other necessary expenses incurred by the board of management; and

(vi) a dividend not exceeding the rate authorised by the statutes in force, on the share capital of the society;

shall be applied in such manner as may be determined by the board of management, for the benefit of the tenants generally.

9. If before the Exchequer subsidy has ceased to be payable the society has sold all the houses comprised in its scheme, and has commenced to take the necessary steps for dissolution under section 58 of the Industrial and Provident Societies Act, 1893, the Minister may pay to the liquidator on behalf of the society, by way of a final payment of Exchequer subsidy, such sum (not exceeding the capitalised value of the Exchequer subsidy payable to the society) as may be required to pay off any net liabilities of the society:

Provided that nothing contained in this article shall relieve the society from any obligation imposed on them by an undertaking given under Article 9 of the Public Utility (Financial Assistance) Regulations, 1919.

PART III.

Sale of Houses.

10. In this Part of these Regulations the expression "sale of a house" includes the grant of a lease at a yearly rent not exceeding five shillings, and in the case of land in which the society has a leasehold interest only the grant of an underlease at a yearly rent not exceeding by more than five per cent. such portion of the rent payable by the society as is properly attributable to the land comprised in the underlease; and the words "sell" and "purchase" have corresponding meanings.

11. Before selling any house the society shall obtain the consent of the Minister and shall be satisfied that the proposed purchaser is the occupier or, if the house is unoccupied, the intending occupier of the house.

12.—(1) The conveyance or other instrument transferring the house to the purchaser shall contain covenants on the part of the purchaser in the terms set out in the Second Schedule to these Regulations with such modifications as may be required in the case of a lease or underlease and such other modifications, if any, as the Minister may approve.

(2) The society shall not, without the consent of the Minister, and subject to such conditions, if any, as he may impose, grant any licence with regard to the user of any house which they may be empowered to grant by any of the covenants referred to in the last preceding article.

13. Before selling or contracting to sell any house, the society shall prepare and submit for the approval of the Minister a schedule apportioning among the several houses included in the scheme the total approved cost of the scheme, such apportionment being based on—

(*a*) the value of the interest of the society in the site of the house;

(*b*) the amount expended by the society in the erection of the house; and

(*c*) a fair proportion of the general expenditure of the society in connection with the scheme:

Provided that in calculating the expenditure under the foregoing heads no account shall be taken of any expenditure by the society towards which no Exchequer subsidy is being made, and any such expenditure shall be shown separately in the schedule.

14. No house shall be sold at a price less than that approved by the Minister.

15. So much of the purchase money as is equivalent to the minimum price at which the house may be sold shall, unless the Minister otherwise directs, be applied by the society as follows:—

(*a*) First, to the repayment of so much of any outstanding loan borrowed from the Commissioners in respect of the house as will reduce the yearly payment to the Commissioners on account of principal and interest on the loan to an amount not exceeding an Exchequer subsidy equivalent, during the period ending on the 31st day of March, 1927, to 50 per cent., and, thereafter, to 40 per cent. or to 30 per cent. of the annual charges (at whichever rate the subsidy payable to the society is for the time being calculated) on the capital raised by the society and approved by the Minister in respect of that house; and

(*b*) Secondly, to the repayment of loans borrowed for the purpose of the scheme otherwise than from the Commissioners, or to the repayment or extinction of any shares or loan stock issued for the purpose of the scheme.

Every sale made by a society under these Regulations shall be made in accordance with rules to be made by the society and approved by the Minister.

16.—(1) Where a house included in a scheme is sold by the society or by the Commissioners as mortgagees of the house, the Minister may pay to the Commissioners or, if the Commissioners are not mortgagees, to any other mortgagee of the house a sum equal to the capitalised value as at the date of the sale of the Exchequer subsidy apportioned in respect of that house or to so much thereof as is required to discharge the liability of the society to the Commissioners or other mortgagee in respect of principal money and interest payable under the mortgage.

(2) A payment made by the Minister to the Commissioners or other mortgagee under this article shall *pro tanto* discharge any liability of the Minister to the society in respect of Exchequer subsidy and of the society to the Commissioners or other mortgagee under the mortgage.

17. Save as provided in the last preceding article nothing in this Part of these Regulations shall extend to the sale of a house by the Commissioners in the exercise of a power of sale as mortgagees of the property, or to the sale of a house by the society to any local authority.

PART IV.

Accounts and Audit.

18.—(1) The society shall keep and make up annually separate accounts relating to the scheme.

(2) Such accounts shall, so long as they relate to capital expenditure incurred for the purpose of the scheme, be audited by a district auditor in like manner, and subject to the same provisions, as the accounts of an urban district council, and during that period the enactments relating to the audit by district auditors of the last-named accounts and to all matters incidental thereto and consequential thereon shall for this purpose apply to the accounts of the society.

(3) So far as may be necessary for the purpose of his duties under this article the district auditor shall have access to all the books, deeds, documents, and accounts of the society.

19. The society shall permit any district auditor or other officer of the Ministry of Health, authorised by the Minister, at all reasonable times during the period in respect of which the Exchequer subsidy is payable as aforesaid to have access to and inspect the books, deeds, documents, and accounts of the society.

20. A balance sheet and summary of the accounts relating to the scheme for each financial year shall, during the ensuing financial year, be open to inspection by any person at the office of the society on payment of a fee of one shilling and a copy of the balance sheet and summary shall be sent to the Minister at the conclusion of the financial year to which it relates, and also, if they so request, to the local authority.

SCHEDULES.

FIRST SCHEDULE.

REGULATIONS REVOKED.

The Public Utility Societies (Financial Assistance) Regulations, 1919.
The Public Utility Societies (Financial Assistance) Regulations, 1920.
The Public Utility Societies (Sale of Houses) Regulations, 1920.
The Housing (Societies and Trusts) Amendment Regulations, 1921.
The Public Utility Societies (Financial Assistance) Regulations, 1922.
The Public Utility Societies Amendment Regulations, 1923.

SECOND SCHEDULE.

FORM OF COVENANTS TO BE INSERTED IN CONVEYANCE.

The Purchaser hereby for himself and his assigns covenants with the Society and their assigns, the owner or owners for the time being of any land comprised in the Scheme under Section 19 (1) of the Housing, Town Planning, etc., Act, 1919, of which the premises hereby conveyed form part—

(*a*) that except with the licence in writing of the Society, or, if the Society has dissolved, of the Local Authority, the premises hereby conveyed shall not at any time hereafter be used for any other purpose than that of a private dwelling house; and

Appendix II.

(*b*) that the said premises shall not be used for any purpose which shall be or become in any way a nuisance or annoyance to the Society or their assigns or their tenants, or to the owners or tenants of any adjoining property.

The expression "Local Authority" means the Local Authority within the meaning of Part III. of the Housing of the Working Classes Act, 1890, for the area in which the premises hereby conveyed are situated.

S. R. & O., 1925, No. 637.

THE HOUSING ACT (FORM OF ORDERS AND NOTICES) ORDER, 1925, DATED 9TH JULY, 1925, MADE BY THE MINISTER OF HEALTH UNDER SECTION 122 OF THE HOUSING ACT, 1925, PRESCRIBING FORMS OF CERTAIN NOTICES AND OTHER DOCUMENTS.

The Minister of Health, under the powers conferred on him by sub-section (1) of section 122 of the Housing Act, 1925, and by all other powers enabling him in that behalf hereby makes the following order:—

1. This order may be cited as the Housing Act (Form of Orders and Notices) Order, 1925, and shall come into operation on the 1st day of September, 1925.

2. The forms set out in the Schedule hereto, or forms substantially to the like effect, shall be the forms to be used in connection with the powers and duties of a local authority under the Act, in all cases to which those forms are applicable.

3. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

4. The Housing Acts (Form of Orders and Notices) Order, 1919, and The Housing Acts (Form of Orders and Notices) Order, 1923, are hereby revoked.

SCHEDULE.

* * * * * *

FORM No. 1.

FORM OF NOTICE BY PERSON AUTHORISED BY THE LOCAL AUTHORITY OR MINISTER OF HEALTH BEFORE ENTRY FOR THE PURPOSE OF SURVEY AND EXAMINATION OR VALUATION UNDER SECTION 127 OF THE HOUSING ACT, 1925.

HOUSING ACT, 1925.

To * the of the house buildings premises.

Take Notice that in pursuance of section 127 of the Housing Act, 1925, I, being a person duly authorised in writing by the intend, on the † day of 19 , at any time between the hours of ‡ in the forenoon and in the afternoon, to enter the above-mentioned house for the purpose of survey and examination *or* survey or valuation.

Dated this day of , 19 .

Signature____________________ of person
Description____________________ authorised
Residence or Place of Business____________________ to enter.

Directions for filling up this Form.

* * * * * *

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* Notice must be given to the occupier and also to the owner if the owner is known. Notice may be given to the occupier by leaving a notice addressed to the occupier, without name or further description, at the house, buildings, or premises.

† Twenty-four hours' notice must be given.

‡ Entry must be at reasonable times of the day.

Appendix II.

FORM No. 2.

FORM OF NOTICE REQUIRING OWNER TO EXECUTE WORKS UNDER SECTION 3 OF THE HOUSING ACT, 1925.

HOUSING ACT, 1925.

To , the owners of the house .

Take Notice—

That it appears to the that the above-mentioned house is a house suitable for occupation by persons of the working classes, and that you have failed to make and keep it in all respects reasonably fit for human habitation:

And that, in pursuance of sub-section (1) of section 3 of the Housing Act, 1925, the said do hereby require you within a period of days, ending on the day of , 19 , to execute the following works as being necessary to make the said house in all respects reasonably fit for human habitation, namely—

Dated this day of , 19 .

Signature of Clerk of Local Authority ______________________________

Directions for filling up this Form.

* * * * * *

NOTE.

The owner may appeal to the Minister of Health against any notice requiring him to execute works under section 3 of the Act, and against any demand for the recovery of expenses from him under that section or an order made by the local authority under that section with respect to those expenses, by giving notice of appeal to the Minister within twenty-one days after the notice is received or the demand or order is made (as the case may be) or such longer time as the Minister may allow, and no proceedings shall be taken in respect of any notice, demand, or order while the appeal is pending. No appeal against such a demand or order, however, lies if and so far as the appeal raises any question which might have been raised on an appeal against the notice itself.

The procedure on any such appeal is governed by rules made by the Minister of Health. Copies of such rules have been placed on sale (S. R. and O., 1925, No. 638) and may be purchased, either directly or through any bookseller, from His Majesty's Stationery Office at the following addresses: Adastral House, Kingsway, London, W.C.2; 28, Abingdon Street, London, S.W.1; York Street, Manchester; 1, St. Andrew's Crescent, Cardiff; or 120, George Street, Edinburgh.

The Act provides:—

(*a*) That the Minister of Health shall not dismiss any appeal without having first held a public local inquiry unless the appellant fails to prosecute his appeal with due diligence.

(*b*) That the Minister of Health may before considering any appeal, require the appellant to deposit such sum to cover the costs of the appeal, as may be fixed by the rules. The sum at present fixed is a sum not exceeding £10.

An appellant should state his interest in the house, and the grounds of his appeal, and should forward to the Minister the notice appealed against. He must also notify the local authority forthwith of any appeal to the Minister.

If the house is not capable without reconstruction of being rendered fit for human habitation, the owner may within twenty-one days after the receipt of this notice by written notice to the local authority declare his intention of closing the house for human habitation, and thereupon a closing order is deemed to have become operative in respect of such house. Any such declaration by the owner must be in the form prescribed by the Housing Act (Form of Orders and Notices) Order, 1925 (S. R. and O., 1925, No. 637), a copy of which may be obtained from His Majesty's Stationery Office at the above addresses. Any question arising under this provision, is, in case of difference between the owner and the local authority, to be determined by the Minister of Health.

Where a closing order has in consequence of such a notice been deemed to have become operative in respect of a house, the Minister of Health may, on the application of the local authority, make an order authorising the local authority to acquire the house compulsorily at site value.

If the notice of the local authority is not complied with, the local authority may—

(*a*) At the expiration of the time specified in that notice, if no appeal has been entered and no notice to close the house has been given by the owner; and

(*b*) Subject to any appeal which may have been made as aforesaid, at the expiration of twenty-one days from the determination by the Minister of Health if such notice has been given by the owner and the Minister of Health has determined

Appendix II.

that the house is capable without reconstruction of being made fit for human habitation;

do the work required to be done.

Any expenses incurred by the local authority under the section may be recovered in a court of summary jurisdiction, together with interest (at such rate as the Minister of Health may, with the approval of the Treasury, from time to time by Order fix) from the date of service of a demand for the same till payment thereof from the owner, and such expenses and interest are to be a charge on the premises until recovered.

The local authority may by order declare any such expenses to be payable by monthly or annual instalments within a period not exceeding thirty years with interest (at such rate as the Minister of Health may, with the approval of the Treasury, from time to time by Order fix) from the date of the service of notice of demand until the whole amount is paid, and any such instalments and interest or any part thereof may be recovered in a summary manner from the owner or occupier, and if recovered from the occupier may be deducted by him from the rent of the premises.

FORM No. 3.

FORM OF NOTICE DECLARING INTENTION OF OWNER TO CLOSE FOR HUMAN HABITATION A HOUSE TO WHICH SECTION 3 OF THE HOUSING ACT, 1925, APPLIES.

HOUSING ACT, 1925.

To the

Whereas by a notice dated the day of , 19 , the Local Authority in pursuance of sub-section (1) of section 3 of the Housing Act, 1925, have required the owner of the house to execute, within the time specified in that notice, the works which are specified in the said notice as being necessary to make the said house in all respects reasonably fit for human habitation;

And whereas it appears to me, the owner of the house, that the house is not capable, without reconstruction, of being rendered fit for human habitation:

Now, therefore, I do by this Notice declare my intention of closing the said house for human habitation.

As witness my hand this day of , 19 .

Signature ________ }
Residence or Place of Business ________ } of owner.
Description ________ }

Directions for filling up this Form.

* * * * * *

FORM No. 4.

FORM OR ORDER DECLARING EXPENSES INCURRED BY THE LOCAL AUTHORITY, IN THE CASE OF A HOUSE TO WHICH SECTION 3 OF THE HOUSING ACT, 1925, APPLIES, TO BE PAYABLE BY MONTHLY OR ANNUAL INSTALMENTS.

HOUSING ACT, 1925.

To the $\left\{\begin{array}{c}\text{occupier}\\\text{owner}\end{array}\right\}$ of the house .

Whereas by a notice dated the day of , 19 , We, the , in pursuance of sub-section (1) of section 3 of the Housing Act, 1925, have required the owner of the above-mentioned house to execute, within the time specified in that notice, the works specified in the said notice as being necessary to make the said house in all respects reasonably fit for human habitation;

And whereas the said notice has not been complied with and We, the said in pursuance of sub-section (2) of the aforesaid section have done the work required to be done, and have incurred in so doing expenses amounting to the sum of £ : :

Now, therefore, We, the said , do, by this Our Order, declare that the said expenses amounting to the sum of £ : : shall be payable by $\left\{\begin{array}{c}\text{monthly}\\\text{annual}\end{array}\right\}$ instalments of £ : : within a period not exceeding * years, with interest at the rate of † pounds per cent. per annum, until the whole amount is paid.

Dated this day of , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk to Local Authority ________

Directions for filling up this Form.

* * * * * *

NOTE.

By sub-section (4) of section 3 of the Act, it is provided that any instalments or interest or any part of any instalments or interest under an order of the local authority declaring their expenses to be payable by monthly or annual instalments may be recovered in a summary manner from the owner or occupier, and if recovered from the occupier may be deducted by him from the rent of the house.

The owner may appeal to the Minister of Health against any notice requiring him to execute works under section 3 of the Act, and against any demand for the recovery of expenses from him under that section or an order made by the local authority under that section with respect to those expenses, by giving notice of appeal to the Minister within twenty-one days after the notice is received or the demand or order is made (as the case may be) or such longer time as the Minister may allow, and no proceedings shall be taken in respect of any notice, demand, or order whilst the appeal is pending: Provided that no appeal against such a demand or order shall lie if and so far as the appeal raises any question which might have been raised on an appeal against the notice itself, and subject to such an appeal the notice, demand, or order shall be binding and conclusive as to any matters which could have been raised on such appeal.

The procedure on any such appeal is governed by rules made by the Minister of Health.

The Act provides—

(*a*) That the Minister of Health shall not dismiss any appeal without having first held a public local inquiry unless the appellant fails to prosecute his appeal with due diligence.

(*b*) That the Minister of Health may before considering any appeal, require the appellant to deposit such sum to cover the costs of the appeal, as may be fixed by the rules. The sum at present fixed is a sum not exceeding £10.

An appellant should state his interest in the house, and the grounds of his appeal, and should forward to the Minister the order appealed against. He must also notify the local authority forthwith of any appeal to the Minister.

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* The period to be specified must not exceed thirty years.

† The rate of interest is prescribed by the Minister of Health with the approval of the Treasury under sub-section (3) of section 3 of the Act.

FORM No. 5.

FORM OF CLOSING ORDER.

HOUSING ACT, 1925.

Whereas under sub-section (1) of section 11 of the Housing Act, 1925, it is the duty of the Local Authority if, on the representation of the Medical Officer of Health, or of any other Officer of the Local Authority, or other information given, any dwelling-house appears to the Local Authority to be in a state so dangerous or injurious to health as to be unfit for human habitation, to make a Closing Order, that is to say, an Order prohibiting the use of the dwelling-house for human habitation until in the judgment of the Local Authority the dwelling-house is rendered fit for that purpose;

And whereas it appears to the   on   that the dwelling-house   is in a state so dangerous or injurious to health as to be unfit for human habitation:

Now, therefore, We the said   , in pursuance of sub-section (1) of section 11 of the Housing Act, 1925, do, by this Our Order, prohibit the use of the said dwelling-house for human habitation, until, in Our judgment, it is rendered fit for that purpose.

Dated this   day of   , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk of Local Authority______ ____________________

Directions for filling up and adapting this Form.

* * * * * *

FORM No. 6.

FORM OF NOTICE OF CLOSING ORDER.

HOUSING ACT, 1925.

To   owner of the dwelling-house   .

Take Notice—

That the   have in pursuance of the Housing Act, 1925, made a Closing Order prohibiting the use for human habitation of the above-mentioned dwelling-house

Appendix II. until in the judgment of the Local Authority the dwelling-house is rendered fit for that purpose;

A copy of the said Closing Order is annexed.

Dated this , day of , 19 .

Signature of Clerk of Local Authority____

NOTE.

The owner of the dwelling-house can appeal to the Minister of Health against the Closing Order within fourteen days after notice thereof is served on him by giving notice of appeal in the form annexed. On such an appeal the substantial question to be considered is whether the house in its present state is so dangerous or injurious to health as to be unfit for human habitation. If the owner does not appeal against the Closing Order, the Order becomes operative at the expiration of fourteen days after it was served, and it is then the duty of the Local Authority to serve notice on the occupier requiring him and his family to quit the house within a specified period not being less than fourteen days. It is open to the owner to take steps to render the house fit for habitation, and when he has done so, to apply to the Local Authority to determine the Closing Order. If the Local Authority refuse his application he may then, within fourteen days after such refusal, give notice of appeal against it to the Minister of Health.

The procedure on appeal is governed by rules made by the Minister of Health.

The Act provides—

(*a*) That the Minister of Health shall not dismiss any appeal without having first held a public local inquiry, unless the appellant fails to prosecute his appeal with due diligence;

(*b*) That the Minister of Health may, before considering any appeal, require the appellant to deposit such sum to cover the costs of the appeal, as may be fixed by the rules. The sum at present fixed is a sum not exceeding £10.

By section 12 of the Act any owner of a dwelling-house in respect of which a closing order is in force, or any other person who lets or attempts to let, or occupies or permits to be occupied, the house or any part thereof as a dwelling-house, shall on summary conviction be liable to a fine not exceeding twenty pounds, and in the event of the offence continuing after conviction thereof to a further fine not exceeding five pounds for each day during which the offence is continued after such conviction.

Directions for filling up this Form.

* * * * * *

* Copy of before-mentioned Closing Order.

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* An exact copy of the Closing Order should be given here.

CLOSING ORDER.

HOUSING ACT, 1925.

Whereas under sub-section (1) of section 11 of the Housing Act, 1925, it is the duty of the Local Authority if, on the representation of the Medical Officer of Health, or of any other Officer of the Local Authority, or other information given, any dwelling-house appears to the Local Authority to be in a state so dangerous or injurious to health as to be unfit for human habitation, to make a Closing Order, that is to say, an Order prohibiting the use of the dwelling-house for human habitation until in the judgment of the Local Authority the dwelling-house is rendered fit for that purpose;

And whereas it appears to the on that the dwelling-house is in a state so dangerous or injurious to health as to be unfit for human habitation;

Now, therefore, We, the said , in pursuance of sub-section (1) of section 11 of the Housing Act, 1925, do, by this Our Order, prohibit the use of the said dwelling-house for human habitation, until, in Our judgment, it is rendered fit for that purpose.

Dated this day of , 19 .

(L.S.)

Signature of Clerk of Local Authority____

NOTICE OF APPEAL AGAINST A CLOSING ORDER.

HOUSING ACT, 1925.

Notice of appeal may be given by filling up and sending to the Minister of Health either this print or a copy of it, *within fourteen days* after the day on which notice of the Closing Order was served.

Full name of appellant ______________________________
Full address of appellant______________________________
Full address of the dwelling-house, in respect of which the appeal is made
____

I, the undersigned, being an owner of the above-mentioned dwelling-house, hereby appeal against a Closing Order in respect of the dwelling-house made by the (*state name of Local Authority*)______________________________
notice of which was served on me on (*state date*)______________, 19 .

My interest in the dwelling-house is (*state whether freeholder, or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the house*):—

The grounds on which I appeal are (*If the appeal is on the ground that the house is not in a state so dangerous or injurious to health as to be unfit for human habitation, the exact reason for this contention should be stated. If the appeal is on technical grounds, full particulars should be given*).

Signature of Appellant______________________
Date______________________

NOTE.

The Closing Order appealed against or a copy of it must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

FORM No. 7.

FORM OF NOTICE OF APPEAL AGAINST A CLOSING ORDER.

HOUSING ACT, 1925.

Notice of appeal may be given by filling up and sending to the Minister of Health either this print or a copy of it, *within fourteen days* after the day on which notice of the Closing Order was served.

Full name of appellant ______________________________
Full address of appellant______________________________
Full address of the dwelling-house, in respect of which the appeal is made
____

I, the undersigned, being an owner of the above-mentioned dwelling-house, hereby appeal against a Closing Order in respect of the dwelling-house made by the (*state name of Local Authority*) ______________ notice of which was served on me on (*state date*) ______________, 19 .

My interest in the dwelling-house is (*state whether freeholder, or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the house*):—

The grounds on which I appeal are (*If the appeal is on the ground that the house is not in a state so dangerous or injurious to health as to be unfit for human habitation, the exact reason for this contention should be stated. If the appeal is on technical grounds, full particulars should be given*).

Signature of Appellant______________________
Date ______________________

NOTE.

The Closing Order appealed against or a copy of it must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

Appendix II.

FORM NO. 8.

FORM OF NOTICE OF CLOSING ORDER WHICH HAS BECOME OPERATIVE.

HOUSING ACT, 1925.

To , the occupier of the dwelling-house .

Take Notice—

That on the day of , 19 , in pursuance of the Housing Act, 1925, made a Closing Order prohibiting the use for human habitation of the above-mentioned dwelling-house until in the judgment of the Local Authority the dwelling-house is rendered fit for that purpose;

And that the Closing Order has now become operative;

And also that in pursuance of sub-section (3) of section 11 of the Housing Act, 1925, within * days after the service of this Notice the said Closing Order must be obeyed by you, and you and your family must cease to inhabit the said dwelling-house.

Dated this day of , 19 .

Signature of Clerk of Local Authority ______________________________

NOTE.

By sub-section (3) of section 11 of the Housing Act, 1925, it is enacted as follows:—

* * * * * *

Sub-section (4) of the section is in these terms:—

* * * * * *

By section 12 of the Act any owner of a dwelling-house in respect of which a closing order is in force, or any other person who lets or attempts to let, or occupies or permits to be occupied, the house or any part thereof as a dwelling-house, shall on summary conviction be liable to a fine not exceeding twenty pounds, and in the event of the offence continuing after conviction thereof to a further fine not exceeding five pounds for each day during which the offence is continued after such conviction.

Directions for filling up this Form.

* * * * * *

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* The period must be not less than fourteen days after the service of the notice.

FORM NO. 9.

FORM OF ORDER DETERMINING CLOSING ORDER.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Whereas on the day of , 19 , in pursuance of the Housing Act, 1925, a Closing Order was made by Us, the , in respect of the above-mentioned dwelling-house, and by the said Closing Order, We, the said , prohibited the use of the said dwelling-house for human habitation until, in Our judgment, the dwelling-house should be rendered fit for that purpose;

And whereas We, the said , are satisfied that the said dwelling-house has been rendered fit for human habitation:

Now therefore We, the said , do hereby determine the Closing Order aforesaid.

Dated this day of , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk of Local Authority ______________________________

Directions for filling up this Form.

* * * * * *

FORM NO. 10.

FORM OF NOTICE OF REFUSAL OF LOCAL AUTHORITY TO DETERMINE A CLOSING ORDER.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Take Notice that the , having considered your application to Them to determine the Closing Order made by Them in pursuance of the Housing Act, 1925, on the day of , 19 , in respect of the above-mentioned dwelling-house, have this day refused to determine the said Closing Order.

Dated this day of , 19 .

Signature of Clerk of Local Authority ____________________________________

NOTE.

Under the provisions of sub-sections (5) and (6) of section 11 of the Housing Act, 1925:—

* * * * * *

Procedure on Appeal.

The procedure on any such appeal is governed by rules made by the Minister of Health.

The Act provides:—

(*a*) That the Minister of Health shall not dismiss any appeal without having first held a public local inquiry unless the appellant fails to prosecute his appeal with due diligence.

(*b*) That the Minister of Health may before considering any appeal, require the appellant to deposit such sum to cover the costs of the appeal as may be fixed by the rules. The sum at present fixed is a sum not exceeding £10.

Directions for filling up this Form.

* * * * * *

FORM OF NOTICE OF APPEAL AGAINST REFUSAL OF LOCAL AUTHORITY TO DETERMINE A CLOSING ORDER.

(Notice of appeal may be given by filling up and sending to the Minister of Health either this print or a copy of it *within fourteen days* after the day on which the notice of refusal of the Local Authority to determine the Closing Order was served on the appellant.)

Full name of appellant ____________________________________
Full address of appellant ____________________________________
Full address of the dwelling-house, in respect of which the appeal is made
____

I, the undersigned, being an owner of the above-named house, hereby appeal against the refusal of (*state name of Local Authority*) to determine a Closing Order made by them in respect of the house. Notice of the refusal of the Council to determine the Closing Order was received by me on the (*state date*) , 19 .

My interest in the house is (*state whether a freeholder or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the house*).

The grounds on which I appeal are (*If the appeal is on the ground that the house has been rendered fit for human habitation, the repairs or improvements carried out should be specified. If the appeal is on technical grounds, full particulars should be given*):—

Signature of Appellant ____________________________
Date ________________________

NOTE.

The Closing Order and the formal refusal of the Local Authority to determine it, or a copy of them, must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

FORM No. 11.

FORM OF NOTICE OF APPEAL AGAINST REFUSAL OF LOCAL AUTHORITY TO DETERMINE A CLOSING ORDER.

HOUSING ACT, 1925.

(Notice of appeal may be given by filling up and sending to the Minister of Health either this print or a copy of it *within fourteen days* after the day on which the notice of refusal of the Local Authority to determine the Closing Order was served on the appellant.)

Full name of appellant ______________________________
Full address of appellant ______________________________
Full address of the dwelling-house, in respect of which the appeal is made ______________________________

I, the undersigned, being an owner of the above-mentioned house, hereby appeal against the refusal of (*state name of Local Authority*) to determine a Closing Order made by them in respect of the house. Notice of the refusal of the Council to determine the Closing Order was received by me on the (*state date*) , 19 .

My interest in the house is (*state whether a freeholder or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the house*).

The grounds on which I appeal are (*If the appeal is on the ground that the house has been rendered fit for human habitation, the repairs or improvements carried out should be specified. If the appeal is on technical grounds, full particulars should be given*) :—

Signature of Appellant ______________________________
Date ____________________

NOTE.

The Closing Order and the formal refusal of the Local Authority to determine it, or a copy of them, must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

FORM No. 12.

FORM OF NOTICE OF TIME AND PLACE AT WHICH THE QUESTION OF THE DEMOLITION OF A DWELLING-HOUSE WILL BE CONSIDERED.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Whereas on the day of 19 , in pursuance of the Housing Act, 1925, a Closing Order was made by the , in respect of the above-mentioned dwelling-house, and the said Closing Order has remained operative for a period of three months ;

Take Notice, that the question of the demolition of the said house will be considered by the said , at on , the * day of , 19 , at o'clock in the noon, when any owner of the said house will be entitled to be heard.

Dated this day of , 19 .
Signature of Clerk of Local Authority ______________________________

Directions for filling up this Form.

* * * * * *

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* The time must be not less than one month after the service of this notice.

FORM No. 13.

FORM OF ORDER FOR DEMOLITION OF DWELLING-HOUSE.

HOUSING ACT, 1925.

Whereas on the day of , 19 , in pursuance of the Housing Act, 1925, a Closing Order was made by Us, the in respect of the dwelling-house and the said Closing Order has remained operative for a period of three months ;

And whereas after complying with the requirements of sub-section (1) of section 14 of the Housing Act, 1925, and upon consideration of the question of the demolition of the said dwelling-house, We, the said , are of opinion that the house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit;

Now therefore, We, the said , in pursuance of sub-section (2) of section 14 of the Housing Act, 1925, do order the demolition of the house aforesaid.

Dated this day of , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk of Local Authority ______________________

Directions for filling up this Form.

* * * * * *

FORM No. 14.

FORM OF NOTICE OF ORDER FOR DEMOLITION OF A DWELLING-HOUSE.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Take notice:—

That the have in pursuance of the Housing Act, 1925, made an order for the demolition of the above-mentioned dwelling-house.

A copy of the Demolition Order is annexed.

Dated this day of , 19 .

Signature of Clerk of Local Authority ______________________

NOTE.

Section 14 of the Housing Act, 1925, is to the following effect:—

* * * * * *

Procedure on Appeal.

The procedure on any such appeal is governed by rules made by the Minister of Health. The Act provides—

(*a*) That the Minister of Health shall not dismiss any appeal without having first held a public local inquiry unless the appellant fails to prosecute his appeal with due diligence.

(*b*) That the Minister of Health may before considering any appeal, require the appellant to deposit such sum to cover the costs of the appeal as may be fixed by the rules. The sum at present fixed is a sum not exceeding £10.

A Demolition Order does not become operative until either the time within which an appeal can be made has elapsed, without an appeal being made, or in case an appeal is made, the appeal is determined or abandoned.

Directions for filling up this Form.

* * * * * *

* Copy of the above-mentioned Demolition Order.

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* An exact copy of the Demolition Order should be given here.

ORDER FOR DEMOLITION OF A DWELLING-HOUSE.

HOUSING ACT, 1925.

Whereas on the day of , 19 , in pursuance of the Housing Act, 1925, a Closing Order was made by Us, the , in respect of the dwelling-house , and the said Closing Order has remained operative for a period of three months;

And whereas after complying with the requirements of sub-section (1) of section 14 of the Housing Act, 1925, and upon consideration of the question of the demolition of the said dwelling-house, We, the said , are of opinion that the house has not been rendered fit for human habitation, and that the necessary steps are not being taken with all due diligence to render it so fit;

Appendix II.

Now therefore, We, the said , in pursuance of sub-section (2) of section 14 of the Housing Act, 1925, do order the demolition of the house aforesaid.

Dated this day of , 19 .

(L.S.)

Signature of Clerk of Local Authority ________________

NOTICE OF APPEAL AGAINST A DEMOLITION ORDER.

(Notice of appeal may be given by filling up and sending to the Minister of Health, either this print, or a copy of it, *within twenty-one days* after the day on which the notice of the Demolition Order was served, or, if the operation of the Demolition Order has been postponed for a period not exceeding six months, *within fourteen days* after the expiration of that period.)

Full name of appellant ________________
Full address of appellant ________________
Full address of the dwelling-house, in respect of which the appeal is made ________________

I, the undersigned, being an owner of the above-mentioned house, hereby appeal against a Demolition Order in respect of the house made by the (*state name of Local Authority*) which was served on me on (*state date, and, if the operation of the Demolition Order was postponed for any period, state the date on which that period expired*) , 19 .

My interest in the house is (*state whether a freeholder, or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the house*).

The grounds on which I appeal are (*if the appeal is on the ground that the house has been rendered fit for human habitation, the repairs or improvements which have been carried out should be specified*).

Signature of Appellant ________________
Date ________________

NOTE.

The Demolition Order appealed against and also if possible the Closing Order, or a copy of them, must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

FORM No. 15.

FORM OF NOTICE OF APPEAL AGAINST A DEMOLITION ORDER.

HOUSING ACT, 1925.

(Notice of appeal may be given by filling up and sending to the Minister of Health, either this print, or a copy of it, *within twenty-one days* after the day on which the notice of Demolition Order was served, or, if the operation of the Demolition Order has been postponed for a period not exceeding six months, *within fourteen days* after the expiration of that period.)

Full name of appellant ________________
Full address of appellant ________________
Full address of the dwelling-house, in respect of which the appeal is made ________________

I, the undersigned, being an owner of the above-mentioned house, hereby appeal against a Demolition Order in respect of the house made by the (*state name of Local Authority*) which was served on me on (*state date, and, if the operation of the Demolition Order was postponed for any period, state the date on which that period expired*).

My interest in the house is (*state whether a freeholder, or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the house.*

The grounds on which I appeal are (*if the appeal is on the ground that the house has been rendered fit for human habitation, the repairs or improvements which have been carried out should be specified*).

Signature of Appellant ________________
Date ________________

NOTE.

The Demolition Order appealed against, and also, if possible, the Closing Order, or a copy of them, must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

FORM No. 16.

FORM OF ORDER FOR DEMOLITION OF BUILDING BEING OR BEING PART OF A DWELLING-HOUSE THE CONTINUANCE OF WHICH IS A NUISANCE OR DANGEROUS OR INJURIOUS TO THE HEALTH OF THE PUBLIC OR OF THE INHABITANTS OF THE NEIGHBOURING HOUSES.

HOUSING ACT, 1925.

Whereas on the day of , 19 , in pursuance of the Housing Act, 1925, a Closing Order was made by Us, the , in respect of the dwelling-house and the said Closing Order has remained operative for a period of three months;

And whereas after compliance with the requirements of sub-section (1) of section 14 of the Housing Act, 1925, and upon consideration of the question of the demolition of the said dwelling-house, We, the said , are of opinion that the continuance of the is a nuisance and dangerous or injurious to the health of the public and dangerous or injurious to the health of the inhabitants of the neighbouring houses;

Now therefore, We, the said , in pursuance of sub-section (2) of section 14 of the Housing Act, 1925, do order the demolition of the .

Dated this day of , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk of Local Authority ______________________________

Directions for filling up and adapting this Form.

* * * * * *

FORM No. 17.

FORM OF NOTICE OF ORDER FOR DEMOLITION OF BUILDING BEING OR BEING PART OF A DWELLING-HOUSE THE CONTINUANCE OF WHICH IS A NUISANCE OR DANGEROUS OR INJURIOUS TO THE HEALTH OF THE PUBLIC OR OF THE INHABITANTS OF THE NEIGHBOURING HOUSES.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Take notice:—

That the have in pursuance of the Housing Act, 1925, made an order for the demolition of the building therein described, being or being part of the above-mentioned dwelling-house.

A copy of the Demolition Order is annexed.

Dated this day of , 19 .

Signature of Clerk of Local Authority ______________________________

NOTE.

Section 14 of the Housing Act, 1925, is to the following effect:—

* * * * * *

Procedure of Appeal.

The procedure on any such appeal is governed by rules made by the Minister of Health.

The Act provides:—

(*a*) That the Minister of Health shall not dismiss any appeal without having first held a public local inquiry unless the appellant fails to prosecute his appeal with due diligence.

(*b*) That the Minister of Health may before considering any appeal, require the appellant to deposit such sum to cover the costs of the appeal, as may be fixed by the rules. The sum at present fixed is a sum not exceeding £10.

Appendix II.

A Demolition Order does not become operative until either the time within which an appeal can be made has elapsed, without an appeal being made, or in case an appeal is made, the appeal is determined or abandoned.

Directions for filling up this Form.

* * * * * *

* Copy of above-mentioned Demolition Order.

---

* An exact copy of the Demolition Order should be given here.

ORDER FOR DEMOLITION OF BUILDING BEING OR BEING PART OF A DWELLING-HOUSE THE CONTINUANCE OF WHICH IS A NUISANCE OR DANGEROUS OR INJURIOUS TO THE HEALTH OF THE PUBLIC OR OF THE INHABITANTS OF THE NEIGHBOURING HOUSES.

HOUSING ACT, 1925.

Whereas on the day of , 19 , in pursuance of the Housing Act, 1925, a Closing Order was made by Us, the , in respect of the dwelling-house and the said Closing Order has remained operative for a period of three months;

And whereas after compliance with the requirements of sub-section (1) of section 14 of the Housing Act, 1925, and upon consideration of the question of the demolition of the said dwelling-house, We, the said , are of opinion that the continuance of the is .

Now therefore, We, the said , in pursuance of sub-section (2) of section 14 of the Housing Act, 1925, do order the demolition of the .

Dated this day of , 19 .

(L.S.)

Signature of Clerk of Local Authority____________________

NOTICE OF APPEAL AGAINST AN ORDER FOR DEMOLITION OF A BUILDING BEING OR BEING PART OF A DWELLING-HOUSE THE CONTINUANCE OF WHICH IS A NUISANCE OR DANGEROUS OR INJURIOUS TO THE HEALTH OF THE PUBLIC OR OF THE INHABITANTS OF THE NEIGHBOURING HOUSES.

HOUSING ACT, 1925.

(Notice of appeal may be given by filling up and sending to the Minister of Health, either this print, or a copy of it, *within twenty-one days* after the day on which the notice of Demolition Order was served, or if the operation of the Demolition Order has been postponed for a period not exceeding six months, *within fourteen days* after the expiration of that period.)

Full name of appellant____________________

Full address of appellant____________________

Full address of house affected by the appeal, together with (where the appeal relates to a building being part only of a house) such a description of the buildings as may be sufficient for its identification.

____

I, the undersigned, being an owner of the above-mentioned dwelling-house, hereby appeal against an order for demolition of the * said house *or* * the above-mentioned building being part of the said house, made by (*state name of Local Authority*) which was served on me on (*state date and, if the operation of the Demolition Order was postponed for any period, state the date on which that period expired*) , 19 .

My interest in the building is (*state whether a freeholder, or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the building*).

The grounds on which I appeal are .

Signature of Appellant____________________

Date____________________

---

* Strike out the words which are inapplicable.

NOTE.

The Demolition Order appealed against, and also, if possible, the Closing Order, or a copy of them, must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

FORM No. 18.

FORM OF NOTICE OF APPEAL AGAINST AN ORDER FOR DEMOLITION OF A BUILDING BEING OR BEING PART OF A DWELLING-HOUSE THE CONTINUANCE OF WHICH IS A NUISANCE OR DANGEROUS OR INJURIOUS TO THE HEALTH OF THE PUBLIC OR OF THE INHABITANTS OF THE NEIGHBOURING HOUSES.

HOUSING ACT, 1925.

(Notice of appeal may be given by filling up and sending to the Minister of Health, either this print, of a copy of it, *within twenty-one days* after the day on which the notice of Demolition Order was served, or, if the operation of the Demolition Order has been postponed for a period not exceeding six months, *within fourteen days* after the expiration of that period.)

Full name of appellant ______________________________

Full address of appellant ______________________________

Full address of house affected by the appeal, together with (where the appeal relates to a building being part only of a house) such a description of the buildings as may be sufficient for its identification.

____

I, the undersigned, being an owner of the above-mentioned dwelling-house, hereby appeal against an order for demolition of the * said house *or* * the above-mentioned building being part of the said house, made by (*state name of Local Authority*) which was served on me on (*state date, and, if the operation of the Demolition Order was postponed for any period, state the date on which that period expired*) , 19 .

My interest in the building is (*state whether a freeholder, or lessee under a lease the original term whereof was not less than twenty-one years, or mortgagee, or what other interest the appellant has in the building*) .

The grounds on which I appeal are

Signature of Appellant ______________________________

Date ______________________________

NOTE.

The Demolition Order appealed against, and also, if possible, the Closing Order, or a copy of them, must be forwarded to the Minister of Health with this appeal.

The Appellant must notify the Local Authority forthwith of any appeal to the Minister of Health.

---

* Strike out the words which are inapplicable.

FORM No. 19

FORM OF ORDER POSTPONING OPERATION OF ORDER FOR DEMOLITION OF A DWELLING-HOUSE.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Whereas on the day of , 19 , We, the , made an Order for the demolition of the above-mentioned house ;

And whereas an owner of the said house, has now undertaken to execute forthwith the works necessary to render the said house fit for human habitation, We, the said , in pursuance of sub-section (3) of section 14 of the Housing Act,

Appendix II. 1925, do hereby postpone the operation of the said Order for a period of * from the date of the said Order.

Dated this day of , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk of Local Authority————————————

Directions for filling up this Form.

* * * * * *

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* The time must be such time, not exceeding six months, as the Local Authority think sufficient for the purpose of giving the owner an opportunity of executing the necessary works.

FORM No. 20.

FORM OF ORDER DETERMINING CLOSING AND DEMOLITION ORDERS.

HOUSING ACT, 1925.

To , owner of the dwelling-house .

Whereas on the day of , 19 , in pursuance of the Housing Act, 1925, a Demolition Order was made by Us the in respect of the above-mentioned dwelling-house;

And whereas the works necessary to render the said house fit for human habitation have been completed to our satisfaction;

Now therefore, We, the , do hereby determine the Closing and Demolition Orders relating to the house.

Dated this day of , 19 .

(*To be sealed with the common seal of the Local Authority.*)

Signature of Clerk of Local Authority————————————

Directions for filling up this Form.

* * * * * *

S. R. & O., 1925, No. 638.

THE HOUSING ACT (APPEAL PROCEDURE) RULES, 1925, DATED 8TH JULY, 1925, MADE BY THE MINISTER OF HEALTH WITH REFERENCE TO PROCEDURE ON APPEALS UNDER SECTION 115 OF THE HOUSING ACT, 1925.

The Minister of Health, under the powers conferred on him by section 115 of the Housing Act, 1925, and all other powers enabling him in that behalf, hereby orders and prescribes as follows:—

1. These rules may be cited as the Housing Act (Appeal Procedure) Rules, 1925, and shall come into operation on the 1st day of September, 1925.

2. The Housing Acts (Appeal Procedure) Rules, 1919, are hereby revoked.

3. The Interpretation Act, 1889, applies to the interpretation of this order as it applies to the interpretation of an Act of Parliament.

4.—(1) An appeal to the Minister of Health under the Housing Act, 1925, shall be made by sending to the Minister a notice of appeal in the form prescribed by the Housing Acts (Form of Orders and Notices) Order, 1925, signed by the appellant or by his duly authorised agent, together with the original notice, order, or demand appealed against or a true copy thereof.

(2) The appellant shall notify the local authority forthwith of any appeal to the Minister of Health.

(3) The appellant shall send to the Minister either with his notice of appeal, or within fourteen days thereafter, a concise statement in writing of the facts and contentions on which he relies.

(4) The appellant shall deposit with the Minister within fourteen days from the date of his notice of appeal the sum of ten pounds, provided that the Minister may, if he thinks fit, require the deposit of a less sum than ten pounds or may dispense with the deposit.

5. The Minister shall, as soon as may be after receipt of the statement aforesaid, send to the local authority a copy of the notice of appeal and of the said statement.

6. The local authority shall, within ten days after the receipt by them of the said notification, inform the Minister whether and to what extent they admit the facts stated in the appellant's documents, and shall send to the Minister a concise statement of the facts and contentions on which they rely.

7.—(1) The Minister may at any stage of the proceedings allow the amendment of any notice, statement, or particulars on such terms as he may think fit.

(2) The Minister may at any time require the appellant or the local authority to furnish in writing such further particulars as he may think necessary.

8. The Minister shall not dismiss any appeal without having first held a public local inquiry, unless the appellant has failed to prosecute his appeal with due diligence, in which event the Minister may determine the appeal summarily.

9. The costs of any appeal, including the costs of any public local inquiry held in connection therewith, shall be in the discretion of the Minister, who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof.

10. The Minister may, if he thinks fit, and subject to such conditions as he may impose, proceed with the consideration of any appeal notwithstanding any failure or omission by any person to comply with any of the requirements of these Rules.

S. R. & O., 1925, No. 733.

THE HOUSING (LOANS BY COUNTY COUNCILS) ORDER, 1925, DATED 25TH JULY, 1925, MADE BY THE MINISTER OF HEALTH UNDER SECTION 94 OF THE HOUSING ACT, 1925.

The Minister of Health, in exercise of the powers conferred on him by section 94 of the Housing Act, 1925, and of all other powers enabling him, hereby makes the following Order:—

1. This Order may be cited as the Housing (Loans by County Councils) Order, 1925.

2.—(1) In this Order, unless the context otherwise requires—

"The Minister" means the Minister of Health;

"The Act" means the Housing Act, 1925;

"Housing Loan" means a loan raised by a county council for the purpose mentioned in section 94 of the Act, or, where a loan is raised partly for that purpose and partly for other purposes, such portion of the loan as is declared by the Minister to have been raised for the purpose of the said section 94.

(2) The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The Housing (Loans by County Councils) Order, 1920, is hereby revoked, but without prejudice to any right, privilege, obligation or liability acquired, accrued, or incurred under that Order.

4. Where the proceeds of a Housing Loan have been lent to local authorities, the county council shall discharge or provide for repayment of such part of the loan as represents the money lent to each local authority within a term ending not later than one year after the date at which that local authority is required to pay off the money lent to it.

5. Money lent to a local authority shall be repayable by it to the county council by equal half-yearly instalments of principal and interest combined within the period for which the local authority has power to borrow:

Provided that where the money lent to a local authority has been raised by the issue of stock, the local authority shall repay to the county council not less than six months before the expiration of the maximum period of the currency of the stock any outstanding balance of the amount borrowed from the county council.

6. All sums received by the county council from a local authority representing repayment of principal shall be applied in or towards discharge of the Housing Loan, or where the Housing Loan was raised by the issue of stock, in or towards redemption of such stock.

7. All sums which under the last preceding Article are required to be applied in or towards redemption of stock shall be transferred to the fund or account to which, under the provisions of the Acts or Regulations for the time being governing the issue and redemption of stock by the county council, sums required to be applied in redemption of stock are to be paid, and notwithstanding anything in those provisions the county council shall not be under any obligation to transfer to that fund or account in any year any greater sum than the aggregate of the sums received during that year and required by this Article to be so transferred.

8. The rate of interest at which money may be lent by the county council to a local authority shall be subject to the approval of the Minister and shall be calculated so as to cover the interest payable by the council in respect of such money together with all expenses incurred by the council in raising the same, and all expenses incurred or to be incurred by them in connection with the management or redemption of any stock or local bonds by means of which the money was raised, including any loss incurred by the council by reason of the rate of interest received in respect of any portion of the proceeds of the Housing Loan and not immediately required for loans to local authorities or in respect of any investments of moneys standing to the credit of any fund or account for the redemption of the Housing Loan falling short of the rate at which interest is payable by the council upon the Housing Loan:

Provided that where the Housing Loan was raised by the issue of stock, the rate of interest payable by the local authority may, with the consent of the Minister, be the same as that payable by the county council on such stock, but in that event the mortgage to be entered into by the local authority shall, in addition to securing the repayment of principal and interest as provided in Article 4 of this Order, include the provisions specified in the Schedule to this Order.

9. This Order shall not apply to the London County Council.

SCHEDULE.

The following provisions shall apply to every mortgage made between a county council and a local authority for securing repayment of a loan where the rate of interest charged is the same as that payable on the stock issued by the county council, and the mortgage shall include such covenants and conditions as may be necessary to give effect to such provisions.

(*a*) The local authority shall pay to the county council by means of an annuity of an amount to be specified in the mortgage payable half-yearly during a period to be similarly specified not exceeding the maximum period of currency of the stock, a sum equal to the amount, if any, by which the nominal amount of that part of the stock of which the proceeds were applied in making the loan to the local authority exceeded the net proceeds of such nominal amount of stock with interest on that sum at the rate payable under the mortgage in respect of the principal money secured thereby. In ascertaining net proceeds for the purpose of this paragraph a proportionate part of the expenses of the issue of the stock and of any unaccrued interest payable under the terms of issue at the date of the first payment of interest shall be deducted from the proceeds.

(*b*) The local authority shall pay annually to the county council on a date to be specfied in the mortgage a proportionate part of the expenses incurred by the council during the previous year in connection with the management of the stock, including any composition for stamp duties and any remuneration payable to the Registrar of the said stock and other establishment charges in connection therewith.

(*c*) At a date within one year from the commencement of the loan to be specified in the mortgage and thereafter at the end of each year from that date during the continuance of the loan and until the redemption of the stock, the amount, if any, by which the total interest paid by all the local authorities (i) in respect of loans made to them out of the proceeds of the Housing Loan, and (ii) under paragraph (*a*) of this Schedule, together with any interest received by the county council either upon any portion of the proceeds of the Housing Loan which has not for the time being been lent to any local authority, or upon moneys representing principal previously repaid by any such local authority and forming part of the council's redemption fund account relating to the Housing Loan, exceeds or falls short of the amount required to pay interest on the Housing Loan shall be ascertained, and in the case of any excess a proportionate part thereof shall be set off against any sum payable by the local authority under paragraphs (*a*), (*b*), or (*d*), of this Schedule, and in the case of any deficiency a proportionate part thereof shall be paid by the local authority to the county council.

(*d*) (i) If upon the realisation of any investments standing to the credit of the county council's redemption fund account relating to the Housing Loan the net proceeds of the sale of such investments represent a profit or loss to the council, a proportionate part of the amount of such profit or loss shall in the case of a profit be set off against the sums payable by the local authority to the county council, and in the case of a loss be paid by the local authority to the county council.

(ii) If the county council redeem or purchase and extinguish stock at less than its nominal value by the application of any part of the money carried to the said redemption fund account, the difference between the price at which the stock is so redeemed or purchased and its nominal value shall be treated for the purposes of this Article as a profit made on the realisation of an investment.

(iii) The necessary adjustments between the county council and the local authority for the purpose of this paragraph shall be made annually upon a date to be specified in the mortgage.

(*e*) Upon the redemption by the county council of any stock issued for the purposes of the Housing Loan the local authority shall repay to the council a proportionate part of any expenses incurred by the council in connection with such redemption.

(*f*) All powers and remedies of the county council for securing and recovering payment of the principal and interest payable under the mortgage shall be exercisable in respect of any payment to be made by the local authority to the council under the foregoing provisions of this Schedule.

(*g*) For the purposes of this Schedule a proportionate part of any expenses, profit, loss, or other amount shall mean as regards any local authority a part of such expenses, profit, loss, or other amount bearing the same proportion to the whole as the nominal amount of stock represented by the moneys lent to that local authority bears to the total nominal amount of the stock representing the amount lent to local authorities issued for the purpose of Housing.

S. R. & O., 1925, No. 778.

THE LOCAL AUTHORITIES (ASSISTED HOUSING SCHEMES) AMENDMENT REGULATIONS, 1925, DATED 5TH AUGUST, 1925, MADE BY THE MINISTER OF HEALTH.

The Minister of Health, in pursuance of his powers under section 7 of the Housing, Town Planning, etc., Act, 1919, and of all powers enabling him in that behalf, and with the approval of the Treasury, hereby makes the following Regulations :—

1. These Regulations may be cited as the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1925.

2. Article VI. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, shall be amended as follows :—

(i) In paragraph (*a*) the words " up to and including the 31st day of March, 192[9] (*a*)," shall be substituted for the words " before any part of the assisted scheme has been carried into effect."

(ii) In paragraph (*b*) the words ", if any, after the 31st day of March, 192[9] (*a*)," shall be substituted for the words " after any part of the assisted scheme has been carried into effect."

(iii) The following words shall be added at the end of paragraph (*c*) :—

" of which the first shall be submitted to the Minister by the local authority as soon as possible after the 31st day of March, 192[9] (*a*), and subsequent estimates after the conclusion of the tenth financial year during the remainder of the period or periods last mentioned ;

Provided that if at any time after any part of the assisted scheme has been carried into effect the local authority so request, the Minister may dispense with the submission by the authority of such decennial estimates in respect of that part of the scheme and in that event the Exchequer subsidy shall be calculated on the basis of the average annual income and expenditure of the authority under that part of the assisted scheme for the remainder of the said period or, if there is more than one period, shall be calculated on the basis of an estimate of such average annual income and expenditure for each of those periods."

Appendix II.

(iv) Paragraph (*d*) shall be omitted.

(v) In paragraph (*e*) the words " except where the Minister has dispensed with a decennial estimate " shall be inserted after the words " approved by the Minister and ".

3. Paragraph (3) of Article VIII. of the said Regulations shall be amended by inserting after the words " the Minister may " the words " except where he has dispensed with a decennial estimate."

(*a*) See Amending Regulations of 1928.

S. R. & O., 1925, No. 866.

THE HOUSING CONSOLIDATED REGULATIONS, 1925, DATED 1ST SEPTEMBER, 1925, MADE BY THE MINISTER OF HEALTH UNDER THE HOUSING ACT, 1925.

The Minister of Health, in pursuance of the powers conferred on him by the Housing Act, 1925, and of all other powers enabling him in that behalf, subject to the approval of the Treasury, so far as regards Regulations with respect to which such approval is required, hereby makes the following Regulations.

PART I.—GENERAL.

1. These Regulations may be cited as the Housing Consolidated Regulations, 1925, and shall come into operation on the 1st day of September, 1925.

2.—(1) In these Regulations, unless the context otherwise requires—

" The Minister " means the Minister of Health ;

" The Act " means the Housing Act, 1925.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The Orders and Regulations set out in the Third Schedule hereto are hereby revoked, but without prejudice to any right, privilege, obligation, or liability acquired, accrued or incurred under any of these Regulations.

PART II.—PROVISIONS AS TO COMPULSORY PURCHASE.*

4. An Order made by a local authority under the Third Schedule to the Act (hereinafter referred to as " the Compulsory Order ") shall be in the form set forth in the First Schedule hereto, or in a form substantially to the like effect.

* For restrictions on acquisition of certain lands, *see* sections 54 proviso, 103, 104, and 105 of the Housing Act, 1925.

5.—(1) Before submitting the Compulsory Order to the Minister for confirmation, the local authority shall cause the same to be published by advertisement in two successive weeks in one or more of the local newspapers circulating in the district of the local authority and in the parish or parishes in which the land to which the Compulsory Order relates is situated.

(2) The advertisements shall be headed respectively " First Advertisement " and " Second and Last Advertisement," and the first of the said advertisements shall be published not later than the seventh day after the making of the Compulsory Order.

(3) Each of the said advertisements shall contain in addition to a copy of the Compulsory Order a notice setting out the following particulars :—

(*a*) a statement that any objection to the Compulsory Order must be presented to the Minister within the period of fourteen days from and after the date of the publication of the first advertisement ; and

(*b*) a statement of the period, times, and place or places during and at which the deposited plan referred to in the Schedule to the Compulsory Order may be inspected by or on behalf of any person interested in the land to which the Compulsory Order relates.

(4) The plan referred to in the Schedule to the Compulsory Order shall be deposited by the local authority not later than the seventh day after the making of the Compulsory Order at a place convenient for the purposes of inspection, and shall be kept deposited thereat for a period not being less than fourteen days from the date of the publication of the first advertisement; and the said plan shall be open for inspection by any person interested or affected, without payment of any fee, at all reasonable hours on any week-day during the said period. The local authority shall also make suitable provision for affording to any such person inspecting the said plan any necessary explanation or information in regard thereto.

(5) Notwithstanding anything contained in this Article, where the land to which the Compulsory Order relates is situated within a rural district and does not exceed five acres in extent, the said Order shall be deemed to have been sufficiently published if not later than the seventh day after the making of the said Order one copy thereof has been affixed to the land in some conspicuous position and a further copy to a notice board outside the offices of the local authority, each of the said copies having appended to it a notice setting out the particulars specified in paragraph (3) of this Article, and for this purpose the date on which the said notices are so affixed shall be treated as the date of the publication of the first advertisement.

6.—(1) The local authority shall, not later than the seventh day after the making of the Compulsory Order, cause notice thereof to be given to every owner, lessee, and occupier of the land to which the Compulsory Order relates, and every such notice shall include a copy of the Compulsory Order, to which shall be appended a notice containing the particulars mentioned in paragraph (3) of Article 5 of these Regulations.

(2) The local authority shall furnish a copy of the Compulsory Order, free of charge, to any person interested in the land to which the Compulsory Order relates, upon his applying for the same.

7. The period within which an objection to a Compulsory Order may be presented to the Minister by a person interested in the land to which the Compulsory Order relates shall be the period of fourteen days from and after the date of the publication of the first advertisement of the Compulsory Order.

8.—(1) The local authority shall as soon as practicable after the confirmation of the Compulsory Order cause a copy of the Compulsory Order as confirmed to be served on every owner, lessee, and occupier of the land to which the Compulsory Order relates.

(2) A copy of the Compulsory Order as confirmed shall be furnished free of charge by the local authority to any person interested in the land authorised to be purchased upon his applying for the same, and a copy of any plan to which reference is made in the Compulsory Order as confirmed shall also be furnished by the local authority to any such person upon his applying for such copy and paying the reasonable cost of preparing the same.

PART III.—PROVISIONS AS TO LOCAL BONDS.

9. In this Part of these Regulations, unless the context otherwise requires, the expression " holder " means registered holder.

Issue of Local Bonds.

10.—(1) Local bonds shall be issued at par and interest thereon shall be payable half-yearly on the thirty-first day of March and the thirtieth day of September in each year: Provided that in the case of any person who holds on the thirtieth day of September bonds to a nominal value not exceeding £50, the local authority may pay interest yearly on the thirty-first day of March, paying in addition interest at the rate applicable to the bonds on any interest which has accrued in respect of the period up to the thirtieth day of September.

(2) Applications for local bonds shall be for amounts of five, ten, twenty, fifty, or one hundred pounds or multiples of one hundred pounds.

(3) Local bonds shall, subject to the provisions of this Article, be repayable at par at the office of the local authority not less than five years after the date of issue

according to the terms of issue, and no interest shall be payable thereon in respect of any period after the date upon which the bond is repayable.

(4) Where a local authority accepts a local bond issued by another local authority in payment or part payment of the purchase price of a house erected in pursuance of any scheme under the Act, the local authority by whom the bond was issued shall, if so requested by the other local authority, redeem the bond by paying the nominal amount thereof to that local authority.

(5) The first payment of interest on any local bond shall be adjusted in accordance with the date of issue of the bond and any sum paid by way of repayment or redemption shall include interest accrued to the date of repayment or redemption.

(6) Nothing in this Article shall be construed as prohibiting a local authority from redeeming a local bond at any time by agreement with the holder of the bond, if they shall think fit to do so.

(7) A local bond repaid or redeemed by a local authority shall be cancelled.

Registration and Certificates.

11. A local authority issuing local bonds shall appoint a registrar for the purposes of this part of these Regulations, and may direct him to act on their behalf for the purposes of all or any of the things which they are authorised to do under this part of these Regulations.

12.—(1) The local authority shall keep a register (hereinafter called the "Local Bonds Register") of all persons who are holders for the time being of local bonds.

(2) The Local Bonds Register shall contain the following particulars:—

(*a*) the name, address, and description of each holder, a statement of the denomination of the bonds held by him and the periods for which they are issued and the numbers and dates of the certificates issued to him as hereinafter provided;

(*b*) the date of registration of each holder and the date on which he ceased to be so registered.

(3) The Local Bonds Register shall be *primâ facie* evidence of any matter entered therein in accordance with these Regulations and of the title of the persons entered therein as holders of local bonds.

13.—(1) The local authority shall issue to each holder of a local bond a certificate in respect thereof, duly numbered and dated, and specifying the denomination of the bond and the period for which it is issued.

(2) The certificate shall be *primâ facie* evidence of the title of the person therein named, his executors, administrators or assigns, to the bond therein specified, but the want of a certificate, if accounted for to the satisfaction of the local authority, shall not prevent the holder of a bond from disposing of and transferring the bond.

(3) If a certificate is worn out or damaged, the local authority, on the production thereof, may cancel it and issue a new certificate in lieu thereof.

(4) If a certificate is lost or destroyed, the local authority on proof thereof to their satisfaction, and, if they so require, on receiving an indemnity against any claims in respect thereof, may give a new certificate in lieu of the certificate lost or destroyed.

(5) An entry of the issue of a substituted certificate shall be made in the Local Bonds Register.

(6) A certificate shall be in the form set out in the Second Schedule hereto or in a form substantially to the like effect.

Transfer of Local Bonds.

14.—(1) The transfer of a local bond shall be by deed, in the form set out in the Second Schedule hereto or in a form substantially to the like effect.

(2) A local bond may be transferred in whole or in part, so, however, that any part transferred shall not be for an amount other than an amount for which a local bond may be issued by a local authority.

(3) Unless the local authority have compounded for stamp duty, every deed of transfer shall be duly stamped and the consideration shall be truly stated therein.

(4) The deed of transfer shall be delivered to and retained by the local authority and the local authority shall enter a note thereof in a book to be called the "Register

of Transfer of Local Bonds," and shall endorse on the deed of transfer a notice of that entry.

(5) The local authority shall, upon receipt of the deed of transfer duly executed together with the certificate issued in respect of the bond, enter the name of the transferee in the Local Bonds Register and shall issue a new certificate or certificates to the transferee, or to the transferor and transferee, as the case may require.

(6) Until the deed of transfer and the certificate have been delivered to the local authority as aforesaid, the local authority shall not be affected by the transfer, and the transferee shall not be entitled to receive any payment of interest on the bond.

(7) The local authority before registering a transfer of a local bond may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer.

Closing of Local Bonds Register.

15. The local authority may close the Local Bonds Register for a period not exceeding thirty days immediately before the thirty-first day of March and the thirtieth day of September in any year respectively, and notwithstanding the receipt by the local authority during those periods of any deed of transfer, the half-yearly payment of interest next falling due may be made to the persons registered as holders of local bonds on the date of the closing of the register.

Transmission of Local Bonds.

16.—(1) Any person becoming entitled to a local bond by reason of the death or bankruptcy of a holder or by any lawful means other than a transfer may, by the production of such evidence of title as the local authority may require, either be registered as holder of the bond, or, instead of being himself registered, may make such transfer of the bond as the holder could have made, and the local authority shall issue a certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the local authority, the local authority shall not be affected by the transmission of the bond and no person claiming by virtue thereof shall be entitled to receive any payment of interest thereon.

(3) Where two or more persons are registered as holders of a local bond they shall be deemed to be joint holders with right of survivorship between them.

Interest on Local Bonds.

17.—(1) Unless the holder of a local bond otherwise requests, the local authority may pay the interest thereon by posting a warrant to the holder at his address as shown in the Local Bonds Register.

(2) The posting by the local authority of a letter containing an interest warrant addressed to a holder as aforesaid shall, as respects the liability of the local authority, be equivalent to the delivery of the warrant to the holder himself.

18. The local authority shall not be required to pay any executors or administrators any interest on local bonds held by their testator or intestate until the probate of the Will or the letters of administration has or have been left with the local authority for registration.

19. The local authority before paying any interest on any local bonds may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming a right to receive the interest.

20. Where more persons than one are registered as joint holders of a local bond, any one of them may give an effectual receipt for any interest thereon, unless notice to the contrary has been given to the local authority by any other of them.

General.

21. No notice of any trust shall be entered in the Local Bonds Register or in any other book kept by the local authority or be receivable by the local authority.

22.—(1) If at any time any interest due on any local bonds remains unpaid for two months after demand in writing, the persons entitled thereto may apply to the

High Court for a receiver and the Court may, if it thinks fit, appoint a receiver on such terms as it thinks fit.

(2) The receiver shall have the like power of collecting, receiving, recovering and applying moneys, and of assessing, making, and recovering all rates for the purpose of obtaining the same, as the local authority or any officer thereof would or might have, and such other powers and duties as the Court thinks fit, and shall apply all moneys so collected and received, after paying all such costs as the Court may direct, for the purposes of these Regulations.

23. A person taking or holding local bonds shall not be concerned to inquire or to take notice whether the issue thereof was or was not in accordance with these Regulations,or whether or not the local authority or any meeting thereof was properly constituted or convened, or whether or not the proceedings at a meeting of the local authority were legal or regular, or to see to the application of any money raised by the issue of local bonds or be answerable for any loss or misapplication thereof.

24. If at any time any interest on any local bonds is unclaimed at the time for payment thereof, the amount shall, nevertheless, on demand at any subsequent time, be paid to the person showing his right thereto, but without interest in the meantime.

25. Where the local authority sell, lease, or otherwise dispose of any land or property charged as security for any local bonds, the land or property shall in the hands of the purchaser or lessee be absolutely free from any charge for that purpose, and he shall not be bound to inquire into the application of the money arising from such sale, lease, or disposal, or be in any way responsible for the misapplication or non-application thereof.

26. A local authority may pay such expenses in connection with the issue of local bonds (including commission) as the Minister may approve.

PART IV.—INSPECTION OF DISTRICT.

27.—(1) The local authority shall take into consideration the provisions of section 8 of the Act, and shall determine the procedure to be adopted under this Part of these Regulations, to give effect to the requirements of that section in regard to the inspection of their district from time to time.

(2) The local authority shall as part of their procedure make provision for a thorough inspection to be carried out from time to time according to the varying needs or circumstances of the dwelling-houses or localities in the district of the local authority.

(3) The local authority shall cause to be prepared from time to time by the medical officer of health, or by an officer designated by them but acting under his direction and supervision, a list or lists of dwelling-houses the early inspection of which is, in the opinion of the medical officer of health, desirable. The list or lists may, if thought fit, relate to the dwelling-houses within a defined area of the district without specifying each house separately therein.

28. The inspection under and for the purposes of section 8 of the Act shall be made by the medical officer of health, or by an officer designated by the local authority but acting under his direction and supervision, and the officer making inspection of any house shall examine the state of the house in relation to the following matters, namely :—

(1) The arrangements for preventing the contamination of the water supply.
(2) Closet accommodation.
(3) Drainage.
(4) The condition of the house in regard to light, the free circulation of air, dampness, and cleanliness.
(5) The paving, drainage, and sanitary condition of any yard or out-houses belonging to or occupied with the house.
(6) The arrangements for the deposit of refuse and ashes.
(7) The existence of any room which would by virtue of sub-section (1) of section 18 of the Act be a house so dangerous or injurious to health as to be unfit for human habitation.

(8) Any defects in other matters which may tend to render the house dangerous or injurious to the health of an inhabitant.

29. Records of the inspection of houses made under and for the purposes of section 8 of the Act shall be prepared under the direction and supervision of the medical officer of health, and shall be kept by the officer of the local authority making the inspection or by some other officer appointed or employed for the purpose by the local authority.

The records may be kept in a book or books or on separate sheets or cards, and shall contain information, under appropriate headings, as to :—

(1) The situation of the house, and its name or number.
(2) The name of the officer who made the inspection.
(3) The date when the house was inspected.
(4) The date of the last previous inspection and a reference to the record thereof.
(5) The state of the house in regard to each of the matters referred to in Article 28 of these Regulations.
(6) Any action taken by the medical officer of health, or other officer of the local authority, either independently or on the directions of the local authority.
(7) The result of any action so taken.
(8) Any further action which should be taken in respect of the house.

30. The local authority shall, as far as may be necessary, take into consideration at each of their ordinary meetings the records kept in pursuance of Article 29 of these Regulations, and shall give all such directions and take all such action within their powers as may be necessary or desirable in regard to any house to which the records relate, and a note of any directions so given and the result of any action taken shall be added to the records.

31. The medical officer of health shall include in his annual report information and particulars in tabular form in regard to the number of houses inspected under and for the purposes of sections 11 and 18 of the Act, the number of houses which on inspection were considered to be in a state so dangerous or injurious to health as to be unfit for human habitation, the number of representations made to the local authority with a view to the making of closing orders, the number of closing orders made, the number of houses the defects in which were remedied without the making of closing orders, the number of houses which after the making of closing orders were put into a fit state for human habitation, and the general character of the defects found to exist. He shall also include any other information and particulars which he may consider desirable in regard to the work of inspection under the said section.

32. The medical officer of health and any other officer of the local authority shall observe and execute all lawful orders and directions of the local authority in regard to or incidental to the inspection of the district of the local authority under and for the purposes of section 8 of the Act, and the execution of this Part of these Regulations.

PART V.—RATES OF INTEREST.

33. The rate of interest on expenses incurred by a local authority under section 3 of the Act, shall be the rate of five per cent. per annum :

Provided that nothing in this Article shall affect the rate of interest on any expenses incurred by a local authority before the date of these Regulations.

PART VI.—RESTRICTIONS ON ACQUISITION OF CERTAIN LANDS.

34. The prescribed distance for the purposes of sub-section (1) of section 104 of the Act shall, in the case of Windsor Castle, Windsor Great Park, and Windsor Home Park, be two miles, and, in the case of any other Royal Palace or Park, be half a mile.

SCHEDULES.

FIRST SCHEDULE.

THE HOUSING ACT, 1925.

ORDER FOR THE PURPOSE OF THE COMPULSORY ACQUISITION OF LANDS.

The * hereby make the following Order:—

1. The provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement are, subject as hereinafter provided, hereby put in force as respects the purchase by the * of the lands described in the Schedule hereto for the purposes of Part III. of the Housing Act, 1925.

2. The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act, 1845), as modified, varied, or amended by the Third Schedule of the Housing Act, 1925, the Acquisition of Land (Assessment of Compensation) Act, 1919, and sections 77 to 85 of the Railways Clauses Consolidation Act, 1845, are, subject to the necessary adaptations, incorporated with this Order, and the provisions of those Acts shall apply accordingly.

3.† The sums agreed upon or awarded for the purchase of the lands described in the Schedule to this Order, being glebe land or other land belonging to an ecclesiastical benefice, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

[3.] This Order shall come into operation as from the date of its confirmation by the Minister of Health.

[4.] This Order may be cited as the ‡ Order, 19

THE SCHEDULE above referred to.

Numbers on plan deposited at the Offices of the *	Quantity, description and situation of the Lands.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.

Given under the seal of the * this day of , 19 .

L. S.

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* Here insert title of the authority making the Order.

† Insert this Article where the lands described in the Schedule to the Order include glebe land or other land belonging to an ecclesiastical benefice.

‡ Here insert a suitable short title which should include the word "Housing."

SECOND SCHEDULE.

FORM OF CERTIFICATE OF REGISTRATION.

Certificate of Registration of a Local Bond.

No.

Local Bond for £ issued by REPAYABLE
, 19 , at the office of the local authority (*see* back).

THIS is to certify that of is the registered holder of a local bond for pounds (£) issued by the above-named local authority under the Housing Act, 1925, and Part III. of the Housing Regulations, 1925.

Signed____________________________
Registrar.

Date________________________

No deed transferring the whole or any part of the Registered Bonds represented by this certificate will be registered until the certificate has been delivered to the registrar of the authority.

Change of address must be notified to the registrar.

Issue of Local Bonds.

1. Local bonds are issued at par and interest will be payable half-yearly on the thirty-first day of March and the thirtieth day of September. The bonds will bear interest from the date of purchase. * When the total holding does not exceed £50 interest will be paid yearly on the thirty-first day of March.

2. Local bonds are issued for amounts of five, ten, twenty, fifty, or one hundred pounds or multiples of one hundred pounds.

3. Local bonds are issued for periods of five or more years and are repayable at par at the office of the local authority at the end of the period of issue. No interest will be payable thereon in respect of any period after the date on which the bond is repayable.

4. Local bonds are secured upon all the rates, revenues, and property of the local authority, including the grant to be paid by the Government in aid of the Housing Scheme.

5. Trustees may invest in local bonds unless expressly forbidden by the instrument creating the Trust.

6. Local bonds may be transferred (free of expense †) from one person to another by the execution of a transfer deed to be lodged with the bond certificate at the office of the local authority.

7. If at any time the holder of a local bond purchases a house erected by a local authority under the Housing Acts, the bond will be accepted at face value, together with accrued interest, in part payment of the purchase price.

8. No income tax will be deducted at the source from the interest on the bonds when the total holding does not exceed £100, but the holders will be assessable to income tax in the ordinary way to the extent of their liability.

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* To be omitted if the local authority does not adopt this provision.

† To be omitted if the local authority have not compounded for stamp duty.

FORM OF DEED OF TRANSFER.

Registered Local Bonds.

I, in consideration of the sum of paid by hereinafter called the Transferee do hereby assign and transfer to the said Transferee :—
To hold unto the Transferee, Executors, Administrators, and Assigns subject to the several conditions on which held the same immediately before the execution hereof ; and the said Transferee do hereby agree to accept and take the said subject to the conditions aforesaid.

As Witness our Hands and Seals, this day of in the Year of our Lord One thousand nine hundred and .

THIRD SCHEDULE.

REGULATIONS AND ORDERS REVOKED.

Date of Regulations or Order.	Subject or Short Title.	Extent of Repeal.
2nd September, 1910 .	The Housing (Inspection of District) Regulations, 1910.	The whole Regulations.
2nd September, 1910 .	Prescribing distance under section 74 of the Housing, Town Planning, etc., Act, 1909.	The whole Regulations.
29th August, 1919 .	The Housing Acts (Compulsory Purchase) Regulations, 1919.	The whole Regulations.
6th February, 1920 .	The Housing Acts (Compulsory Purchase) Amendment Regulations, 1920.	The whole Regulations.
25th February, 1920 .	The Housing (Local Bonds) Regulations, 1920.	The whole Regulations.
26th August, 1921 .	The Ministry of Health (Rates of Interest) Order, 1921.	The whole of these Orders, except so far as they fix the rate of interest on advances under section 1 of the Small Dwellings Acquisition Act, 1899.
17th June, 1922 .	The Ministry of Health (Rates of Interest) Amendment Order, 1922.	
5th December, 1922 .	The Ministry of Health (Rates of Interest) Amendment Order (No. 2), 1922.	

S. R. & O., 1926, No. 1586.

HOUSING, ENGLAND.

THE HOUSING ACTS (REVISION OF CONTRIBUTIONS) ORDER, 1926, DATED 11TH DECEMBER, 1926, MADE BY THE MINISTER OF HEALTH AND THE SCOTTISH BOARD OF HEALTH WITH THE APPROVAL OF THE TREASURY UNDER SECTION 5 OF THE HOUSING (FINANCIAL PROVISIONS) ACT, 1924 (14 & 15 GEO. 5, C. 35) (*a*).

(*a*) This Order is revoked so far as it affects houses not completed before 1st October, 1929, by Order of 1928. See that Order, *post*, p. 3432, but provisions similar to paras. 4, 5 and 6 of this Order are reinserted in the Order of 1928 by the Housing (Revision of Contributions) Act, 1929, *ante*, p. 2067.

Whereas it is provided by section 5 of the Housing (Financial Provisions) Act, 1924, that after the first day of October, 1926, the Minister of Health (hereinafter referred to as " the Minister ") and the Scottish Board of Health (hereinafter referred to as " the Board ") shall take into consideration the expenses which are likely to be incurred in the period of two years from that date in connection with the provision of houses in respect of which contributions would be payable by the Minister or Board, due regard being had to the expenses actually incurred during the period of two years ending on that date for the like purposes and after consultation with such bodies as are therein mentioned may, if they think it expedient so to do, jointly make an order altering the amount of the contributions payable or the period for which such contributions are to be payable so far as respects houses which have not been completed before the date specified in the Order but so nevertheless that the amounts and periods fixed by the Order shall be such as may be approved by the Treasury and shall not exceed the respective amounts and periods specified in the said section unless Parliament otherwise determines.

And whereas it is further provided that an Order made under this section shall make such consequential alterations of any sums or periods mentioned in the financial provisions of the Housing, etc., Act, 1923, or that Act including the sum of four pounds ten shillings mentioned in sub-section (1) of section 3 of that Act as appears to the Minister and Board to be necessary for the purpose of adjusting the same to any alteration made by the Order in the amount or duration of the contributions.

Appendix II.

And whereas the Minister and the Board having taken into consideration the matters referred to in the said section and having consulted with such bodies as aforesaid think it expedient to make the following Order :—

The Minister and the Board, with the approval of the Treasury under the powers conferred on them by section 5 of the Housing (Financial Provisions) Act, 1924 (hereinafter referred to as the Act of 1924), and of all other powers enabling them in that behalf, hereby make the following Order :—

1. This Order may be cited as the Housing Acts (Revision of Contributions) Order, 1926.

2. So far as respects houses which have not been completed before the first day of October, 1927, the contribution provided by the Minister under sections 1 and 3 of the Housing, etc., Act, 1923 (hereinafter referred to as the Act of 1923), as amended by section 1 of the Act of 1924, shall, instead of being a contribution of £6 payable annually for a period of 20 years, be a contribution of £4 payable annually for a period of 20 years, and the Acts of 1923 and 1924 shall have effect accordingly.

3. So far as respects houses which have not been completed before the first day of October, 1927, the contributions provided by the Minister under section 2 of the Act of 1924 in the case of houses which are subject to special conditions shall, instead of being a contribution of £9, or if the house is situated in an agricultural parish, £12 10*s.* payable annually for a period of 40 years, be a contribution of £7 10*s.* or, if the house is situated in an agricultural parish, £11, payable annually for a period of 40 years.

4. In regard to houses in respect of which the contribution fixed by the last preceding Article is payable—

(*a*) For the purpose of determining whether proposals submitted to the Minister involve a reduction in the estimated annual expenses to be incurred so as to entitle the Minister to reduce the contribution, there shall be substituted for the sum of £4 10*s.* mentioned in the second proviso to sub-section (1) of section 2 of the Act of 1924 the sum of £3 15*s.*

(*b*) For the purpose of the determination of the rents of houses in respect of which the contribution is payable, there shall be substituted for the sum of £4 10*s.* mentioned in sub-section (1) of section 3 of the Act of 1924, the sum of £3 15*s.*

(*c*) In the application of the special conditions to which the houses are to be subject, there shall be substituted for the sum of £3 mentioned in paragraph (*c*) of sub-section (1) and paragraph (*c*) of sub-section (2) of section 3 of the Act of 1924 the sum of £3 10*s.*, and for the sum of £6 10*s.* mentioned in the last-mentioned paragraphs the sum of £7.

5. So far as relates to houses in respect of which reduced contributions are payable by virtue of this Order there shall be substituted as the sum by which the London County Council may supplement the contribution made by the Minister in sub-section (6) of section 1 of the Act of 1923 for the words " not exceeding the sum of three pounds " the words " not exceeding the sum of two pounds " and in sub-section (5) of section 2 of the Act of 1924, for the words " not exceeding £2 5*s.*" the words " not exceeding £1 17*s.* 6*d.*" and the said sections shall have effect accordingly.

* * * * * *

S. R. & O., 1926, No. 104.

HOUSING, ENGLAND.

THE MINISTRY OF HEALTH (RATE OF INTEREST) AMENDMENT ORDER, 1926, DATED 28TH JANUARY, 1926, MADE BY THE MINISTER OF HEALTH, WITH THE APPROVAL OF THE TREASURY, UNDER SECTION 5 OF THE HOUSING ACT, 1921 (11 & 12 GEO. 5, C. 19).

* * * * * *

2. The rate of interest on advances made on or after the date of this Order under section 1 of the Small Dwellings (Acquisition) Act, 1899, shall be five and a quarter per cent. per annum and the provisions of the Ministry of Health (Rates of Interest)

Appendix II. Order, 1921, the Ministry of Health (Rates of Interest) Amendment Order (No. 2), 1922, and the Ministry of Health (Rate of Interest) Amendment Order, 1923, relating to the rate of interest on advances under that Act shall be modified and have effect accordingly.

3. The Orders specified in the Schedule hereto are hereby revoked, but nothing in this Order shall affect the rate of interest on any advance made by a local authority before the date of this Order.

SCHEDULE.

(Relating to 11 Rates of Interest Orders of local effect.)

S. R. & O., 1927, No. 431.

THE LOCAL AUTHORITIES (ASSISTED HOUSING SCHEMES) AMENDMENT REGULATIONS, 1927, DATED 4TH MAY, 1927, MADE BY THE MINISTER OF HEALTH.

71,794.

The Minister of Health, in pursuance of his powers under s. 7 of the Housing, Town Planning, etc., Act, 1919, and of all powers enabling him in that behalf, and with the approval of the Treasury, hereby makes the following Regulations :—

1. These Regulations may be cited as the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1927.

2.—(1) Article VI. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, as amended by the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1925, shall be further amended by the substitution of the words " 31st day of March, 1928 " for the words " 31st day of March, 1927 " in each of the paragraphs (*a*), (*b*), and (*c*) of that Article.

(2) Article VII. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, as amended by the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1921, shall be further amended by the substitution of the words " 31st day of March, 1928," for the words " 31st day of March, 1927," in subdivision (3) of that Article.

S. R. & O., 1928, No. 1039.

HOUSING.

THE HOUSING ACTS (REVISION OF CONTRIBUTIONS) ORDER, 1928, DATED DECEMBER 19, 1928, MADE BY THE MINISTER OF HEALTH AND THE SCOTTISH BOARD OF HEALTH WITH THE APPROVAL OF THE TREASURY UNDER SECTION 5 OF THE HOUSING (FINANCIAL PROVISIONS) ACT, 1924 (14 & 15 GEO. 5, c. 35) (*a*).

(*a*) This Order is here set out as amended by the Housing (Revision of Contributions) Act, 1929, *ante*, p. 2067. Arts. 4, 5 and 6 in their original form will be found set out in Part II. of the Schedule to the Act, at p. 2068, *ante*.

Whereas it is provided by section 5 of the Housing (Financial Provisions) Act, 1924 (hereinafter referred to as " the Act of 1924 "), that in the year 1926, and in each second succeeding year, after the first day of October in that year, the Minister of Health (hereinafter referred to as " the Minister ") and the Scottish Board of Health (hereinafter referred to as " the Board ") shall take into consideration the expenses which are likely to be incurred in the period of two years from that date in connection with the provision of houses in respect of which contributions would be payable by the Minister or Board, due regard being had to the expenses actually incurred during the period of two years ending on that date for the like purposes, and after consultation with such bodies as are therein mentioned, may, if they think it expedient so to do, jointly make an order altering the amount of the contributions payable or the period for which such contributions are to be payable, so far as respects houses which have not been completed before the date specified in the Order, but so, nevertheless, that the amounts and periods fixed by the Order shall be such as may be approved by the Treasury and shall not exceed the respective amounts and periods specified in the said section unless Parliament otherwise determines ;

And whereas it is further provided that an Order made under that section shall make such consequential alterations of any sums or periods mentioned in the financial provisions of the Housing, etc., Act, 1923 (hereinafter referred to as "the Act of 1923"), or in the Act of 1924, including the sum of four pounds ten shillings mentioned in sub-section (1) of section 3 of the Act of 1924 as appear to the Minister and Board to be necessary for the purpose of adjusting the same to any alteration made by the Order in the amount or duration of the contributions ;

And whereas by the Housing Acts (Revision of Contributions) Order, 1926 (hereinafter referred to as "the Order of 1926"), made by the Minister of Health and the Scottish Board of Health with the approval of the Treasury under section 5 of the Act of 1924, which Order did not apply to Scotland, it was provided, so far as respects houses which had not been completed before the 1st day of October, 1927, that the contributions provided by the Minister of Health under sections 1 and 3 of the Act of 1923, as amended by section 1 of the Act of 1924, or under section 2 of the Act of 1924 in the case of houses which are subject to special conditions, should in lieu of the contributions specified in the Act of 1923 and the Act of 1924 be the contributions specified in the Order of 1926 ; and by the Order of 1926 consequential alterations were made of the sums mentioned in the financial provisions of the Act of 1923 and the Act of 1924 for the purpose of adjusting the same to the alterations made by the Order of 1926 in the amount of the contributions ;

And whereas the Minister and the Board having subsequently to the 1st day of October, 1928, taken into consideration the matters referred to in section 5 of the Act of 1924, and having consulted with such bodies as aforesaid, think it expedient to make the following Order :

The Minister and the Board, with the approval of the Treasury under the powers conferred on them by section 5 of the Act of 1924, and of all other powers enabling them in that behalf, hereby make the following Order :—

1. This Order may be cited as the Housing Acts (Revision of Contributions) Order, 1928.

2. The Order of 1926 is hereby revoked so far as respects houses in England and Wales which have not been completed before the 1st day of October, 1929.

3.—(1) So far as respects houses in England and Wales which have not been completed before the 1st day of October, 1929, no contribution shall be made by the Minister under sections 1 and 3 of the Act of 1923, as amended by section 1 of the Act of 1924.

(2) So far as respects houses in Scotland which have not been completed before the said 1st day of October, 1929, the contribution provided by the Board under sections 1 and 3 of the Act of 1923 as amended by section 1 of the Act of 1924 shall instead of being a contribution of £6 payable annually for a period of 20 years be a contribution of £4 payable annually for a period of 20 years and the Acts of 1923 and 1924 shall have effect accordingly.

4. So far as respects houses in England and Wales which have not been completed before the first day of October, nineteen hundred and twenty-nine, the contributions provided by the Minister under section two of the Act of 1924 in the case of houses which are subject to special conditions shall be the same as in the case of houses completed between the thirtieth day of September, nineteen hundred and twenty-seven, and the first day of October, nineteen hundred and twenty-nine, that is to say, a contribution of seven pounds ten shillings, or, if the house is situated in an agricultural parish, eleven pounds, payable annually for a period of forty years.

5. In regard to houses in respect of which the contribution fixed by the last preceding Article is payable :—

(*a*) For the purpose of determining whether proposals submitted to the Minister involve a reduction in the estimated annual expenses to be incurred so as to

Appendix II.

entitle the Minister to reduce the contribution, there shall be substituted for the sum of four pounds ten shillings mentioned in the second proviso to subsection (1) of section two of the Act of 1924 the sum of three pounds fifteen shillings.

(*b*) For the purpose of the determination of the rents of houses in respect of which the contribution is payable, there shall be substituted for the sum of four pounds ten shillings mentioned in subsection (1) of section three of the Act of 1924 the sum of three pounds fifteen shillings.

(*c*) In the application of the special conditions to which the houses are to be subject, there shall be substituted for the sum of three pounds mentioned in paragraph (*c*) of subsection (1) and paragraph (*c*) of subsection (2) of section three of the Act of 1924 the sum of three pounds ten shillings, and for the sum of six pounds ten shillings mentioned in the last-mentioned paragraphs the sum of seven pounds.

6.—(1) So far as relates to houses in respect of which the contribution fixed by Article 4 of this Order is payable, there shall be substituted as the sum by which the London County Council may supplement the contribution made by the Minister in subsection (5) of section two of the Act of 1924, for the words "not exceeding two pounds five shillings" the words "not exceeding one pound seventeen shillings and sixpence."

Given under the official seal of the Minister of Health this nineteenth day of December, in the year one thousand nine hundred and twenty-eight.

(L.S.)

E. TUDOR OWEN,
Assistant Secretary, Ministry of Health.

Given under the official seal of the Scottish Board of Health this nineteenth day of December, in the year one thousand nine hundred and twenty-eight.

(L.S.)

JOHN JEFFERY,
Secretary, Scottish Board of Health.

We approve this Order.

DAVID MARGESSON,
CURZON,
Two of the Lords Commissioners of His Majesty's Treasury.

S. R. & O., 1928, No. 440.

HOUSING, ENGLAND.

THE LOCAL AUTHORITIES (ASSISTED HOUSING SCHEMES) AMENDMENT REGULATIONS, 1928, DATED MAY 8, 1928, MADE BY THE MINISTER OF HEALTH.

The Minister of Health, in pursuance of his powers under section 7 of the Housing, Town Planning, etc., Act, 1919, and of all powers enabling him in that behalf, and with the approval of the Treasury, hereby makes the following Regulations:—

1. These Regulations may be cited as the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1928.

2.—(1) Article VI. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, as amended by the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1925, and the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1927, shall be further amended by the substitution of the words "31st day of March, 1929" for the words "31st day of March, 1928," in each of the paragraphs (*a*), (*b*) and (*c*) of that Article.

(2) Article VII. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, as amended by the Local Authorities (Assisted Housing Schemes) Amendment

Regulations, 1921, and the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1927, shall be further amended by the substitution of the words "31st day of March, 1929" for the words "31st day of March, 1928" in sub-division (3) of that Article.

Given under the official seal of the Minister of Health this eighth day of May, in the year one thousand nine hundred and twenty-eight.

(L.S.)

E. H. RHODES,
Assistant Secretary, Ministry of Health.

We approve of these Regulations.

GEORGE BOWYER,
F. GEORGE PENNY,
Two of the Lords Commissioners of His Majesty's Treasury.

S. R. & O., 1929, No. 322.

HOUSING, ENGLAND.

THE LOCAL AUTHORITIES (ASSISTED HOUSING SCHEMES) AMENDMENT REGULATIONS, 1929, DATED APRIL 22, 1929, MADE BY THE MINISTER OF HEALTH.

The Minister of Health, in pursuance of his powers under section 7 of the Housing, Town Planning, &c. Act, 1919, and of all powers enabling him in that behalf, and with the approval of the Treasury, hereby makes the following regulations:—

1. These regulations may be cited as the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1929.

2.—(1) Article VI. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, as amended by the Local Authorities (Assisted Housing Schemes) Amendment Regulation, 1925, the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1927, and the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1928, shall be further amended by the substitution of the words "31st day of March, 1930" for the words "31st day of March, 1929," in each of the paragraphs (*a*), (*b*) and (*c*) of that Article.

(2) Article VII. of the Local Authorities (Assisted Housing Schemes) Regulations, 1919, as amended by the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1921, the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1927, and the Local Authorities (Assisted Housing Schemes) Amendment Regulations, 1928, shall be further amended by the substitution of the words "31st day of March, 1930" for the words "31st day of March, 1929" in sub-division (3) of that Article.

LAND: ACQUISITION, ETC. OF.

See also "HOUSING," *ante*, p. 3422, "PROVISIONAL ORDERS," *post*, p. 3643.

S. R. & O., 1919, No. $\frac{1836}{\text{L. 30}}$.

THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) RULES, 1919, DATED DECEMBER 2ND, 1919, MADE BY THE REFERENCE COMMITTEE FOR ENGLAND AND WALES UNDER THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.

In pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919, the reference committee for England and Wales constituted under that Act hereby make the following rules:—

1. These rules may be cited as the Acquisition of Land (Assessment of Compensation) Rules, 1919.

2.—(1) In these rules, unless the context otherwise requires:

The expression "the Act" means the Acquisition of Land (Assessment of Compensation) Act, 1919:

The expression "arbitrator" means an official arbitrator:

The expression "question" means any question of disputed compensation, or any question of the appointment of a rent, which is to be referred to and determined by arbitration in manner provided by the Act.

(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of these rules as it applies for the purpose of the interpretation of an Act of Parliament.

3.—(1) Where any question has arisen either the acquiring authority or the claimant may at any time after the expiration of fourteen days from the date on which the notice to treat was served send to the reference committee an application for the selection of an arbitrator.

(2) The acquiring authority or the claimant, as the case may be, shall, immediately after sending the application to the reference committee, send notice of the fact to the claimant or the acquiring authority, as the case may be, together with a copy of the application.

(3) An application for the selection of an arbitrator shall be in the form set out in the schedule to the rules or in a form to the like effect.

4.—(1) The reference committee, on receiving a valid application for the selection of an arbitrator, shall, as soon as may be, proceed to select from the panel an arbitrator to deal with the case.

(2) The reference committee shall, as soon as they have selected the arbitrator, inform the acquiring authority and the claimant of the name and address of the person so selected.

5.—(1) The arbitrator selected shall, as soon as may be, proceed with the determination of the question in dispute, and shall arrange with the acquiring authority and the claimant the time and place of the hearing.

(2) The reference committee shall send to the arbitrator selected a copy of the application for the appointment of an arbitrator, and the acquiring authority and the claimant shall furnish to the arbitrator on his request any document or other information which it is in their or his power to furnish and which the arbitrator may require for the purpose of considering and determining the case.

(3) Subject to the provisions of the Act and of these rules the proceedings before an arbitrator shall be such as the arbitrator, subject to any special directions of the reference committee, may in his discretion think fit.

6. The reference committee may, in the case of the death or the incapacity of the arbitrator originally selected, or if it is shown to the committee that it is expedient so to do, in any other case, at any time before the arbitrator has made his award, revoke the reference of the question to the selected arbitrator and select another arbitrator for the purpose of determining the question (*a*).

7.—(1) Where notices to treat have been served for the acquisition of the several interests in the land to be acquired and questions as to the amount of compensation have arisen in the case of any two or more of those interests the acquiring authority may, subject as hereinafter provided, either on making the application for the selection of an arbitrator to hear the claims or at any time thereafter make an application to the reference committee to have the same person selected as the arbitrator to hear and determine all the claims to which the application relates:

Provided that no such application shall be made as respects a claim if an arbitrator has already entered on the consideration of the claim.

(2) On receiving an application under this rule the reference committee shall select the same person to act as arbitrator in respect of all the claims to which the application relates, and so far as necessary for that purpose may revoke any selection previously made.

(3) An application under this rule shall be in the form set out in the schedule to these rules or in a form to the like effect.

(4) Where the same person has been selected under this rule to act as arbitrator in respect of two or more claims the acquiring authority may at any time after he

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(*a*) See *Gross, Sherwood & Heald* v. *Essex C. C.*, *ante*, p. 1272.

has been so selected apply to him for an order that all the claims shall be heard together.

(5) Notice of intention to apply to the arbitrator for such an order as aforesaid shall be sent to each claimant and the notice shall specify the date on which and the place at which the arbitrator will hear any objection which may be made to the application.

(6) If any claimant objects to have his claim heard together with the other claims he shall within seven days after the receipt of the notice aforesaid send notice of his objection to the acquiring authority and the arbitrator.

(7) Where the acquiring authority apply for an order under this rule the arbitrator after taking into consideration any objections made to the application shall make such order in the matter as he thinks proper having regard to all the circumstances of the case.

(8) On an application for an order under this rule an order for consolidation may be made if the arbitrator thinks fit with respect to some only of the claims, and the order may in any case be made subject to such special directions as to costs, witnesses, method of procedure, and otherwise as the arbitrator thinks proper.

8.—(1) If the fees prescribed by the Treasury in pursuance of the powers conferred on them by sub-section (6) of section three of the Act include a fee in respect of an application under these rules or a fee in respect of the hearing before an official arbitrator, the prescribed fee shall be collected by means of adhesive stamps affixed to or stamps impressed on the application and the award of the arbitrator respectively.

(2) Any application under these rules which is not properly stamped in accordance with the foregoing provision shall be treated as invalid, and the award of an official arbitrator shall not be delivered out by him unless and until it has been properly stamped in accordance with the said provision.

9. Any notice or other document required or authorised to be sent to any person for the purpose of these rules shall be deemed to be duly sent by post addressed to that person at his ordinary address, and the address of the reference committee shall for this purpose be—J. Johnston, Esq., Secretary to the Reference Committee, Room 174, Royal Courts of Justice, Strand, London, W.C.2.

10. Save as herein otherwise expressly provided, any failure on the part of any authority or any person to comply with the provisions of these rules shall not render the proceedings, or anything done in pursuance thereof, invalid, unless the arbitrator so directs.

SCHEDULE.

* * * * * *

S. R. & O., 1920, No. 285.

THE AQUISITION OF LAND (ASSESSMENT OF COMPENSATION) FEES RULES, 1920, DATED FEBRUARY 24TH, 1920, MADE BY THE TREASURY UNDER SECTION 3 (6) OF THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.

In pursuance of sub-section (6) of section 3 of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Lords Commissioners of His Majesty's Treasury hereby make the following rules:—

1.—(1) These rules may be cited as the Acquisition of Land (Assessment of Compensation) Fees Rules, 1920.

(2) In these rules the expression "the Act" means the Acquisition of Land (Assessment of Compensation) Act, 1919.

2. On every application for the selection of an arbitrator made in accordance with the rules made under the Act by the reference committee there shall be paid the fee of £1.

3.—(1) On an award by an official arbitrator under the Act there shall be paid a fee calculated by reference to the amount awarded to the claimant in accordance with the following scale:—

Scale of Fees on Awards.

Amount Awarded.	Amount of Fee.
Not exceeding £200	£5 5*s.*
Exceeding £200 but not exceeding £500	£5 5*s.* with an addition of £1 1*s.* in respect of every £50 or part of £50 by which the amount awarded exceeds £200.
„ £500 „ „ £1,000	£11 11*s.* with an addition of £1 1*s.* in respect of every £100 or part of £100 by which the amount awarded exceeds £500.
„ £1,000	£16 16*s.* with an addition of £1 1*s.* in respect of every £200 or part of £200 by which the amount awarded exceeds £1,000, but not exceeding in any case £105.

(2) In addition to the fee payable under the scale aforesaid, there shall, where the hearing before the arbitrator in respect of any claim or matter referred to him occupies more than one day, be paid for each day or part of a day after the first day a further fee on the following scale:—

Amount Awarded.	Amount of Fee. £	*s.*	*d.*
Not exceeding £500	5	5	0
Exceeding £500 and not exceeding £5,000	10	10	0
„ £5,000 „ „ £20,000	21	0	0
„ £20,000	42	0	0

For the purpose of the foregoing provision:—

Any time spent by the arbitrator in viewing any land which is the subject matter of the proceedings before him shall be treated as part of the hearing:

A day shall be taken to be a working period of five hours.

NOTE.—The fees prescribed in the above scales are in addition to the stamp duty charged on awards by the Stamp Act, 1891.

S. R. & O., 1920, No. 690.

THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) FEES (No. 2) RULES, 1920, DATED APRIL 5TH, 1920, MADE BY THE TREASURY UNDER SECTION 3 (6) OF THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.

In pursuance of sub-section (6) of section 3 of the Acquisition of Land (Assessment of Compensation) Act, 1919, the Lords Commissioners of His Majesty's Treasury hereby make the following rule:—

1.—(i) These rules may be cited as the Acquisition of Land (Assessment of Compensation) Fees (No. 2) Rules, 1920.

(ii) In these rules, the expression "original rules" means the Acquisition of Land (Assessment of Compensation) Fees Rules, 1920.

(iii) In these rules, the expression "the Act" means the Acquisition of Land (Assessment of Compensation) Act, 1919.

2. Where the award of an official arbitrator under the Act is an award in terms of rent or other annual payment, the following scales of fees marked A and B shall be substituted for the scales set forth in Rule 3 (1) and Rule 3 (2) respectively of the original rules:—

A.

Amount Awarded.	Amount of Fee.
Not exceeding £10 per annum . . .	£5 5*s.*
Exceeding £10 per annum, but not exceeding £25 per annum	£5 5*s.*, with an addition of £1 1*s.* in respect of every £2 10*s.* or part of £2 10*s.* by which the rent, etc., awarded exceeds £10 per annum.
Exceeding £25 per annum, but not exceeding £50 per annum.	£11 11*s.*, with an addition of £1 1*s.* in respect of every £5 or part of £5 by which the rent, etc., awarded exceeds £25 per annum.
Exceeding £50 per annum	£16 16*s.*, with an addition of £1 1*s.* in respect of every £10 or part of £10 by which the rent, etc., awarded exceeds £50, but not exceeding in any case £105.

B.

Amount Awarded.	Amount of Fee.
Not exceeding £25 per annum . . .	£5 5*s.*
Exceeding £25 per annum and not exceeding £250 per annum.	£10 10*s.*
Exceeding £250 per annum and not exceeding £1,000 per annum.	£21.
Exceeding £1,000 per annum . . .	£42.

S. R. & O., 1925, No. 628.

THE MINISTRY OF TRANSPORT (UNEMPLOYMENT RELIEF WORK PROCEDURE) ORDER, 1925, DATED 1ST JULY, 1925 (UNDER THE UNEMPLOYMENT (RELIEF WORKS) ACT, 1920).

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1. A Compulsory Order shall be in the form set forth in the First Schedule hereto, or in a form to the like effect.

2.—(1) Before they submit a Compulsory Order to the Minister for confirmation the local authority shall cause the same to be published by advertisement in one or more of the local newspapers circulating in the district of the local authority and in the parish or parishes in which the land to which the Compulsory Order relates is situated.

(2) The advertisement shall contain in addition to a copy of the Compulsory Order a notice setting out the following particulars:—

(*a*) a statement that any objection to the Compulsory Order must be presented to the Minister within the period of fourteen days after the date of the publication of the advertisement; and

(*b*) a statement of the period, times, and place or places during and at which the plan referred to in the Schedule to the Compulsory Order may be inspected by or on behalf of any person interested in the land to which the Compulsory Order relates.

(3) The plan referred to in the Schedule to the Compulsory Order shall be deposited by the local authority on or before the date of the advertisement at a place convenient for the purposes of inspection by persons interested in the land shown thereon, and shall be kept deposited thereat for a period not being less than fourteen days from the date of the publication of the advertisement; and the said plan shall be open for inspection by any person interested or affected, without payment of any fee at all reasonable hours on any week-day during the said period. The local authority shall also make suitable provision for affording to any such person inspecting the said plan any necessary explanation or information in regard thereto.

3.—(1) The local authority shall, not later than the seventh day after the making of the Compulsory Order, cause notice thereof to be served in manner hereinafter prescribed upon every owner, lessee, and occupier of the land to which the Compulsory Order relates, and every such notice shall include a printed copy of the Compulsory Order to which shall be appended a notice containing the particulars mentioned in Article 2 (2) of this Order.

(2) The local authority shall furnish a printed copy of the Compulsory Order, free of charge, to any person interested in the land to which the Compulsory Order relates upon his applying for the same.

4. The period within which an objection to a Compulsory Order may be presented to the Minister by a person interested in the land to which the Compulsory Order relates shall be the period of fourteen days from and after the date of the publication of the advertisement of the Compulsory Order.

5.—(1) The local authority shall as soon as practicable after the confirmation of a Compulsory Order cause a printed copy of the Compulsory Order as confirmed to be served on every owner, lessee and occupier of the land to which the Compulsory Order relates.

(2) A printed copy of a Compulsory Order as confirmed shall be furnished free of charge by the local authority to any person interested in the land authorised to be purchased upon his applying for the same, and a copy of any plan to which reference is made in the Compulsory Order as confirmed shall also be furnished by the local authority to any such person in so far as such plan relates to his land upon his applying for such copy and paying the reasonable cost of preparing the same.

6. Every notice or other document which in pursuance of Article 3 (1) or 5 of this Order is required to be given or served by the local authority to or on an owner, lessee, or occupier shall be served.

(*a*) by delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent; or

(*b*) by leaving the same at the usual or last known place of abode of such person as aforesaid; or

(*c*) by post as a registered letter addressed to the usual or last known place of abode of such person; or

(*d*) in the case of a notice required to be served on a local authority or corporate body or company, by delivering the same to their clerk or secretary or leaving the same at his office with some person employed there, or by post as a registered letter addressed to such clerk or secretary at his office.

Provided that in the case of any such owner, lessee, or occupier who cannot be found, a notice sent by registered post to his last known place of abode shall be sufficient service of notice.

Provided also that if the owner, lessee, or occupier of any such land cannot be ascertained, a notice exhibited in some conspicuous position or positions on the land shall be sufficient service of notice upon such owner, lessee, or occupier.

7. For the purpose of the application of this Order to Scotland a reference to the Second Schedule to this Order shall be substituted for the reference to the First Schedule in Article 1 of this Order.

8. The Ministry of Transport (Unemployment Relief Works Procedure) Order, 1920, is hereby revoked.

9. This Order may be cited as the Ministry of Transport (Unemployment Relief Works Procedure) Order, 1925, and shall come into operation on the first day of July, nineteen hundred and twenty-five.

SCHEDULES.

FIRST SCHEDULE.

FORM OF COMPULSORY PURCHASE ORDER, UNEMPLOYMENT (RELIEF WORKS) ACT, 1920.

The
hereby make the following Order:—

1. For the purposes of the Unemployment (Relief Works) Act, 1920, which, as extended by the Expiring Laws Continuance Act, [1924], is hereinafter referred to as "the Act of 1920," the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement are, subject to the terms of the Act of 1920, and of the enactments applied thereby, and of this Order, hereby put in force as respects the purchase by the of the lands described in the Schedule hereto.

2. Subject to the necessary adaptations, and to the provisions of section 106 of the Housing Act, 1925, which relate to entry on land acquired for the purposes of Part III. of that Act, and to the provisions of the Third Schedule to that Act, and of section 1 of the Act of 1920, the following enactments, namely:—

(*a*) The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act, 1845), as modified by the Acquisition of Land (Assessment of Compensation) Act, 1919, and

(*b*) Sections 77 to 85 of the Railways Clauses Consolidation Act, 1845,

are hereby incorporated with and shall apply for the purposes of this Order.

3. The sums agreed upon or awarded for the purchase of the lands described in the Schedule to this Order being glebe lands or other land belonging to an ecclesiastical benefice or the sums to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

4. This Order shall come into operation on the date of its confirmation by the Minister of Transport.

5. This Order may be cited as the Order, 19 .

The Schedule above referred to.

Numbers on Plan deposited at the Offices of the	Quantity, Description and Situation of the Lands.	Owners or Reputed Owners.	Lessees or Reputed Lessees.	Occupiers.

Given under the Seal of the this day of , 19 .

SECOND SCHEDULE.

(SCOTLAND.)

* * * * * *

S. R. & O., 1925, No. 1236.

THE BOARD OF EDUCATION (COMPULSORY PURCHASE) REGULATIONS, 1925, DATED 7TH DECEMBER, 1925, MADE BY THE BOARD OF EDUCATION UNDER SECTION 111 OF THE EDUCATION ACT, 1921, AND SECTION 6 OF THE PUBLIC LIBRARIES ACT, 1919.

The Board of Education hereby make the following Regulations:—

ARTICLE 1.—These Regulations may be cited as the Board of Education (Compulsory Purchase) Regulations, 1925.

ARTICLE 2.—The Education (Compulsory Purchase) Regulations, 1919, made by the Board of Education on the 18th November, 1919, are hereby revoked.

ARTICLE 3.—An Order made by a local education authority under section 111 of the Education Act, 1921 (hereinafter referred to as "the Compulsory Order") shall be in the form set forth in the Schedule hereto, or in a form to the like effect.

ARTICLE 4.—(1) Before submitting the Compulsory Order to the Board for confirmation, the local education authority shall cause the same to be published by advertisement in two successive weeks in one or more of the local newspapers circulating in the area of the local education authority and in the parish or parishes in which the land to which the Compulsory Order relates is situated.

(2) The advertisements shall be headed respectively "First Advertisement" and "Second and Last Advertisement," and the first of the said advertisements shall be published not later than one calendar month after the making of the Compulsory Order.

(3) Each of the said advertisements shall contain in addition to a copy of the Compulsory Order a notice setting out the following particulars:—

(*a*) a statement that any objection to the Compulsory Order must be presented to the Board of Education within the period of one calendar month from and after the date of the publication of the second and last advertisement; and

(*b*) a statement of the period, times, and place or places during and at which the deposited plan referred to in the Schedule to the Compulsory Order may be inspected by or on behalf of any person interested in the land to which the Compulsory Order relates.

(4) The plan referred to in the Schedule to the Compulsory Order shall be deposited by the local education authority not later than the date of publication of the first advertisement at a place convenient for the purposes of inspection, and shall be kept deposited thereat till the expiration of a period not being less than one calendar month from the date of the publication of the second and last advertisement; and the said plan shall be open for inspection by any person interested or affected, without payment of any fee, at all reasonable hours on any week-day during the said period. The local education authority shall also make suitable provision for affording to any such person inspecting the said plan any necessary explanation or information in regard thereto.

ARTICLE 5.—(1) The local education authority shall, not later than the date of publication of the first advertisement, cause notice of the Compulsory Order to be given to every owner, lessee, and occupier of the land to which the Compulsory Order relates, and every such notice shall include a copy of the Compulsory Order, to which shall be appended a notice containing the particulars mentioned in paragraph (3) of Article 4 of these Regulations.

(2) The local education authority shall furnish a copy of the Compulsory Order, free of charge, to any person interested in the land to which the Compulsory Order relates, upon his applying for the same.

ARTICLE 6.—The period within which an objection to a Compulsory Order may be presented to the Board of Education by a person interested in the land to which

Appendix II.

the Compulsory Order relates shall be the period of one calendar month from and after the date of the publication of the second and last advertisement of the Compulsory Order.

ARTICLE 7.—(1) The local education authority shall as soon as practicable after the confirmation of the Compulsory Order cause a copy of the Compulsory Order as confirmed to be served on every owner, lessee, and occupier of the land to which the Compulsory Order relates.

(2) A copy of the Compulsory Order as confirmed shall be furnished free of charge by the local education authority to any person interested in the land authorised to be purchased upon his applying for the same, and a copy of any plan to which reference is made in the Compulsory Order as confirmed shall also be furnished by the local education authority to any such person upon his applying for such copy and paying the reasonable cost of preparing the same.

ARTICLE 8.—Every notice or other document which in pursuance of paragraph (1) of Article 5 or of paragraph (1) of Article 7 of these Regulations is required to be given or served by the local education authority to or on an owner, lessee, or occupier, shall be served—

(*a*) by delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent; or

(*b*) by leaving the same at the usual or last known place of abode of such person as aforesaid; or

(*c*) by post as a registered letter addressed to the usual or last known place of abode of such person; or

(*d*) in the case of a notice required to be served on a local authority or corporate body or company, by delivering the same to their clerk or secretary or leaving the same at his office with some person employed there, or by post as a registered letter addressed to such clerk or secretary, at his office.

ARTICLE 9.—These Regulations shall apply with respect to any Order made by a Library Authority (being the council of a county or county borough) under section 6 of the Public Libraries Act, 1919, and for that purpose references in the foregoing Articles and in the Schedule hereto to the local education authority, the Education Act, 1921, and section 111 of that Act shall be read respectively as references to the Library Authority, the Public Libraries Acts, 1892 to 1919, and section 6 of the Public Libraries Act, 1919.

SCHEDULE.

The local education authority hereby make the following order:—

1. The local education authority, for the purpose of their powers and duties under the Education Act, 1921, and subject to the provisions of that Act, hereby put in force, as respects the land described in the Schedule hereto, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

2. For the purposes of section 111 of the Education Act, 1921, this Order shall have effect as if there were incorporated therewith, subject to the necessary adaptations, the Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act, 1845) and sections 77 to 85 of the Railways Clauses Consolidation Act, 1845, but subject to this modification, that any question of disputed compensation shall be determined in the manner provided by the Acquisition of Land (Assessment of Compensation) Act, 1919.

3. * If any of the land described in the Schedule to this Order is glebe land or other land belonging to an ecclesiastical benefice, any sums agreed upon or awarded for the purchase of any such land, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

4. This Order may be cited as the † Order, 19 .

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* Insert this Article where the lands described in the Schedule to the Order include glebe land or other land belonging to an ecclesiastical benefice

† Here insert a suitable short title.

Appendix II.

The SCHEDULE above referred to.

Numbers on Plan deposited at the Offices of the	Quantity, Description and Situation of the Lands.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.

LAND CHARGES.

S. R. & O., 1927, No. 869/L. 33.

THE LOCAL LAND CHARGES RULES, 1927, DATED 22ND SEPTEMBER, 1927.

I, George Viscount Cave, Lord High Chancellor of Great Britain, by virtue and in pursuance of the Land Charges Act, 1925, and all other powers enabling me in this behalf, do hereby make the following Rules for giving effect to Part VI. of the said Act, as amended by the Law of Property (Amendment) Act, 1926.

1. The Local Land Charges Rules, 1925, are hereby revoked as from the date on which these Rules come into operation, without prejudice, however, to any right, obligation, or liability acquired, accrued, or incurred under those Rules.

2.—(1) For the purpose of registering a local land charge the proper officer to act as a local registrar shall be the clerk, or the person for the time being authorised to act as clerk, to the local authority in whose favour the charge is created or by which it is enforceable: Provided that in the case of the following charges, the proper officer shall be the clerk, or the person for the time being authorised to act as clerk, to the borough or district council in whose borough or district the land affected by the charge is situated:—

(i) local land charges, by whatever local authority imposed, being town planning schemes, or authorities or resolutions to prepare or adopt town planning schemes, or charges acquired under or enforceable by virtue of town planning schemes, authorities, or resolutions (hereinafter referred to as "town planning charges"), except a town planning charge arising or created within the administrative county of London;

(ii) local land charges, other than town planning charges, imposed by the council of a county, borough (including a metropolitan borough and the City of London), or urban or rural district affecting land outside the county, borough, or district, as the case may be; and

(iii) local land charges, other than town planning charges, imposed by any registering authority, other than the council of a county, borough (including a metropolitan borough and the City of London) or urban or rural district.

(2) For the purposes of this Rule, a reference to a local land charge shall include a priority notice in respect of that charge.

3. The register of local land charges shall have an index, which shall be in the form of a map, unless the Minister approves some other form, for enabling a person to trace any entry in the register, and shall be divided into the following parts:—

(*a*) Part I., being a part relating to general charges arising under sub-section (4) of section 15 of the Land Charges Act;

(*b*) Part II., being a part relating to specific charges, other than prohibitions of or restrictions on the user or mode of user of land or buildings ;

(*c*) Part III., being a part relating to prohibitions of or restrictions on the user or mode of user of land or buildings which are town planning charges ;

(*d*) Part IV., being a part relating to prohibitions of or restrictions on the user or mode of user of land or buildings which are not town planning charges.

4. Every entry in Part I. of the register shall contain :—

(1) A reference to the statute and, where in the opinion of the local registrar expedient, to the section, order, scheme, instrument, or resolution, under which the charge is proposed to be acquired ;

(2) A sufficient description, by reference to a plan or otherwise, of the land which will be affected by such charge ;

(3) The date of registration of the general charge.

5. Every entry in Part II. of the register shall contain :—

(1) A reference to the statute and, where in the opinion of the local registrar expedient, to the section, order, scheme, instrument, or resolution under which the charge is acquired ;

(2) A sufficient description, by reference to a plan or otherwise, of the land which is affected by the charge ;

(3) The date of the charge ;

(4) The date of registration of the charge ;

(5) The amount of the charge or, where interest is payable, the amount of the original charge and the rate of interest thereon.

6. Where a resolution to prepare or adopt a town planning scheme has been passed by a local authority and, where necessary, approved by the Minister, in pursuance of section 2 of the Town Planning Act, or where authority to prepare or adopt a town planning scheme has been given by the Minister or Local Government Board under that Act or any Act repealed thereby, but the scheme is not in operation, every entry in Part III. of the register shall contain :—

(1) A certified copy of the resolution to prepare or adopt the scheme and of the Minister's approval or authority, if any, or of the authority of the Minister or Local Government Board to prepare or adopt the scheme ;

(2) A copy of any special or general order for the time being affecting land included in the resolution or authority which may have been made by the Minister under section 4 of the Town Planning Act ;

(3) Notice of the place at which any map, or any statement or draft of any proposed provisions of the scheme referred to in the resolution, approval, authority, or order (or a certified copy of such portion of the same as relates to the district of the authority in whose register the entry is made) may be inspected.

(4) The date of registration of the charge.

7. Where a town planning scheme is in operation, every entry in Part III. of the register shall contain :—

(1) A certified copy of the scheme ;

(2) Notice of the place at which any map, referred to in the scheme, or a certified copy of such portion of the map as relates to the district of the authority in whose register the entry is made, and any orders, consents, approvals or agreements made, given, or entered into under or by virtue of the scheme by the responsible authority under the scheme and containing prohibitions of or restrictions on the user or mode of user of land or buildings binding on successive owners of the land or buildings in the said district, may be inspected ;

(3) The date of registration of the charge.

8. Every entry in Part IV. of the register shall contain :—

(1) A reference to the order, scheme, instrument, resolution, covenant, agreement, or other document, including the statute, under or by virtue of which the prohibition or restriction is created and enforceable sufficient to show the effect of the prohibition or restriction ;

(2) Notice of the place at which any document referred to in the preceding paragraph other than a public general statute, may be inspected ;

(3) A sufficient description, by reference to a plan or otherwise, of the land affected by the prohibition or restriction ;

(4) The date of registration of the charge.

9.—(1) Section 4 of the Law of Property (Amendment) Act in its application to local land charges shall be subject to the following adaptations :—

(*a*) In paragraph (1) (*b*) of the said section there shall be substituted for the period of fourteen days after the priority notice has been given the following periods, namely :—

(i) in the case of town planning charges which arise on the approval or authority of the Minister being given, the period of fourteen days after the approval or authority of the Minister has been given; and

(ii) in the case of a claim for increase in value made under sub-section (3) of s. 10 of the Town Planning Act the period of fourteen days after the date of any agreement or award by virtue of which a sum becomes due to the local authority in respect of such increase.

(*b*) A priority notice of a local land charge shall contain the following particulars :—

(i) a statement of the nature of the contemplated charge ;

(ii) a description, by reference to a plan or otherwise, sufficient to enable the land to which it relates to be identified ;

(*c*) Where the contemplated local land charge is required to be entered in the register of the local authority in whose favour it is created or by which it is enforceable the entry in the register of the particulars set out in the preceding paragraph shall for the purpose of the said section and of any rules made thereunder be deemed to be the giving of a priority notice.

(*d*) The entry in the register of a resolution to prepare or adopt a town planning scheme shall for the purpose of the said section and of any rules made thereunder be deemed to be the giving of a priority notice in respect of that scheme.

(2) The register shall contain a reference to the date of the entry therein of the priority notice.

(3) To obtain the priority conferred by a priority notice, every application in respect of which a priority notice has been given shall bear on the face thereof a statement as follows :—

" Priority Notice in respect hereof on (date)."

(4) The date of registration of the charge to be noted in the register shall be the actual day of registration notwithstanding that the registration is duly pursuant to a priority notice given in respect thereof.

10.—(1) Application for registration and priority notices delivered by post or under cover during the hours in which the office of the local registrar is open for registration shall be treated as having been made or given immediately before the closing of the office for that day.

(2) Applications for registration and priority notices delivered (whether by post or otherwise) between the hours of closing and of the next opening the office for registration shall be treated as having been made or given immediately after such opening.

11.—(1) Where a general charge has been registered, the registration may be cancelled at any time after the charge is ascertained and allotted and shall in any case be cancelled within fifteen months of the date on which such charge is ascertained and allotted.

(2) Where any other local land charge has been discharged or become unenforceable the registration shall thereupon be cancelled.

(3) Where any portion of a local land charge entered in Part II. of the register has been discharged by the payment of an instalment and the balance of the original charge outstanding shall be entered in the register against the charge.

Appendix II.

(4) Where the local authority in whose favour the charge has been created or by which it is enforceable is not the same as the registering authority, the first mentioned authority shall give to the local registrar of the other authority the requisite notice to enable the charge to be cancelled or the entry of a reduction of the charge to be made.

12. Where a charge has been registered in any existing register, or other record of the local authority, containing the particulars required by these Rules and open to inspection, it shall be a sufficient compliance with these Rules if a reference to the register, or other record so kept, sufficient to enable the relevant entry therein to be traced, is recorded against the land affected by the charge in the register kept under these Rules.

13.—(1) The provisions of sub-sections (1), (2), (3), (7), (8), and (9) of section 17 of the Land Charges Act (which relate to official certificates of search and to the effect of such certificates) shall apply to the registrars and registries of local land charges.

(2) Every requisition for search made under those provisions as applied by this Rule shall be in writing signed by the person making the same or by the solicitor acting for the person requiring the search to be made and defining the land in respect of which the search is to be made by means of a plan drawn to scale or in any other manner sufficient to enable the land to be identified.

(3) An official certificate of the result of search shall extend to registrations (including priority notices) effected during the day of the date of the certificate and shall be issued only after the registry is closed for registration on that date.

(4) Requisitions for search and official certificates of search shall be in the form set out in the First Schedule hereto, or in such other form as the Minister may from time to time determine.

(5) A separate requisition for search shall be made in respect of each parcel of land in respect of which search is requested except where a certificate is required in respect of two or more contiguous parcels of land for the purpose of the same transaction.

(6) Any person desiring to make a personal search in the register shall, if so required by the local registrar, furnish his name and address and indicate by reference to a plan or otherwise the land in respect of which he proposes to search.

14.—(1) All forms of requisitions for search and official certificates of search shall be sold under arrangements to be made by H.M. Stationery Office, or otherwise as the Minister may from time to time approve.

(2) No forms other than those so supplied shall be accepted for the purpose.

15. The fees payable for the registration, modification, or cancellation of entries and for searches and official certificates of search shall be those specified in the Order set out in the Second Schedule hereto.

16.—(1) In these Rules " the Minister " means the Minister of Health.

" The Town Planning Act " means the Town Planning Act, 1925 (15 Geo. 5, c. 16).

" The Land Charges Act " means the Land Charges Act, 1925 (15 Geo. 5, c. 22).

" The Law of Property (Amendment) Act " means the Law of Property (Amendment) Act, 1926 (16 & 17 Geo. 5, c. 11).

" Parcel of land " means land or buildings in separate occupation or separately rated at the time of the requisition for search. For the purpose of this definition land or buildings which are not in occupation or rated shall be deemed to be occupied by the person who is the owner thereof within the meaning of the Public Health Act, 1875.

(2) These Rules may be cited as the Local Land Charges Rules, 1927.

(3) These Rules shall come into operation on the 1st day of December, 1927.

Appendix II.

SCHEDULES.

FIRST SCHEDULE.

REQUISITION FOR AN OFFICIAL SEARCH.

Form L.L.C.1. Official Number

Name of Local Authority

A search in *Part* *of* the Register of Local Land Charges of the above-named authority is required for subsisting entries against the land defined in the enclosed plan.
described below.

Description of land sufficient to enable it to be identified.

Signature of Applicant
(or of his Solicitor)

Address.

Date

OFFICIAL CERTIFICATE OF SEARCH.

The search in *Part* *of* the Register of Local Land Charges of the above-named authority against the land specified in the *plan accompanying* the above requisition reveals up to and including the day named hereunder
- no subsisting entries.
- the subsisting entries set out in the Schedule attached hereto.

Signature of Local Registrar

Date

Note.—The duplicate of this form must also be filled up.

Form L.L.C.1 (A).

SCHEDULE TO OFFICIAL CERTIFICATE OF SEARCH.

Official Number

Name of Local Authority

Signature of Local Registrar

PART I.—REGISTER OF GENERAL FINANCIAL CHARGES.

Nature of charge, and reference to statute and (where in the opinion of the local registrar expedient) section, order, scheme, instrument or resolution under which proposed to be acquired.	Where charge registered on behalf of another local authority, name of that authority.	Date of registration.
1.	2.	3.

PART II.—REGISTER OF SPECIFIC FINANCIAL CHARGES AND PRIORITY NOTICES RELATING THERETO.

Nature of charge, and reference to statute, and (where in the opinion of the local registrar expedient) section, order, scheme, instrument or resolution under which acquired, or, in the case of a priority notice, nature of contemplated charge.	Where charge or priority notice registered on behalf of another local authority, name of that authority.	Date of charge.	Date of registration of charge or priority notice.	Amount of charge, or, where interest is payable, the amount of the original charge and the rate of interest thereon.	Date of last payment.	Balance of original charge outstanding at date of last payment.
1.	2.	3.	4.	5.	6	7

Appendix II.

PART III.—REGISTER OF TOWN PLANNING PROHIBITIONS OR RESTRICTIONS.

(*a*) Town Planning Schemes in course of preparation and Priority Notices relating thereto.

Particulars of any entry in the register of any resolution or authority to prepare or adopt a town planning scheme affecting the land in respect of which the search is made, and of approval of the Minister of Health, if any, or in the case of a priority notice, nature of the contemplated charge. 1	Particulars of any entry in the register of any special or general order of the Minister of Health in force under section 4 of the Town Planning Act, 1925, affecting the land in respect of which search is made. 2.	Place at which any map or any statement or draft of any proposed provisions of the scheme referred to in the resolution, approval, authority or order (or a certified copy of such portion of the same as relates to the district of the authority in whose register search is requested) may be inspected. 3.	Date of registration of charge or priority notice. 4.

(*b*) Town Planning Schemes in operation.

Particulars of any entry in the register of any town planning scheme affecting the land in respect of which the search is made. 1.	Place at which any map referred to in the scheme (or a certified copy of the portion of the map relating to the district of the authority in whose register search is requested) and any orders, consents, approvals or agreements made, given, or entered into under or by virtue of the scheme by the responsible authority under the scheme and containing prohibitions or restrictions on the user or mode of user of land or buildings binding on successive owners of land or buildings in the said district, may be inspected. 2.	Date of registration of charge. 3.

PART IV.—REGISTER OR OTHER PROHIBITIONS OR RESTRICTIONS AND PRIORITY NOTICES RELATING THERETO.

Nature of prohibition or restriction and reference to order, scheme, instrument, resolution, covenant, agreement, or other document, including the statute under or by virtue of which the prohibition or restriction is created or enforceable, sufficient to show the effect of the prohibition or restriction, or in the case of a priority notice, nature of the contemplated charge. 1.	Where prohibition or restriction or priority notice registered on behalf of another local authority, name of that authority 2.	Place at which any document referred to in column 1, other than a public general statute, may be inspected. 3	Date of registration of charge or priority notice. 4.

SECOND SCHEDULE.

LAND CHARGES ACT, 1925.

as amended by the Law of Property (Amendment) Act, 1926.

LOCAL LAND CHARGES.

Fee Order.

Fees shall be paid under the Act:—

	s.	*d.*
1. Registration of a local land charge, where application is made by one local authority to the local registrar of another, or where a priority notice relating thereto is given by one local authority to the local registrar of another:—		
(i) in Parts I. and III. of the register, per entry	20	0
(ii) in Parts II. and IV. of the register, per entry	1	6
2. Modification of entry (including any substitution of one order for another or any entry of an additional order or notice in pursuance of paragraphs (2) and (3) of Rule 6, or the entry of a local land charge pursuant to a priority notice) or cancellation of entry, where application is made by one local authority to the local registrar of another . . .	1	6
3. Entry of reduction of a charge, where application is made by one local authority to the local registrar of another	1	0
4. Personal search in the whole or any Part of the register and in addition in respect of each parcel of land above one, where the search extends to several parcels of land	1	0
5. Official Search (including issue of certificate) in any one Part of register .	2	0
in the whole register	5	0
and in addition in respect of each parcel of land above one, where several parcels are included in the same requisition, whether the requisition is for search in the whole or part of the register . .	1	6
6. Office Copy of any entry in the register (not including a copy or extract of any plan or document filed in the registry)	2	6
7. Office Copy of any plan or other document filed in the registry, such reasonable fee as may be fixed by the local registrar according to the time and labour involved		

Unless the context otherwise requires, entry for the purposes of this Order includes all entries made or required to be made in the register in respect of the relevant charge.

"Parcel of land" for the purposes of this Order means parcel of land as defined in Rule 16.

All fees shall be prepaid.

Dated the 22nd day of September, 1927.

Cave, C.

We, the undersigned, two of the Commissioners of His Majesty's Treasury, do hereby concur in Rule 15 of the above Rules and in the Fee Order contained in the Second Schedule thereto.

Curzon.
David Margesson.

LIBRARIES, MUSEUMS, AND GYMNASIUMS.

See also LAND, ACQUISITION, ETC., OF, *ante*, p. 3442.

THE MINISTRY OF HEALTH (PUBLIC LIBRARIES, MUSEUMS AND GYMNASIUMS, TRANSFER OF POWERS) ORDER, 1920.

At the Court at Buckingham Palace, the 17th day of May, 1920.

* * * * * *

On and after the 17th day of May, 1920, the powers and duties of the Minister of Health specified in the schedule hereto shall be transferred to the Board of Education.

On and after the 17th day of May, 1920, the notices required by sub-section (4) of section 3 of the Museums and Gymnasiums Act, 1891, and section 8 of the Public Libraries Act, 1901, shall be given to the Board of Education in addition to the Minister of Health.

SCHEDULE.

Statute conferring power or duty.	Power or duty transferred to the Board of Education.
Public Health Act, 1875, section 184, as applied by section 7 (2) of the Museums and Gymnasiums Act, 1891.	To confirm, allow or disallow byelaws made by an urban authority for regulating the conduct of persons admitted to museums and gymnasiums.
Public Health Act, 1875, section 184, as applied by section 3 (2) of the Public Libraries Act, 1901.	To confirm, allow or disallow byelaws made by a library authority for certain purposes relating to libraries, museums, art schools and galleries.
Museums and Gymnasiums Act, 1891—	
Section 12 (1) .	To consent to the sale by an urban authority of a museum or gymnasium which is unnecessary or too expensive.
Section 12 (2) .	To approve the application of moneys arising from such sale, after repayment of any loan, so far as such moneys are applied for the purpose of a museum or gymnasium or for library or educational purposes, but not otherwise.
Public Libraries Act, 1892—	
Section 12 (3) .	To sanction the sale or exchange of land vested in a library authority and to approve the application of the moneys arising from the sale or received by way of equality of exchange, so far as such moneys are applied for library or educational purposes, but not otherwise.

LOANS.

Regulations made by the Public Works Loan Commissioners under the Public Works Loans Act, 1875.

1. All words used in these regulations shall have the same meaning as is assigned to them by the "Public Works Loans Act, 1875," which Act is hereinafter referred to as "the Act."

2. The Loan Commissioners shall elect a chairman and deputy chairman; and three Commissioners shall form a quorum.

3. If at any meeting the chairman is not present, the deputy chairman shall be the chairman of the meeting, and if neither the chairman nor deputy chairman be present, then the Commissioners present shall choose one of their number to be the chairman of such meeting.

4. Meetings of the Commissioners shall be held as often as the business to be transacted may be found to require, and shall be convened by notice from the secretary.

5. All questions arising at any meeting shall be decided by a majority of votes, and in case of an equality of votes the chairman shall have a second or casting vote.

6. A book, to be called the minute book, shall be kept, in which applications for loans and minutes of the proceedings and resolutions of the Commissioners shall be recorded and such other books shall be kept as the Commissioners may think necessary.

* * * * * *

[Regulations 7 and 8 are respectively repealed by the Regulations dated 16th August, 1907, and 16th September, 1912, *post*, pp. 3453, 3454.

9. Upon delivery to the borrower or his nominee of the certificate referred to in the last preceding regulation, such borrower or nominee shall pay at the office of the Loan Commissioners the amount of the fees referred to in Regulation No. 7 as payable on any loan or instalment of a loan for which such certificate shall have been issued, together with the amount of stamp duty thereon, and the further amount, if any, of disbursements in respect thereof; and the receipt for any such amounts shall be signed by the officer in charge of the accounts, or in his absence by such persons as may be nominated by the secretary.

10. All moneys payable towards the discharge of advances made by the Loan Commissioners and in payment of interest thereon, shall be paid by the borrower or his agent into the Bank of England to the credit of "The Public Works Loans Account," being the account directed by the Treasury under section 43, and such payments shall be made under authority to be obtained at the office of the Loan Commissioners empowering the Bank of England to receive the sum therein mentioned, and the receipt of the Bank of England for such payment shall be obtained at the office of the Loan Commissioners on the succeeding day.

11. Any receipt required to be given by or on behalf of the Loan Commissioners (other than for money paid into the Bank of England under Regulation No. 10, and for sums payable under Regulation No. 9), and any receipt and further discharge, if any, to be given when all money due under a mortgage has been fully paid, shall so be given by the secretary.

12. Any notice required by section 23 of the Act to be published shall be published once n a local paper circulating in the district where the rate is intended to be levied.

13. All documents of the Loan Commissioners not required to be signed by them shall, if purporting to be signed by the secretary, be deemed, until the contrary is proved, to be made or issued by the Loan Commissioners; and all directions given or acts done by the secretary shall be deemed, until the contrary is proved, to be given or done by the Loan Commissioners; and all documents may be proved by the production of a copy or extract purporting to be signed by the secretary to be true.

For the purposes of this regulation no proof shall be required of the handwriting or official position of the person purporting to be the secretary.

14. The Loan Commissioners, regard being had to section 36 of the Act, shall, whenever they advance a loan on the security of a rate, inform the Local Government Board of such advance having been made, and of the purposes thereof.

15. The Loan Commissioners shall cause to be prepared an annual statement to the 31st of March in each year of the amounts issued to them, for the purpose of making advances by way of loan under various Acts, the amounts advanced by them, the amounts paid into the Exchequer in repayment of such advances and for interest thereon, and the balances outstanding, and such statement shall be included in the annual report referred to in section 5, sub-section (3).

16. To enable intending borrowers to make the statement referred to in section 13 of the Act, the Loan Commissioners shall cause a form of statement to be prepared and issued to such intending borrowers on their written notification of intention to borrow, which form, duly filled up, must be returned to the Loan Commissioners on or before the 31st December in each year.

The Loan Commissioners may, provided such notification be received at their office on or before the said 31st December, extend the period for return of such form of statement to any day not later than the 14th January in each year.

17. The assistant secretary of the Loan Commissioners shall, under their directions, be competent to perform any act authorised by the above regulations to be performed by the secretary.

W. W. WILLINK,
Secretary.

Public Works Loans Board,
1st April, 1876.

The Lords Commissioners of her Majesty's Treasury approve these regulations, in conformity with the 41st section of the Act, 38 & 39 Vict. c. 89.

13th April, 1876. R. R. W. LINGEN.

FURTHER REGULATIONS MADE BY THE PUBLIC WORKS LOAN COMMISSIONERS UNDER THE PUBLIC WORKS LOANS ACT, 1875.

* * * * * *

[Regulation No. 1 was repealed by the Regulations dated 16th September, 1912, *post*, p. 3454.]

2. For the purpose of making payments to the Commissioners for the Reduction of the National Debt on account of principal or interest in respect of moneys advanced by them to the Loan Commissioners under the Public Works Loans Act, 1879, the Bank of England shall transfer, in accordance with section 7 of the said Act, from the Public Works Loans Account to the credit of the National Debt Commissioners at the Bank of England such sums as may from time to time be directed by the Loan Commissioners, and every such direction shall be signed by their secretary or assistant secretary.

W. W. WILLINK,
Secretary.

Public Works Loans Board,
18th December, 1879.

The Lords Commissioners of her Majesty's Treasury approve of these regulations in conformity with the 41st section of the Act, 38 & 39 Vict. c. 89.

R. R. W. LINGEN.

Treasury Chambers,
2nd January, 1880.

FURTHER REGULATIONS, DATED SEPTEMBER 16TH, 1912, MADE BY THE PUBLIC WORKS LOAN COMMISSIONERS, FOR CARRYING INTO EFFECT THE PUBLIC WORKS LOANS ACT, 1875.

(1.) In place of the 8th of the regulations made on the 1st April, 1876, and the 1st of the regulations made on the 2nd January, 1880, under the Public Works Loans Act, 1875, the following regulations shall be in force, viz.:—When the Loan Commissioners shall have determined upon any amount of money to be advanced by way of loan pursuant to section 9 of the Public Works Loans Act, 1875, the said Commissioners or any two or more of them, shall forthwith certify such amount to the Commissioners for the Reduction of the National Debt for the time being, and at the foot of every such certificate the secretary shall state the name or names of the person or persons by whom such certificate is to be presented to the said Commissioners for the Reduction of the National Debt, and upon every such certificate being lodged at the office of the last-mentioned Commissioners for such number of days as may from time to time be agreed upon between the same Commissioners and the Loan Commissioners, the Comptroller-General, or other proper officer of the said Commissioners, shall sign an order appended to such certificate for the payment of the sum mentioned therein to the person or persons named at the foot of the certificate, or to one of such persons, which order shall be addressed to the cashiers of the Governor and Company of the Bank of England; and the signatures of such person or persons, jointly or severally, shall be a sufficient discharge to the said Commissioners for the Reduction of the National Debt and to the said Governor and Company respectively, provided the total amount directed to be paid by such certificate or certificates respectively shall not at any time exceed the amount for the time being standing to the credit of the account referred to in section 16 of the Act.

(2.) The above regulation shall come into force on the 16th day of September, 1912, and as from such date the said 8th and 1st regulations shall be rescinded.

R. PHILPOT,
Secretary.

Public Works Loan Board,
16th September, 1912.

The Lords Commissioners of his Majesty's Treasury approve these regulations in conformity with the 41st section of the Act, 38 & 39 Vict. c. 89.

T. L. HEATH,
Assistant Secretary.

Treasury Chambers,
16th September, 1912.

RATES OF INTEREST ON LOANS FROM LOCAL LOANS FUND (FIXED BY THE TREASURY BY NOTICE DATED 14TH OCTOBER, 1929).

1. HOUSING LOANS.

	Rate of interest.
(1) Loans to local authorities secured on local rates for any purposes of the Housing Acts and the Housing (Rural Workers) Act, 1926:—	
Any period	5¼ per cent.
(2) Loans to public utility societies as defined by the Housing Act, 1925, and the Housing (Scotland) Act, 1925:—	
Not exceeding 30 years	5¼ per cent.
,, ,, 50 ,,	5¼ per cent.
(3) To companies and private persons limiting their profits to 6 per cent. per annum (subject to income tax) and to companies complying with the conditions of sub-section 5 (*a*) of section 90 of the Housing Act, 1925, or sub-section 5 (*a*) of section 73 of the Housing (Scotland) Act, 1925:—	
Not exceeding 30 years	5¼ per cent.
,, ,, 40 ,,	5½ per cent.
(4) To companies and private persons not so limiting their profits to 6 per cent. (subject to income tax):—	
Not exceeding 30 years	5¾ per cent.
,, ,, 40 ,,	6 per cent.

	Rate of interest.
(5) To authorised associations as defined by sub-section 5 of section 16 of the Town Planning Act, 1925:—	
Not exceeding 30 years	5¼ per cent.
,, ,, 50 ,,	5½ per cent.

II. OTHER LOANS.

(1) Loans to local authorities for any purposes of the Small Holdings and Allotments, Acts 1908 to 1926, and the Allotments Acts, 1908 to 1925:—	
Any period	5¼ per cent.
(2) Other loans secured on local rates:—	
Not exceeding 30 years	5¼ per cent.
,, ,, 50 ,,	5½ per cent.
(3) Loans not secured on local rates:—	
(*a*) Loans under the Harbour and Passing Tolls Act, 1861:—	
(i) With collateral security:—	
Not exceeding 30 years	5¼ per cent.
,, ,, 50 ,,	5½ per cent.
(ii) Without collateral security:—	
Not exceeding 30 years	5¾ per cent.
,, ,, 50 ,,	6 per cent.
(*b*) Loans to approved societies under the Allotments Act, 1925:—	
Any period	5¼ per cent.
(*c*) Other loans not secured on local rates (except loans to territorial associations, which, under section 6 of the Public Works Loans Act, 1908, bear interest at the rate prescribed for loans on the security of local rates):—	
Not exceeding 30 years	5¾ per cent.
,, ,, 50 ,,	6 per cent.

FURTHER REGULATIONS, DATED 30TH AUGUST, 1926, MADE BY THE PUBLIC WORKS LOAN COMMISSIONERS AND APPROVED BY THE TREASURY PURSUANT TO SECTION 11 OF THE PUBLIC WORKS LOANS ACT, 1875 (38 & 39 VICT. C. 89).

1. The fees or sums to be paid by the applicants pursuant to section 41 of the Public Works Loans Act, 1875, in respect of loans on rates shall not exceed the following sums, viz.:—

For the	1st £1,000:	20*s.*	for every	£100:	of such	loan.
,,	2nd	,,	15*s.*	,,	,,	,,	,,
,,	3rd and 4th	,,	10*s.*	,,	,,	,,	,,
,,	5th to the 25th	,,	5*s.*	,,	,,	,,	,,
,,	26th to the 100th	,,	2*s.* 6*d.*	,,	,,	,,	,,

and for every subsequent £100: 1*s.*

Where a loan is advanced by instalments secured by one deed, there shall be paid in respect of each advance after the first, an additional fee of £1, if the amount of the advance does not exceed £100, and an additional fee of £2, if the amount of the advance exceeds £100.

For the purpose of this Regulation the total amount to be advanced under one security deed shall be considered as a loan; and fractional parts of £100 shall be considered as £100.

In addition to the above fees, the applicants shall pay the stamp duty, Counsel's

Appendix II.

fees and other disbursements incurred by the Loan Commissioners in respect of the several applications.

In respect of all business not being a loan on rates, the fees or sums payable shall be fixed by the Commissioners, regard being had to each particular case.

2. The above Regulation shall come into force for loans granted on or after the 1st day of September, 1926, and as from such date the Regulations made by the Public Works Loan Commissioners on the 16th day of August, 1907, shall be rescinded.

H. G. H. BARNES,
Secretary.

PUBLIC WORKS LOAN BOARD,
30th August, 1926.

The Lords Commissioners of His Majesty's Treasury approve these Regulations in conformity with the 41st section of the Act, 38 & 39 Vict. c. 89.

R. S. MEIKLEJOHN.

TREASURY CHAMBERS,
30th August, 1926.

PAYMENTS TO OFFICERS AND WORKMEN OUT OF LOAN MONEYS.

In sanctioning loans to local authorities the Ministry of Health stipulate as follows :—

"No part of the salary or wages of the council's permanent staff (including employees) ordinarily charged to revenue account should be defrayed out of moneys borrowed under this sanction. There would, however, be no objection to the payment out of the loan of reasonable remuneration for additional work performed outside normal hours or, where it is necessary temporarily to employ substitutes to take the place of permanent staff during the time that the staff is engaged on the work for which the loan is sanctioned, a sum equal to the reasonable remuneration paid to the substitutes.

"With regard to payments (if any) due to yourself (the clerk) for legal work in connection with the object of the loan and not within the scope of your duties, the bills as taxed may properly be paid out of the loan."

Where the loan includes the purchase of land as well as the execution of works, the following sentence is added :—

"Charges within the scale prescribed in Part I. of the Schedule I. to the General Order under the Solicitors' Remuneration Act, 1881, need not be submitted for taxation"

LOCAL GOVERNMENT.

MINISTRY OF HEALTH. MEMORANDUM L.G.A. 1.

County Councils (*outside London*).

LOCAL GOVERNMENT ACT, 1929.

TRANSFER OF FUNCTIONS OF GUARDIANS.

PRELIMINARY ACTION TO BE TAKEN BY COUNTY COUNCILS.

1. The "appointed day" for the purposes of Part I. of the Act is the 1st April, 1930, and it will be incumbent upon the council at an early date to take the new provisions into their special consideration with a view to the elimination, so far as may be, of the difficulties incidental to a period of transition and the securing of a smooth and easy substitution of the new for the old administration. In particular, it will be a matter of the first importance that the changes shall not involve any poor person in hardship or in a delay in the consideration and, so far as may be necessary, the relief of his needs.

2. In this connection attention is to be drawn to the difference between poor law relief and such assistance as has hithero been given by the council under other enactments. Assistance of the latter kind may be largely a matter of selection and discretion, but once the fact of destitution is established the grant of the relief in the form thought appropriate by the relieving authority becomes a statutory duty of that authority.

3. It is not proposed in this memorandum to set out all the matters arising on the transfer effected by the Act. Direct reference to the relevant provisions of the Act which are comprised in sections 1 to 17, 19, 20, 53, 113, 114, 119, 121, 123, 124, 126, 127, 128, 131 and 132, and the Sixth, Eighth, Ninth and Tenth Schedules of the Act will be necessary. What is here mainly sought is to draw particular attention to matters which must be dealt with before the appointed day, and to indicate certain general administrative considerations to which the council will prudently have regard in deciding upon the action which they may be disposed to take.

4. Attention should be given to the provision in section 13 requiring the council when making provision for hospital accommodation in discharge of the functions transferred to them under Part I. of the Act to consult such committee or other body as they consider to represent both the governing bodies and the medical and surgical staffs of the voluntary hospitals providing services in or for the benefit of the county as to the accommodation to be provided and as to the purposes for which it is to be used.

I.—ADMINISTRATIVE SCHEME.

5. The council is to prepare and submit to the Minister (section 4), not later than the 27th September, 1929, an administrative scheme of the arrangements proposed to be made for discharging the functions transferred to the council.

6. Copies of the scheme are to be sent to the council of each county district wholly or partly in the county and a notice of the submission of the scheme, stating the place at which a copy may be inspected, is to be published in one or more newspapers circulating in the county (section 8 (1)). The scheme will not be effective until it has been approved by the Minister, who is empowered to modify it before giving his approval (section 8 (2)).

7. In the event of failure on the part of the council to submit a scheme to the Minister within the prescribed time, or such extended time as the Minister may allow (section 4 proviso), the Minister may himself make a scheme (section 8 (3)). It will, in this connection, be realised that great difficulty would be involved if in any large number of cases an extension of the prescribed time for the submission of a scheme were sought.

8. It may well be that in the first instance the council will desire to make only a scheme to meet the immediate necessities of the transfer, with the intention of revising that scheme after a comparatively short time. When considering this point the council will no doubt have regard to the possible necessity of adaptation of a number of the transferred institutions to make them suitable for the several purposes for which they will be used under the new regime.

9. Any scheme made by the council may be amended by a scheme similarly made and approved, and any scheme made by the Minister may be altered by a scheme similarly made or by a scheme made in the prescribed manner by the council and duly approved by the Minister. (Section 131.)

10. Section 5 requires the council, in preparing an administrative scheme, to have regard to the desirability of securing that, as soon as circumstances permit, all assistance which can lawfully be provided otherwise than by way of poor relief shall be so provided. The Minister is sure that the council will wish to make the widest possible arrangements under this provision, and, indeed, it is a main object of the Act to secure that as soon as practicable the existing duplication of powers shall be brought to an end and that each form of assistance shall be in the hands of one and not more than one branch of the council's organisation. The section enables the council to include in a scheme a formal declaration on this subject which will have the effect of abrogating the council's powers of dealing under the Poor Law Act, 1927, with any functions specified in the declaration and leaving those functions to be performed exclusively under the appropriate special Act. The making of such a declaration places the council, in so far as destitute persons are concerned, under an obligation to exercise the powers which they have under the special Acts, and accordingly a formal declaration should not be made until adequate resources can be placed at the disposal of the committee administering the special Act. As a simple example, it will generally be practicable to declare that the domiciliary assistance of blind persons shall be administered under the Blind Persons Act, 1920, but the immediate extension of the declaration to cover the institutional relief of such blind persons as require it will generally present difficulties. This function could not be regarded as being discharged under the special Act if any blind person could be provided with institutional relief only by admission to a workhouse or other institution provided under the Poor Law Act, 1927.

11. The council will therefore take into consideration at an early stage the extent to which a declaration can be made and will, in particular, have regard to such typical services as—

(1) Maintenance and treatment of sick persons and pregnant women in hospitals.
(2) Maintenance of mental defectives in institutions.
(3) Maintenance of blind persons in institutions and in their homes.
(4) Maintenance and treatment of tuberculous persons in sanatoria and other institutions.
(5) Education of children.

Even where a declaration is not immediately practicable it will often be possible for a particular poor law institution to be appropriated under section 53 for the purposes of a special Act. Where, for example, hospital provision cannot be made for a whole county, it may be practicable to appropriate a particular poor law infirmary for use as a public hospital under the Local Government Act, 1888, and still to keep in operation the poor law powers of relieving the sick poor in so far as other accommodation for them is required.

12. Attention may also be drawn in this connection to the power given by the Act (section 6 (3)) of entrusting the administration of a poor law service to a committee such as the Public Health and Housing or the Education Committee of the Council, to be administered on behalf of and subject to the general direction and control of the Public Assistance Committee.

13. An administrative scheme is to include provisions on the following matters :—

(i) the constitution of a Public Assistance Committee (section 6 (1)) to which, subject to the provisions of section 5 (2) and (3), all matters relating to the exercise of the transferred functions other than those specified in section 2 (except the power of raising a rate and borrowing money) shall stand referred ;

(ii) the division (section 7 (1) (*a*)) of the county into areas consisting of one or more county districts ;

(iii) the constitution (section 7 (1) (*a*) and (*b*)) of a sub-committee of the Public Assistance Committee to be called the Guardians Committee for each such area. A guardians committee is to consist of not more than 36 nor less than 12 members. The members are to be—

(*a*) representatives nominated by district councils ;

(*b*) county councillors representing electoral divisions in the area ;

(*c*) additional members, not exceeding one-third of the total membership of the committee, some of whom are to be women ; county aldermen may be included ;

(iv) the discharge by the Guardians Committees or sub-committees of those committees, subject to restrictions or conditions which may be imposed by the county council, of certain duties specified in the Act (section 7 (1) (*c*)) ;

(v) effective consultation between the Public Assistance Committee and the Guardians Committees of any area upon business relating specially to that area, and in particular the enabling of every guardians committee to nominate their chairman, or other representative, to be present at any meeting of the Public Assistance Committee at which business specially relating to the area of the guardians committee is to be transacted (section 7 (4)) ;

(vi) the determination of the place at which each guardians committee is to sit (section 7 (5)).

Every local authority is required to allow a guardians committee or sub-committee thereof to use, free of charge, for the purposes of their meetings any premises belonging to the authority, at any time when they are not required for the use of the local authority.

14. The Minister may, on representations from the council of the existence of special circumstances in the whole or any part of the county, direct that the preceding requirements, except that numbered (i), shall not apply. (Section 7 (1) proviso.)

It may, for example, be thought that in some of the smallest counties the establishment of guardians committees with separate areas is unnecessary, and in cases of this kind the Minister is empowered to give a direction exempting the council from the necessity of constituting, under the administration of guardians committees, areas such as are above mentioned.

15. In addition, there are certain points on which provision may at the council's option be made, but can only be effectively made in an administrative scheme.

(i) *Committees of the council.*

(*a*) In lieu of establishing a new committee to be the Public Assistance Committe, the provision in the scheme may be either that an existing committee of the council shall act as the Public Assistance Committee, or that the members for the time being of an existing committee with or without additional members shall so act. (Section 6 (1) (*a*).)

(*b*) Subject to the provisions of section 5 (2) (3) all matters relating to the exercise of the transferred functions except the power of raising a rate or borrowing money are to stand referred to the Public Assistance Committee, whose report upon them the council will consider (except in an urgent matter) before deciding upon action (section 6 (2)). It is, however, open to the council by their administrative scheme to give independent powers of action to the Public Assistance Committee by delegating (section 6 (3)) to the committee with or without restrictions or conditions any of the transferred functions (except the power of raising a rate or borrowing money).

(*c*) The scheme may provide that particular functions which have been delegated to the Public Assistance Committee shall be discharged on behalf of and subject to the general control of the committee by another committee of the council. (Section 6 (3).) This power is directed to meeting a case in which the special Acts under which a particular committee is working do not extend to a service performed under the Poor Law Acts, which it is, nevertheless, desired to co-ordinate with the special service.

As regards the care of children, for example, while the council will no doubt generally make at once a declaration that their education shall be provided under the Education Acts and not under their poor law powers, it may or may not also be thought desirable that the education committee should undertake, under the provision mentioned in the preceding paragraph, the maintenance and care of boarded-out children and of children maintained in institutions.

(ii) *Additional members.*

Section 6 (1) (*b*) empowers the council to secure on their Public Assistance Committee or other committee or body acting as such the assistance of specially qualified persons who are not members of the council. Where additional members are so appointed, women are to be included among them. The whole number of appointed members is not to be more than one-third of the committee or body. (Provisions as to the appointment of additional members of other committees and sub-committees of the council are contained in section 14 (3) and 14 (5), but these appointments can be made without any reference thereto in an administrative scheme.)

(iii) *Alternative powers of giving assistance* (*section* 5).

Reference has already been made in paragraph 10 to the Minister's desire that services for the supply of which other powers exist shall cease to be poor law services, and to the conditions under which and the methods by which this result may be attained. It is only necessary here to point out that any declarations under the section must define precisely the extent to which the poor law powers are to be abrogated in favour of those of the parallel Act, and that pending the practicability of an actual declaration as regards any particular service the council have large powers of rearranging the transferred business so as to secure an approximation to the result which they, as well as the Minister, will wish to secure.

(iv) *Arrangements with other local authorities in the county.*

As a rule, a county council is not the local authority throughout the administrative county for the purposes of Part III. of the Education Act, 1921, or of the Maternity and Child Welfare Act of 1918, and in such case the education committee of the council or the maternity and child welfare committee, as the case may be, will not be able to accept responsibility for the transferred duty in the whole of the county. If, therefore, the council propose to allocate any of the transferred functions to their education committee or their maternity and child welfare committee, it will be necessary for the council, before making a declaration relating to these statutes under section 5 of the Act, either (1) to ascertain that all the local authorities within the county who function under one or both of the Acts of 1921 and 1918 are able and willing to undertake within their areas the duties which, in the rest of the county, will be allocated to the committees referred to and will therefore not remain with the Public Assistance Committee ; or (2) to make other provision for meeting this point. In some cases under the Maternity and Child Welfare Act a solution may be found by the council undertaking throughout the county particular services not already undertaken by the other local authorities, *e.g.*, the provision of maternity institutions, while the other local authorities undertake within their areas the other services under the Act akin to the services they now administer.

16. The circumstances of the counties, the administrative methods of the councils and the institutional and other facilities which will be available vary so greatly that the Minister anticipates that there will be some diversity in the form of the administrative schemes submitted for his approval. He has, however, caused to be prepared for the assistance of the council in approaching this matter a form (L.G.A.2) for a complete scheme of administration such as may be suitable where ample facilities are available for the break up of the poor law, indicating by means of an appendix to the scheme a number of branches of the services in respect of which duplicate powers at present exist, and some of which may probably be made the

subject of declaration in the council's first scheme. Others must no doubt in many cases be left to be dealt with, as opportunity occurs, in amending schemes.

It will be seen that the form of scheme contemplates that, subject to safeguards which are suggested, and which can be expanded or adapted to meet the local administrative methods, there shall be a measure of delegation of the council's powers to the Public Assistance Committee. It appears to the Minister that the business of public assistance must clearly involve on occasion the prompt taking of decisions which must be followed by immediate action. In these circumstances the omission of a provision of this kind may well lead to legal difficulties, since, apart from such a provision, the committee would have no legal authority to act in anticipation of the confirmation of its recommendations by the council.

II.—CO-ORDINATION OF ASSISTANCE.

17. In considering the adaptation of its machinery to the new state of things, the council will no doubt have in mind the necessity of co-ordinating public assistance and will consider how far it is essential or desirable to provide a central register or index from which each of its committees can ascertain how far the circumstances of persons with whom they are dealing are known to other branches of the council's administration.

18. The council will also consider the possible advantages of an arrangement under which all material assistance given in the home is administered by or through the instrumentality of the Public Assistance Committee and its staff, full regard being, of course, paid to the desires of any other committee which from its own angle is satisfied that any particular assistance ought to be so given.

19. It will become the duty of the council as from the appointed day to recover the expenses incurred by them in the maintenance of persons in institutions (except where admission to the institution was for the purpose of treatment for infectious disease, and the question of recovery will remain a matter of discretion), in addition to the duty transferred to them of recovering the cost of assistance granted under the poor law. The council will no doubt desire to secure the greatest possible measure of co-ordination of the arrangements made by them for recovery of this kind whatever the statutory authority under which they are acting, in regard not only to the steps to be taken to ascertain the means and circumstances of the persons from whom recovery is due but also as to the basis to be adopted in assessing the amount to be recovered.

III.—TRANSFERRED INSTITUTIONS.

20. Another matter which must be dealt with before the appointed day is the disposal of poor law institutions at present belonging to a union, only part of which is within the county.

21. The institutions of any union which is wholly within the county are to be automatically transferred to the county (section (113) 1), but those belonging to any union crossing the county boundary are (section 113 (2) (*a*)) to be the subject of an agreement between the councils of the counties and county boroughs concerned. The agreement may provide for joint ownership of institutional property, for its division between two or more councils, or for its transfer to one council, and the agreement, whatever its main purpose, may provide for the joint user of an institution or attach conditions to its transfer or user. The agreement may, in regard to the user of an institution, be modified from time to time as circumstances may require. Unless an agreement is reached by the 1st February, 1930, the matter will be determinable by Order of the Minister. It is to be observed that the settlement of an administrative scheme may well turn upon the effect of the agreement to be made, and that the council may be in a difficult position if an agreement is not reached in the near future.

22. It is clear that there will be many instances in which administrative considerations make it necessary, at any rate in the first instance, that arrangements shall be made to secure the joint user of an institution, but it may well be that these arrangements will more generally be made by vesting the ownership of an institution

in one council, subject to an agreement to receive, by the reservation of a specified number of beds or otherwise, suitable cases chargeable to other councils. Here again it may be convenient that in the first instance the arrangements made should apply only for a limited period.

23. Where a transferred institution can be spared from the poor law use for which it was provided it may be appropriated for other purposes, *e.g.*, those of a hospital under the Local Government Act, 1888 (as extended), or a home for mental defectives under the Mental Deficiency Acts. The approval of the Minister will be required to any such appropriation (*see* section 53), and such other consents as are ordinarily necessary for the provision of an institution, *e.g.*, in the case last cited, that of the Board of Control.

IV.—JOINT COMMITTEES AND VAGRANCY.

24. Apart from joint arrangements which may be necessitated by the adoption of the county and county borough boundaries for poor law purposes, the council is empowered (section 3 (1)) to apply for an order of the Minister combining the area of the council with other areas for any purpose connected with the exercise of the transferred functions. The Minister may make an order for this purpose, and may act in this manner without any application being made to him if the course appears to him one which would tend to diminish expense or otherwise would be of public or local advantage, but is required to hold a local inquiry before making an order unless all the councils whose areas are to be combined give their consent (section 3 (2)). Such a combination may be set up before the appointed day and commence its active life on that day. (Section 3 (5).)

25. It appears probable that there may be many services at present entrusted to the poor law authorities for which combinations covering wide areas may form the best administrative authorities. In certain instances, as, for example, the care of mental defectives, combinations of boards of guardians for areas extending beyond one county or county borough are already in existence, and the maintenance of a joint authority may in these cases prove more satisfactory than the above-mentioned alternative of single ownership and joint user of an institution.

26. A special case for combined action will arise as regards the relief of vagrancy. It has long been recognised (*see*, *e.g.*, the Report of the Departmental Committee on Vagrancy of 1905, Cd. 2852) that this is a service which requires for its efficient administration a specialised authority with an extended geographical sphere of operation. Efficiency is impossible, or at best is rarely attained, so long as this service is a mere branch of a larger service, and so long as the administrators consider only the circumstances of one casual ward. To meet this difficulty many combinations of boards of guardians either of a semi-formal kind, or deriving their authority and position from an order of the Minister, have already been established. The organisation of the whole country on these lines requires further consideration, but the Minister considers it of the first importance that the combinations of areas for this purpose which have been secured should continue, and that further combinations should be formed with all reasonable rapidity. He proposes accordingly to invite the views of the local authorities concerned in regard to the maintenance of the existing combinations and the formation of others. He hopes at any rate to be in a position to make the necessary orders continuing, with or without alterations, such of the existing combinations as extend beyond the boundaries of one county, in time for their operation on the appointed day.

V.—FINANCE.

27. The council will probably desire to lay down with some precision the lines upon which the financial arrangements necessary for the performance of their new duties are to be made, and will no doubt request their finance committee to submit at an early date proposals to this end. It will obviously be essential that these arrangements shall be in working order on the appointed day.

VI.—TRANSFERRED OFFICERS.

28. Provision in regard to the transfer to the county and county borough councils of the existing poor law staffs is contained in section 119 of the Act. Where a union is wholly comprised within a county the whole staff will be transferred to the council, and in other cases officers employed in an institution or district will follow the institution or district, and other officers will be transferred as the councils operating in the union area may agree not later than two months before the appointed day or as the Minister may determine.

29. Poor law officers are at present generally subject to the provisions of the Poor Law Officers' Superannuation Act, 1896, and they will, where the council has no scheme of superannuation or where they elect not to enter the council's existing scheme upon terms that would safeguard their present position, remain subject to that Act until provision is made by Parliament for a general superannuation arrangement covering the staffs of all counties and county boroughs (section 124).

30. The Act preserves (section 121) the existing tenure and conditions of office of the transferred officers, and authorises the council to redistribute their duties. It further contains (section 123 and Schedule 8) provisions for the compensation of transferred officers who lose or in certain circumstances (section 123 (3) (*a*)) relinquish office in consequence of the Act.

VII.—GENERAL INSPECTORS.

31. For the purposes of the administration of the Poor Law Act, 1927, and of other functions the Minister is represented locally by officers known as general inspectors. These officers have by virtue of their duties an intimate knowledge of the purposes served by and the capabilities of the poor law institutions within their districts, besides being closely acquainted with the poor law personnel and the Poor Law Acts and Regulations and the administration thereof. A list of the names and addresses of the inspectors together with a list of counties, and of the inspector's districts in which they are comprised, is appended for the assistance of the councils who will naturally desire to consult these officers in the preparation of administrative schemes and in the allocation of the institutions transferred to them. It is intended that the general inspectors shall, after the appointed day, continue to act substantially in their present capacity of intermediaries between the local authorities and the Ministry.

This Memorandum and the model scheme of which a copy accompanies it will be placed on sale and copies may be obtained at the addresses below.

MINISTRY OF HEALTH,
17*th April*, 1929.

L.G.A. 2.

MODEL ADMINISTRATIVE SCHEME FOR USE OF COUNTY COUNCILS.

LOCAL GOVERNMENT ACT, 1929.

ADMINISTRATIVE SCHEME FOR THE COUNTY OF .

Interpretation.

1.—(1) In this scheme—
"The County" means the administrative county of ;
"The Council" means the council of the county;
"The Act" means the Local Government Act, 1929;
"The Minister" means the Minister of Health;

Appendix II.

Other words and expressions have the same meanings as are assigned to them in the Act.

(2) The Interpretation Act, 1889, applies to the interpretation of this scheme as it applies to the interpretation of an Act of Parliament.

Declaration that certain assistance is to be provided otherwise than by way of poor relief.

2.—(1) It is hereby declared that all assistance to necessitous persons for which provision is made in the services set out in this clause shall be provided exclusively by virtue of the Act or Acts under the heading of which the service is set out and not by way of poor relief:—

[*Here set out the particular services to which the declaration is to apply. See Appendix, Part I.*]

(2) Nothing in this scheme shall diminish or otherwise affect the duty of the council under section 34 of the Poor Law Act, 1927, to provide relief for the poor, and if any application for assistance is made to a guardians committee or a sub-committee thereof, or to an officer of the Public Assistance Committee, and the assistance required is assistance in respect of which a declaration is made under this clause, the appropriate committee of the council shall forthwith be notified of the application, and pending the decision of that committee the guardians committee or sub-committee or officer shall render any necessary assistance either in an institution or otherwise.

NOTE.—*A statement should be furnished with the scheme showing the poor law institutions, if any, which the council propose to appropriate for the purposes of any Act in respect of which a declaration is made* (*see section* 53 (2), *Local Government Act,* 1929).

Constitution of Public Assistance Committee.

3.—(1) There shall be constituted a committee of the council to be called the "Public Assistance Committee," consisting of persons, of whom shall be members of the council and the remainder persons who are not members of the council. At least of the persons who are not members of the council shall be women.

[*For alternative clauses, see Appendix, Part II.*]

(2) The first members of the Public Assistance Committee shall be appointed by the council at the first meeting of the council held after the approval of this scheme and thereafter the Public Assistance Committee shall be appointed at the first quarterly meeting of the council held after [their election] [the last day of February in each year].

(3) The members of the Public Assistance Committee shall hold office until the date on which their successors are appointed.

(4) Any member of the Public Assistance Committee who ceases to be a member of the council shall thereupon cease to be a member of the committee, and any member of the committee, not being a member of the council at the date of his appointment, who becomes a member of the council shall thereupon cease to be a member of the committee:

Provided that a member of the committee shall not be deemed to have ceased to be a member of the council if on or before the day on which he goes out of office he has been re-elected a member of the council.

(5) A member of the Public Assistance Committee may resign his membership by sending to the clerk of the council notice of his desire so to do.

(6) Any casual vacancy in the membership of the Public Assistance Committee arising more than [one] month before the ordinary date for the appointment of a new committee shall be filled by the appointment by the council of a new member, and the person so appointed shall hold office during the remainder of the term of office of the person in whose place he is appointed.

(7) The proceedings of the Public Assistance Committee shall not be invalidated by reason of any vacancy in their number, or by any defect in the appointment or qualification of any member of the committee.

Functions of Public Assistance Committee.

4.—(1) Subject to the exceptions set out in paragraph (2) of this clause the functions transferred to the council under Part I. of the Act, other than those specified in section 2 of the Act, are hereby delegated to the Public Assistance Committee.

(2) The following functions are excepted from the delegation of functions to the Public Assistance Committee:—

(*a*) the power of raising a rate;
(*b*) the power of borrowing money;
(*c*) the alteration or revocation of this scheme;
(*d*) application to the Minister for an order under section 3 of the Act combining the council with the council of another county or of a county borough;
(*e*) the purchase or other acquisition of any land or buildings for the purposes of Part I. of the Act;
(*f*) the sale, letting or other disposal of any land or buildings held by the council for the purposes of Part I. of the Act;
(*g*) the appointment and dismissal of an officer of the council to or from any office from which an officer may be dismissed only by or with the consent of the Minister and to or from any of the following offices or posts, namely ;
(*h*) the creation of any new office or post which carries a salary of more than £ a year;
(*i*) the revision of any scale of salaries or wages which has been approved by the council;
(*j*) the imposition on guardians committees and sub-committees thereof of any general or special restrictions or conditions;
(*k*) the making of any contract [involving an expenditure of more than £];
(*l*) ;
(*m*) .

(3) In particular the Public Assistance Committee shall, where necessary in co-operation with other committees of the council—

(*a*) from time to time advise the council as to the general or special restrictions or conditions to be imposed upon the guardians committees and sub-committees thereof in the discharge of their functions;
(*b*) receive reports from the guardians committees and take such action thereon as may be necessary;
(*c*) arrange for the proper care and maintenance of all persons requiring relief in a poor law institution;
(*d*) define the classes of persons requiring relief in institutions for whom the several poor law institutions belonging to the council are suitable, and keep the guardians committees informed of the institutions to which persons belonging to each of such classes may be sent;
(*e*) arrange for the visiting, inspection and management of poor law institutions;
(*f*) arrange for the payment of relief in money granted by the guardians committees;
(*g*) arrange for the supply of relief in kind ordered by the guardians committees, either from the council's own stores or by means of orders on tradesmen or otherwise;
(*h*) arrange for setting to work able-bodied persons who are granted outdoor relief;
[(*i*) keep a register [an index] of all persons who have received assistance from any committee or sub-committee of the council;]
[(*j*) arrange for the relief of the casual poor and for the due observance of the regulations in force in regard thereto;]
(*k*) arrange in suitable cases for the rights and powers of parents in respect of children to be vested in the council under section 78 of the Poor Law Act, 1927;
(*l*) arrange in suitable cases for children being boarded out;
(*m*) arrange for the apprenticing and placing out of children of suitable age;
(*n*) arrange for the emigration of suitable persons who are desirous of emigrating.
(*o*) [once a quarter] submit to the council a report of their proceedings.

Meetings and procedure of Public Assistance Committee.

5.—(1) The Public Assistance Committee shall meet at least once in [each month].

(2) Subject as aforesaid the standing Orders of the council regulating the meetings and proceedings of committees shall apply to meetings and proceedings of the Public Assistance Committee.

Discharge of certain functions of Public Assistance Committee by other Committees.

6. The functions of the Public Assistance Committee in so far as they relate to [the maintenance of poor children apart from their parents] [the relief of expectant and nursing mothers] [the relief of the blind] [the care of mentally defective persons] shall be discharged, on behalf of and subject to the general direction and control of the Public Assistance Committee, by the [education] [maternity and child welfare] [blind persons] [mental deficiency] committee of the council.

NOTE.—*If it is desired to limit the operation of this clause to certain only of the services for which a particular Act makes provision, the services to which the clause is to apply should be specified on the lines indicated in Part I. of the Appendix. For suggestions as to the circumstances in which the clause may be useful, see paragraphs* 12 *and* 15 (*i*) (*c*) *of the Memorandum L.G.A.* 1.

Division of the County into areas.

7. The county shall be divided into the areas named in column 1 of the Schedule hereto, each area consisting of the districts named in column 2 of that Schedule.

Constitution of Guardians Committees.

8.—(1) There shall be constituted for each of the areas named in column 1 of the Schedule hereto a guardians committee consisting of the number of persons shown in column 6 of the Schedule, of whom—

(*a*) the number shown in column 3 of the Schedule shall be members of the councils of the districts comprised in the area and shall be nominated by those councils ;

(*b*) the number shown in column 4 of the Schedule shall be appointed by the county council from amongst the members of the council representing electoral divisions wholly or partly comprised in the area ; and

(*c*) the number shown in column 5 of the Schedule shall be persons, not being elected members of the council, appointed by the council.

(2) Of the persons, not being elected members of the council, appointed by the council to be members of a guardians committee, at least shall be women.

(3) The county council shall make their appointments under this clause not later than the 1st day of April, 1930, and in each subsequent year at the first quarterly meeting of the council held after the last day of February.

(4) The council of every district in the county shall notify the county council of the names and addresses of the persons nominated for membership of the appropriate guardians committee—

(i) in the case of the first nominations, not later than the day of 1930 ; and

(ii) in the case of subsequent nominations, not later than the 20th day of April, or where the nominating council is the council of a borough the 20th day of November, in the year 1931, and each subsequent year.

(5) The persons whose names are so notified to the county council shall come into office on the 1st day of April, 1930, and in the year 1931 and each subsequent year on the 1st day of May, or in the case of persons nominated by the council of a borough on the 1st day of December.

(6) The several classes of members of a guardians committee shall hold office until the respective dates on which their successors come into office :

Provided that any member of a guardians committee who—

(*a*) being a member nominated by the council of a district, ceases to be a member of that council ; or

Appendix II.

(*b*) having been appointed as an elected member of the council, ceases to be an elected member of the council

shall cease to be a member of the guardians committee.

(7) A member of a guardians committee may resign his membership by sending to the clerk of the council notice of his desire so to do.

(8) Any casual vacancy in the membership of a guardians committee arising more than [one] month before the ordinary date on which the member would go out of office shall be filled by an appointment or nomination of a new member, and the person so appointed or nominated shall hold office during the remainder of the term of office of the person in whose place he is appointed or nominated ;

Provided that a member of a guardians committee shall not be deemed to have ceased to be a member of the council of a district or of the county council if on or before the day on which he goes out of office he has been re-elected a member of the council of the district or the county council as the case may be.

(9) The proceedings of a guardians committee shall not be invalidated by reason of any vacancy in their number, or by any defect in the appointment, nomination or qualification of any member of the committee.

Functions of Guardians Committee.

9.—(1) Subject to the provisions of this scheme and to such general or special restrictions or conditions as the council may from time to time impose, each guardians committee shall discharge such of the functions transferred to the council under Part I. of the Act as relate to the following matters :—

(i) the consideration and examination of applications for relief ;

(ii) the determination of the nature and amount of the relief (if any) to be given to such applicants ;

(iii) the determination of the amount (if any) to be paid by any recipient of relief, or the persons liable for his maintenance, towards reimbursing the council the amount expended by them on his relief ;

(iv) the visiting, inspection or management, if the Public Assistance Committee so request, of any poor law institutions in the area for which the guardians committee is appointed.

(2) In the discharge of the foregoing functions the guardians committee shall—

(*a*) report to the Public Assistance Committee the case of any person to or in respect of whom relief has been granted and who appears to be neither settled in, nor irremovable from, the county ;

(*b*) advise the Public Assistance Committee—

(i) as regards proceedings for the recovery of money due under maintenance orders or on account of relief on loan, or otherwise ;

(ii) on any matters referred to them from time to time by that committee ;

(*c*) from time to time submit to the Public Assistance Committee reports of their proceedings ;

(*d*) furnish the Public Assistance Committee at such times and in such form as that committee may require with such returns and other information relating to action taken by the guardians committee as the Public Assistance Committee may require.

Meetings and Procedure of Guardians Committee.

10.—(1) Except in so far as the Public Assistance Committee may in any particular case otherwise direct, each guardians committee shall meet at the place specified in column 7 of the Schedule hereto.

(2) Each guardians committee shall meet at least once in [every fortnight].

(3) [One-third] of the members of a guardians committee shall form a quorum.

(4) Subject to the provisions of this scheme, the standing orders of the council regulating the meetings and proceedings of committees and sub-committees shall apply to meetings and proceedings of guardians committees.

Appendix II.

Consultation between Public Assistance Committee and Guardians Committees.

11.—(1) Each guardians committee may nominate their chairman, or other member of the committee, to be present at any meeting of the Public Assistance Committee at which business specially relating to the area of the guardians committee is to be transacted, and shall communicate to the Public Assistance Committee the name and address of the person so nominated.

(2) The Public Assistance Committee shall give to a guardians committee at least days' notice of the date and time of any meeting at which business which in the opinion of the Public Assistance Committee relates specially to the area of that guardians committee is to be transacted and of the nature of that business.

(3) If the nominated representative is unable to be present on the appointed day, a deputy nominated by the guardians committee may attend in his place.

Appointment of Sub-Committees of Guardians Committees.

12. The Public Assistance Committee may authorise a guardians committee to appoint one or more sub-committees for the discharge of such of the functions of the latter committee as could be more efficiently discharged through a sub-committee, and may give directions as to the quorum, proceedings and place of meeting of any such sub-committee: Provided that the quorum shall in no case be less than [three].

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
17*th April*, 1929.

SCHEDULE.

GUARDIANS COMMITTEES.

Areas, Members and Places of Meeting.

(1) Name of Area.	(2) Names of county districts comprised in the Area.	(3) No. of members nominated by the Councils of the district named in Col. 2.	(4) No. of members of the County Council appointed as representing electoral divisions in the Area.	(5) No. of persons appointed by the County Council not being at the date of appointment elected members of the County Council.	(6) Total number of members.	(7) Place at which the Committee will ordinarily meet.
Abbey	Minster B. Cathedral U. Church R.	4 2 2	8	8	24	Town Hall, Minster, Blankshire.
Market	Shop U. Stall R.	4 3	5	4	16	The Offices of the Stall R.D.C., Station Road, Shop, Blankshire.

APPENDIX.

PART I.

The following clauses have been prepared for use in connection with clause 2 of the Model Administrative Scheme. They set out various services which can be provided either by way of poor relief or by virtue of the Acts specified.

LOCAL GOVERNMENT ACT, 1888, AS EXTENDED BY SECTION 14 OF THE LOCAL GOVERNMENT ACT, 1929.

(1) The provision for the use of inhabitants of the county of hospitals for the reception of [the sick] [of persons suffering from infectious disease].

(2) The provision for the use of inhabitants of the county of places for the reception of pregnant women.

MENTAL DEFICIENCY ACTS, 1913 TO 1927.

(1) (*a*) Arrangements for the proper care and maintenance in institutions of defectives subject to be dealt with under the Acts.

(*b*) Arrangements for the proper care and maintenance elsewhere than in institutions of defectives subject to be dealt with under the Acts.

(2) (*a*) Arrangements for the proper care and maintenance in institutions of defectives other than those subject to be dealt with under the Acts.

(*b*) Arrangements for the proper care and maintenance elsewhere than in institutions of defectives other than those subject to be dealt with under the Acts.

NOTE.—*The circumstances in which mental defectives are "subject to be dealt with under the Acts" are set out in section* 2 *of the Mental Deficiency Act,* 1913, *as amended by section* 2 *of the Mental Deficiency Act,* 1927.

MATERNITY AND CHILD WELFARE ACT, 1918.

(1) The provision of hospital treatment for pregnant women.

(2) The provision of hospital treatment for sick and crippled children.

(3) The accommodation in convalescent homes of nursing mothers and children.

(4) The provision of institutions for the reception of children whose parents cannot provide a satisfactory home for them, and the making of other arrangements by boarding-out, or otherwise, for attending to the health of such children.

(5) The provision of a midwifery service.

(6) The provision of the services of a doctor for illness connected with pregnancy and illness (whether of the mother or the child) during the period of confinement.

(7) The provision of nursing in the home for expectant mothers and women suffering from puerperal fever, and for children suffering from measles, whooping cough, epidemic diarrhœa, poliomyelitis, ophthalmia neonatorum, or any other disease the nursing of which is included in arrangements made by the council under the Act.

(8) The provision of milk or other food for expectant and nursing mothers and children medically certified to need additional nourishment.

(9) In the foregoing paragraphs the term "children" means children who have not attained the age of five years and are not being educated in schools recognised by the Board of Education.

BLIND PERSONS ACT, 1920.

(1) The provision of residential homes for blind persons who are incapable of work and are in need of care in an institution.

(2) The provision of domiciliary assistance to unemployable blind persons.

PUBLIC HEALTH (TUBERCULOSIS) ACT, 1921.

The provision of sanatoria and hospitals for the treatment of all forms of tuberculosis.

EDUCATION ACT, 1921.

The education of children.

PART II.

Alternative Clauses for constitution of Public Assistance Committee.

A. There shall be constituted a committee of the council to be called the Public Assistance Committee, consisting of persons who shall be members of the council.

B. The committee of the council shall act as the Public Assistance Committee.

C. The members for the time being of the committee of the council with additional members, of whom shall be members of the council and persons who are not members of the council, shall act as the Public Assistance Committee. At least of the persons who are not members of the council shall be women.

MINISTRY OF HEALTH. MEMORANDUM L.G.A. 5.

County and County Borough Councils.

1. LOCAL GOVERNMENT ACT, 1929.
2. MATERNITY AND CHILD WELFARE.
3. VOLUNTARY ASSOCIATIONS.

1. Section 101 of the Local Government Act, 1929, requires the council of every county and of every county borough, six months at least before the beginning of each fixed grant period, to prepare and submit to the Minister for his approval a scheme for securing the payment by the council of annual contributions towards the expenses of voluntary associations, if any, providing maternity and child welfare services in or for the benefit of the county or county borough. Sub-section (2) provides that the associations to be included in these schemes are (*a*) those whose services are approved by the Minister immediately before the appointed day; and (*b*) those whose services are not so approved but are utilised by the council.

2. Copies of model schemes which the Minister has caused to be prepared for use by county councils and county borough councils, respectively, are enclosed with this Memorandum. The Minister will be prepared to approve schemes on the lines of these models, and he suggests that the councils should generally adopt this form of scheme.

3. A list is being sent (in duplicate) to each council containing the names of the voluntary associations in the area of the council whose services were approved by the Minister up to the 31st March, 1929, and also the amount of the grant paid by the Minister to each association in respect of the standard year. The list contains a column for the amounts, if any, of the contributions paid by the council to these associations in respect of that year, and this column should be completed and one copy of the list returned to the Minister as soon as possible.

4. It will be observed that the first schemes prepared under section 101 must be submitted to the Minister *by the 30th September next*, and it is desirable that the council should take steps to prepare their scheme at the earliest possible date. The Minister will be glad on request to furnish the council with any information in his possession as to the activities or finances of particular associations, but before preparing their scheme the council should communicate with representatives of each of the voluntary associations included in the list with a view to obtaining particulars of the services now being rendered, and proposed to be rendered during each of the three years comprised in the first fixed grant period, together with information as to the present and probable future cost.

5. Regard should of course be had to this information in considering the amounts of the annual contributions to be specified in the scheme, and the Minister is of opinion that, save in exceptional circumstances, the amount specified for each association should be not less than the total of the sums received by the association in respect of the standard year from the Minister and the council, respectively. As the council are aware, the grant paid in respect of the standard year to each

Appendix II. association included in the list will form part of the "loss on account of grants" of the county or county borough for the purposes of the Act.

6. In certain cases councils, with the approval of the Minister, utilise the services of voluntary associations which are not in receipt of grants from the Minister, and make payments to the associations for the actual services rendered. These associations are not included in the lists furnished to the councils, and it will be for each council to consider whether such associations should be included in the scheme.

7. In some areas it may happen that additional associations, or further services provided by some of the associations already approved, will be approved by the Minister before the appointed day. The Minister will furnish to the appropriate council particulars of any additions to the list which are approved before a scheme is submitted, but in other cases provision will have to be made for these additional associations or services by modification of the scheme under section 101 (3).

8. In the case of county councils, attention is drawn to the provisions of section 101 (4). In the lists sent to the councils of those counties in which there are voluntary associations providing services in or for the benefit of a district whose council have established a maternity and child welfare committee, the Minister has indicated those associations whose services appear to him to be such that contributions should be paid thereto by the district council. This is, however, a matter for the determination of the county council in the first instance, and it will be observed that, if any such determination is made, a copy of the scheme must be sent to the district councils concerned when the scheme is submitted to the Minister.

18*th April*, 1929.

L.G.A. 6.

MATERNITY AND CHILD WELFARE.

County Councils.

SCHEME MADE BY THE County Council under section 101 of the Local Government Act, 1929, for securing the payment by the council of annual contributions towards the expenses of voluntary associations providing maternity and child welfare services in or for the benefit of the county.

1. (i) Subject to the conditions prescribed in paragraph 2 of this scheme the council of the administrative county of (hereinafter referred to as "the council") will, in each of the three financial years 1930–31, 1931–32 and 1932–33, pay by way of annual contribution to each of the voluntary associations named in column (1) of the First Schedule to this scheme the sum specified in column (2) of that schedule and placed opposite to the name of the association.

(ii) Such annual contribution shall either be paid in a single sum before the 30th September in each year or may, by arrangement with the voluntary association concerned, be paid in equal half-yearly instalments.

2. It will be a condition of the payment of a contribution to any voluntary association under this scheme—

(i) that the council are satisfied as to the efficiency of the maternity and child welfare services provided by the association, and that such services are being used by a reasonable number of those persons for whom the services are provided;

(ii) that no reduction or alteration of such services is made without the consent of the council;

(iii) that such services, and any premises in which those services are carried on, are open to inspection at all reasonable times by any officer of the council duly authorised by the council, and by any officer of the Ministry of Health appointed for that purpose by the Minister;

(iv) that the association sends to the council in each year a copy of the annual report of the association on the maternity and child welfare work of the previous year, together with a statement of the accounts of the association for that year relating to such work and a copy of the auditor's certificate thereon, and furnishes the council from time to time with such other information relating to the maternity and child welfare services provided by the association and the expenditure thereon as the council may reasonably require;

Provided that the council shall not terminate or make any reduction in the annual contribution payable to an association on the ground that any of the foregoing conditions are not fulfilled, except with the consent of the Minister of Health.

3. Any dispute or difference between the council and an association in connection with any matter arising out of this scheme shall be referred to the Minister of Health whose decision shall be final and binding upon the council and the association.

4. The council hereby determine that the maternity and child welfare services provided by the voluntary associations named in column (1) of the Second Schedule to this scheme are such that contributions thereto should be paid by the councils of the districts named in column (2) of that schedule, being councils who have established maternity and child welfare committees under the Maternity and Child Welfare Act, 1918.

5. This scheme shall come into operation on the 1st day of April, 1930, and continue in force until the 31st day of March, 1933, subject to any alteration which may be made by the council with the approval of the Minister of Health under section 131 (2) of the Local Government Act, 1929, or by the Minister under section 101 (5) of that Act.

MINISTRY OF HEALTH,
17*th April*, 1929.

SCHEDULES.

FIRST SCHEDULE.

Voluntary associations to which annual contributions will be paid by the County Council.

(1) Name of Association.	(2) Amount of annual contribution.

SECOND SCHEDULE.

Voluntary associations to which annual contributions will be paid by the Councils of the Districts named in column (2).

(1) Name of Association.	(2) County Council of District.

Memorandum L.G.A. 9.

County Councils.
Town Councils.
Urban District Councils.
Rural District Councils.

LOCAL GOVERNMENT ACT.

ROADS.

(PARTS III. AND VII.)

I.—CHANGES IN HIGHWAY ADMINISTRATION.

The effect of the first portion of Part III. of the Act, which deals with highways, may be broadly stated to be that, as from the appointed day (1st April, 1930), all roads in rural districts and all classified roads in urban districts will become a county responsibility. The term "road" means a highway repairable by the inhabitants at large and includes bridges so repairable.

Roads which were main roads before the appointed day, and all roads which under the Act become a county responsibility, will be known as "county roads," and the county councils will be the highway authorities as regards these roads. All county roads (other than roads "claimed" by an urban authority) will vest in the county council. The position in county boroughs and metropolitan boroughs will remain unchanged.

This general statement is subject to the modifications explained below under the headings "Rights of Urban Authorities to claim County Roads" and "Delegation."

Throughout this memorandum "urban district" includes non-county borough and "urban district council" includes the council of a non-county borough.

II.—POWERS OF LOCAL AUTHORITIES IN RELATION TO ROADS.

1. *County Councils.*

(1) The Act provides (section 29 (1) and (2)) that all enactments relating to main roads shall apply to county roads, and that county councils shall, in relation to county roads (other than roads which are claimed by an urban authority), have the like functions as with respect to main roads.

The county council will become responsible for the maintenance, repair, improvement, etc., of all bridges in the county repairable by the inhabitants at large which carry county roads. These will include some "borough" bridges (*see* section 29 (4)) which are now maintained by the corporation even though the road is a main road (section 119, Municipal Corporations Act, 1882, and section 35 (1), Local Government Act, 1888). The right to claim to maintain county roads will, however, extend to such "borough" bridges.

In some instances town and district councils may be liable under section 308 of the Public Health Act, 1875, to compensate public utility undertakers who sustain damage by an alteration made to a road. Liability to pay compensation under the section can arise only when the alteration is made in the exercise of powers under the Act of 1875 and not in the exercise of powers under some other Act, for instance, the Highway Acts. Section 39 of the Act provides that, in the case of any road which by virtue of the Act becomes vested in a county council, the council shall be subject to the same liability as that to which the town or district council were subject before the road became vested in the county council, where a public utility undertaker sustains damage by reason of the exercise of a function by the county council which, prior to the transfer of the road, could have been exercised by the town or district council only under the Act of 1875.

(2) In rural districts, county councils will have (in addition to their general powers in relation to county roads) such powers under the Highway Acts, 1835 to 1885, as could be exercised by rural district councils who were successors of

highway boards (section 30 (1)). These functions relate both to highways repairable by the inhabitants at large and to highways not so repairable (*e.g.* the enforcement of a liability *ratione tenuræ*); and whereas the powers of rural district councils now differ, those that succeeded highway boards having larger powers than those that succeeded highway surveyors, all county councils will under the Act have the larger powers.

Appendix II.

(3) County councils will also have in all rural districts functions under the enactments set out in Parts I. and II. of the First Schedule to the Act. In order to assist local authorities readily to see the effect of the First Schedule, a graphic statement has been appended to this memorandum showing how functions are distributed by the schedule.

These functions include those under the Private Streets Works Act, 1892. Where the powers of the Act of 1892 are not delegated to the rural district council and are exercised by the county council themselves, the county surveyor when preparing his specification of private street works is required to consult the rural district council, if and so far as the works include sewers. The rural district council will continue to be the authority responsible for sewerage and sewage disposal, whether the highway functions are delegated to them or not, and it is therefore important that they should be consulted as to any proposed new sewers or alteration of existing sewers.

Another of the powers transferred to county councils in rural areas is the power to require (under section 31 of the Public Health Act, 1925) streets of greater width than the width for which the byelaws provide. The power can be exercised when a plan of a new street is submitted for approval. The plan will continue to be submitted, under the byelaws, to the rural district council. If the county council were not informed of the plan they would have no opportunity of exercising their powers. The Act provides, therefore, that the district council must notify the county council within seven days; and the county council can then state their requirements within the limits of the Act of 1925.

Despatch is essential in this matter, because section 158 of the Public Health Act, 1875, requires a local authority to approve or disapprove a plan submitted to them under their byelaws within one month. It is provided, therefore, that the county council may authorise the county surveyor to exercise on their behalf their powers under section 31 of the Act of 1925 (First Schedule, Part I.).

As the rural district council must in any event communicate their own decision to the person who deposited the plan within a month, they should inform him whether any requirement (and, if so, what requirement) has been notified to them by the county council or county surveyor.

(4) In urban districts, county councils will have the functions of an urban district council or a local authority under the enactments mentioned in Parts III., IV. and V. of the First Schedule as amended by any subsequent enactment (section 31 (5)). These functions will in urban districts relate only to county roads and, further, will not extend to " claimed " roads.

(5) County councils will be empowered to delegate highway functions in urban and rural districts to the district councils (see note on " Delegation " below).

2. *Rural District Councils.*

(1) Rural district councils will cease to be highway authorities and all the roads in their areas will become county roads as from the appointed day (1st April, 1930). They will retain their functions under the Local Government Act, 1894, as respects rights of way and encroachment on roadside wastes (section 30 (1)), and in these matters will, to a large extent, have concurrent powers with the county councils.

(2) Rural district councils will cease to exercise any functions relating to private street works under section 150 of the Public Health Act, 1875, with which they have been invested. They will also cease to exercise functions under the enactments (including the Private Street Works Act, 1892) mentioned in Part I. of the First Schedule unless the highway functions of the county council are delegated to them. Rural district councils who can now exercise functions under any of the enactments mentioned in Part II. of that schedule will be entitled to do so only with the consent of the county council (section 30 (3)).

(3) Rural district councils who are empowered to make byelaws under section 157 of the Public Health Act, 1875, with respect to the level, width, and construction of new streets will retain this power; but before making such byelaws the district council are required to consult with the county council. The county council may call upon the rural district council to exercise the power of making such byelaws, and, if thereafter the district council fail to do so within six months, the county council may themselves exercise the power (section 30 (4)).

(4) Rural district councils may apply to county councils for the delegation to them of the county council's functions in relation to roads in their district (see under heading " Delegation ").

3. *Urban District Councils.*

(1) As from the appointed day all classified roads in urban districts will become county roads.

(2) If a road in an urban district is classified after the appointed day it will become a county road.

(3) Urban district councils will retain their present responsibilities for unclassified roads (other than existing main roads) in their areas. They may, however, if they so desire, enter into agreements with the county council for the maintenance, repair and improvement of these roads by the latter in consideration of such payments as may be agreed between the two councils (sections 31 (1) and 34).

(4) Urban district councils the population of whose district, as estimated for the year 1928, exceeds 20,000 persons may claim to maintain county roads in their areas (see under heading " Rights of Urban Authorities to claim County Roads ").

(5) Urban district councils will also exercise certain functions with respect to the county roads in their areas. In respect to such roads (other than claimed roads) the Act (section 31 (5)) provides that the urban authority :—

(*a*) shall cease to exercise functions under the enactments mentioned in Part III. of the First Schedule;

(*b*) shall exercise functions under Part IV. of the First Schedule concurrently with the county council; and

(*c*) may exercise functions under the enactments mentioned in Part V. of the schedule only with the consent of the county council.

(6) Urban authorities may apply to the county council for the delegation to them of the county council's functions in relation to county roads in their area (see note on " Delegation " below).

(7) Urban authorities are empowered to appeal to the Minister of Transport if a county council refuse an application for an order declaring a road to be a county road.

Application for such an order may be made on the grounds (in addition to the grounds set out in section 15 of the Highways and Locomotives (Amendment) Act, 1878) that the road is situate in a part of an urban district which is rural in character (section 37).

III.—RIGHTS OF URBAN AUTHORITIES TO CLAIM COUNTY ROADS.

(1) Any urban authority the population of whose area, as estimated for the year 1928, exceeded 20,000 persons may claim to exercise the functions of maintenance and repair of any county road within their district, subject to exceptions which are mentioned in the proviso to section 32 (3) of the Act. Such " claimed " roads will vest in the urban district council, and for the purpose of the maintenance, repair and improvement and other dealing with any such road, the district council will have the same functions as if they were the highway authority with respect to that road and the road were an ordinary road vested in them (section 32 (1)).

(2) Any urban authority which has claimed to exercise the functions mentioned may at any time relinquish those functions to the county council with the consent of the latter. An appeal may be made to the Minister of Transport if the county council refuse their consent (section 32 (4)).

(3) The provisions of the existing law with regard to the making of annual payments by county councils towards the maintenance and repair and any reasonable improvement connected with maintenance and repair of a claimed county road are continued; but the Act provides for the making of payments by quarterly instalments (section 33 (1)).

(4) The Act further provides for the payment by a county council of contributions towards the expenses of any improvement of a claimed county road, not being expenses in connection with the maintenance and repair of the road. But the county council may refuse to contribute towards an expense on the ground, for instance, that the improvement is in the nature of a town improvement; and, in the event of disagreement, the decision rests with the Minister of Transport (section 33 (1) (*b*)). The term "improvement" includes the fixing of a building line or improvement line (section 134; see under "Road").

(5) Provisions with regard to the submission to county councils by urban authorities of estimates and supplementary estimates are contained in section 33 (2) and (3). Any difference arising under these provisions is determinable by the Minister of Transport (section 33 (4)).

IV.—DELEGATION.

(1) The Act provides (section 35 (1)) that the council of any county district may apply to the county council for the delegation to them of the county council's functions with regard to the maintenance, repair and improvement of—

(*a*) the whole of the unclassified roads (exclusive of county bridges) within the district;

(*b*) all or any of the classified roads (exclusive of county bridges) within the district;

(*c*) all or any of the county bridges within the district.

It may be explained that a bridge is not a "county bridge" simply because it carries a county road. A "county bridge" is a bridge for which the county council are responsible apart from their responsibility for county roads, for instance, a bridge for which the county council became responsible as successors to quarter sessions under the Local Government Act, 1888 (section 134; see under "County Bridge").

(2) As regards classified roads and county bridges, the county council have complete discretion as to whether they will or will not grant delegation (section 35 (3)).

(3) As regards unclassified roads, the county council are required to grant the application for delegation unless they are satisfied that, having regard to the best means of promoting economy and efficiency in highway administration throughout the county and to the particular circumstances of the district in respect of which the application is made, the application ought not to be granted (section 35 (2)).

If the county council refuse delegation in regard to unclassified roads, the district authority has a right of appeal to the Minister of Transport (section 35 (5)).

(4) Delegated functions may be relinquished by a district council by giving notice to the county council (section 35 (6) and (8)).

(5) The county council may determine the delegation of functions to any particular district authority, subject in the case of delegation in respect of unclassified roads to a right of appeal by the district authority to the Minister of Transport (section 35 (7) and (8)).

(6) The procedure with regard to the application for delegation is set out in sub-sections (1), (4), (5) and (8) of section 35.

(7) In discharging delegated functions the district council will act as agents of the county council. The conditions affecting such delegation are set out in section 36 (1) of the Act.

(8) Where functions are delegated to a county district council as regards any roads, the council will also as a matter of course discharge—

(*a*) in the case of rural districts, all the functions under the enactments set out in Part I. of the First Schedule relating to the delegated roads and to highways not repairable by the inhabitants at large (such as private streets); and

(*b*) in the case of urban districts, all the functions relating to the delegated roads set out in Part III. of the First Schedule.

The council will discharge the scheduled functions as agents of the county council, and subject to such conditions as the county council think fit with respect to any action to be taken by the district council.

District councils exercising such functions are empowered to make a contribution towards the cost of private street works or for any other purpose in connection with such functions where, in the opinion of the county council, expenditure would not be properly chargeable as general county expenses (section 36 (2)).

V.—TRANSFER OF LIABILITIES.

(1) This subject is dealt with in Part VII. of the Act (sections 117 and 118). County councils will take over from district councils the property and liabilities set out in paragraphs (*a*), (*b*), (*c*) and (*d*) of section 117 (1) so far as they relate to roads which immediately before the appointed day were, or, as from that day become, vested in the county council.

(2) It is to be noted that if, in the case of an existing main road, any loan charges are outstanding in respect of a loan raised by a district council before the road was mained, the county council will assume responsibility for them. Similarly they will take over the assets mentioned in paragraphs (*a*), (*b*) and (*c*) of section 117 (1) in respect to such roads.

(3) The Act provides that, if the county council and the district council so agree, the county council may pay the sums required from time to time to meet loan charges instead of assuming responsibility for the loan.

(4) Any sums due to be paid before 1st April, 1930, by a district council into a sinking fund required to be established for the purpose of a loan transferred to the county council are to be a debt due from the district council to the county council (section 117 (2)).

(5) In the case of roads which are claimed prior to the appointed day the county council are to repay to the urban district council such sums as are required to meet any loan charges falling due on or after the appointed day in respect of loans raised before that day for the road or its improvement (section 117 (3)).

(6) Where on an alteration of boundaries or other change a district council has received a payment (under the Local Government (Adjustments) Act, 1913, or otherwise) from another authority in respect of increased burden for highway expenditure which will not now fall on the district, an equitable adjustment of these payments has to be made in accordance with provisions set out in section 117 (4).

(7) Any disputes arising as to the transfer of property or liabilities under the section are to be determined by the Minister of Health (section 117 (6)).

(8) The above provisions do not apply to the transfer of quarries, plant, materials and depots, and special provisions relating to these matters are contained in section 118.

The county council, if the rural district council so desire, are required to take over any quarry, plant or materials belonging to, or any depot used by, the rural district council in their capacity as highway authority, and to pay therefor such sum as may be agreed, or, failing agreement, settled by arbitration.

Similarly, if an urban authority, not being a "claiming" authority, so desire, the county council are required to take over, on terms to be agreed or settled by an arbitrator, any quarry belonging to the urban authority in their capacity as highway authority, together with any fixed plant.

Where highway functions are relinquished by a county district council or the delegation of these functions is terminated by the county council, similar provisions apply as from the date of the relinquishment or termination.

VI.—ACTION WHICH MAY OR MUST BE TAKEN BY LOCAL AUTHORITIES ON OR BEFORE APRIL 1ST, 1930.

Particular attention is directed to the dates by which action has to be taken under the Act. In order to assist the smooth operation of the provisions of the Act it is most desirable that local authorities should take action which the Act requires or permits at as early a date as possible, and should not wait until the approach of the latest day on which such action may be taken.

1. *County Councils.*

(1) By section 35 (4) of the Act, county councils are required before October 1st, 1929—

(*a*) to send to the Minister of Transport a statement specifying the applications made to them under the section for the delegation of functions with respect to highways and the councils' decisions thereon, and in any case in which an application for the delegation of functions in respect of unclassified roads has been refused, the grounds on which the refusal was based ;

(*b*) to send to each district council which has applied for delegation a copy of so much of the statement as affects that council.

(2) On the 1st April, 1930, the county council are required—

(*a*) if so desired by a rural district council, to take over on terms to be agreed or settled any quarry, plant, or materials belonging to the rural district council as highway authority or any depots used by the district council exclusively in that capacity ;

(*b*) if so desired by an urban district council (other than an urban district council who have claimed county roads), to take over any quarry belonging to the urban district council in their capacity as highway authority, together with any fixed plant therein (section 118).

2. *Rural District Councils.*

(1) Rural district councils who desire the delegation to them of functions with respect to highways must make application to the county council for the purpose within three months after the commencement of the Act, that is, by the 28th June, 1929 (section 35 (1)).

(2) If an application for delegation in respect to unclassified roads is refused by the county council, the rural district council may appeal to the Minister before the 1st November, 1929.

(3) Rural district councils may require county councils on the 1st April, 1930, to take over their highway plant, etc. (see paragraph 1 (2) above).

3. *Urban District Councils.*

(1) As regards urban district councils who desire the delegation to them of functions with respect to highways, the same provisions apply as in the case of rural district councils (see paragraph 2 (1) and (2) above).

(2) Urban district councils who desire to claim county roads and have the necessary qualifications under section 32 must exercise their right of claiming before 1st April, 1930.

Where, however, an urban district council having these qualifications have already claimed any county road (under section 11 (2) of the Local Government Act, 1888), the council will be deemed to have claimed that road under the Act without making a fresh claim.

Any urban district council now entitled to claim county roads under section 32 who desire to relinquish a claim which was made under section 11 (2) of the Local Government Act, 1888, must do so before 1st April, 1930 (section 32 (5) (*a*)).

Appendix II.

(3) Where a road becomes a county road after the appointed day, or where an urban district attains a population exceeding 20,000 persons after the appointed day by an extension of boundaries or otherwise, a claim to maintain must be made within the limits of time set out in section 32 (2).

(4) Urban district councils who do not desire to claim to maintain county roads may require county councils on the 1st April, 1930, to take over quarries belonging to them in their capacity as highway authority and the fixed plant therein (see paragraph 1 (2) above).

MINISTRY OF HEALTH.
MINISTRY OF TRANSPORT.
23rd April, 1929.

APPENDIX.

TABLE SHEWING THE DISTRIBUTION OF FUNCTIONS BETWEEN COUNTY COUNCILS AND COUNTY DISTRICT COUNCILS AS DETERMINED BY THE FIRST SCHEDULE OF THE LOCAL GOVERNMENT ACT, 1929.

Notes.

1. The distribution of functions is shown by the thick black lines in the several columns. Thus, taking as an instance the first entry in the table, which relates to section 146 of the Public Health Act, 1875, the lines show that the function indicated in the first column is to be exercised in rural districts only by the county councils and in urban districts as regards county roads similarly by county councils alone. Taking another instance, the entry as regards section 21 of the Act of 1925 (which relates to works for preventing water from flowing on the footpath) shows that the functions are to be exercised in rural districts by the county council only but for county roads in urban districts concurrently by the county council and the urban district council.

The distribution of functions is subject to the power to delegate, which has already been explained in the text. The table shows the distribution when there is not delegation.

In urban districts the functions relating to unclassified roads, other than main roads, will continue to be discharged by the district councils.

2. The first column gives a general indication of the function; the appropriate section should be consulted for the provisions of the law.

3. In the second column, giving the legal references,

1875	means the	Public Health Act, 1875.
1890	,,	Public Health Acts Amendment Act, 1890.
1892	,,	Private Street Works Act, 1892.
1894	,,	Local Government Act, 1894.
1907	,,	Public Health Acts Amendment Act, 1907.
1925	,,	Public Health Act, 1925.

The relative section is stated in brackets after the year.

4. When powers can now be exercised by an urban district council or a rural district council only after an order has been issued by the Minister of Health or his consent obtained, such an order or consent will still be necessary before the district council can exercise the powers, with this exception that, when the power is conferred on the county council by the Act and the power is then delegated by the county council to the district council, an order or consent will not be required.

Subject	Act.	In Rural Districts.		In Urban Districts (as respects county roads only).		
		Functions which can be exercised only by the County Council.	Functions which can be exercised by the County Council and, with consent of the County Council, by the Rural District Council.	Functions which can be exercised only by the County Council.	Functions which can be exercised concurrently by the County Council and by the Urban District Council.	Functions which can be exercised by the County Council and, with consent of the County Council, by the Urban District Council.
Power to agree with any person as to making of new public roads.	1875 (146)	—		—		
Power to construct or adopt bridges, viaducts or arches over or under canals, etc.	1875 (147)	—		—		
Power to agree with persons liable to repair streets as to repair, etc.	1875 (148)	—				
Power to purchase premises for improvement of streets.	1875 (154)	—		—		
Provisions as to purchase of land otherwise than by agreement.	1875 (176)	—		—		
Provision of refuges in streets.	1890 (39)		—			—
Provision of cabmen's shelters.	1890 (40)		—			—
Planting of trees in roads	1890 (43)		—			—
Private street works.	1892 (the whole Act)	—				
Power to enforce liability *ratione tenuræ* for repair of highways.	1894 (25(2))	—				
Approval to be obtained to crossing over footways.	1907 (18)	—		—		
Power to require urgent repairs to private streets.	1907 (19)	—				
Power to recover damages caused to footways by excavations.	1907 (20)	—		—		
Deposit of building materials or excavation not to be made in any street without consent.	1907 (29)	—		—		
Power to provide public conveniences on or under any repairable street.	1907 (47)		—			—
Power to require works for preventing water from flowing on footpath.	1925 (21)	—			—	
Power to require works for preventing soil, etc., from being washed into street.	1925 (22)	—			—	
Restriction on placing rails, beams, etc., over streets.	1925 (25)	—		—		
Power to grant licences for bridges over streets.	1925 (27)	—		—		
Plans of bridge forming part of new street to be approved.	1925 (28)	—				
Declaration of existing street as a new street in consequence of building operations.	1925 (30)	—				
Power to require width of street beyond byelaw width.	1925 (31)	—				
Power to require lesser width of street when buildings erected on one side only.	1925 (32)	—				
Power to vary width of carriageway and footway on making up private streets.	1925 (35)	—				

Appendix II.

Memorandum L.G.A. 10.

Rating Authorities.
Assessment Committees.
County Valuation Committees.
(*outside London*).

LOCAL GOVERNMENT ACT, 1929.

RATING AND VALUATION.

The provisions relating to rating and valuation, which chiefly concern rating authorities and assessment committees, are contained for the most part in Part V. of the Act, where provision is made for the derating of agricultural land and agricultural buildings (other than dwelling-houses) and the partial derating of industrial and freight-transport hereditaments. That Part also contains provisions amending the Rating and Valuation (Apportionment) Act, 1928, as regards the classification of industrial premises in which no person is employed, within the meaning of the Factory and Workshop Acts; provisions amending section 11 of the Rating and Valuation Act, 1925, as to the rating of owners; provisions as to deductions from inclusive rents of industrial hereditaments in respect of rate relief; provisions as to the valuation of agricultural dwelling-houses (consequential on the repeal of the Agricultural Rates Act, 1896), and other consequential provisions.

It is to be noted that the " appointed day " for the purposes of Part V. is the 1st October, 1929.

Reference is also made in this Memorandum to certain temporary provisions included in the Ninth Schedule, relating to the amendment of valuation lists, and to section 133, which deals with the effect of amendments of the valuation lists in force on 1st October, 1929, on the ascertainment of the " reduced rateable values " and the " unreduced rateable values," to be used in the calculation of the new Exchequer grants.

Attention is also drawn to section 112, which contains transitory provisions as to rates and precepts and compensation for loss of rates in respect of the six months, 1st October, 1929—31st March, 1930.

In this Memorandum the Rating and Valuation Act, 1925, and the Rating and Valuation (Apportionment) Act, 1928, are, for the sake of brevity, subsequently referred to as " the Act of 1925 " and " the Apportionment Act " respectively.

DERATING OF AGRICULTURAL HEREDITAMENTS.

In section 67 provision is made for the derating of agricultural land and agricultural buildings as defined by the Apportionment Act. The section provides that no person shall be liable to pay rates thereon in respect of any period beginning on or after the 1st October, 1929, or be deemed to be in occupation thereof for rating purposes. Agricultural land and buildings are to be excluded from any such rate.

As from the 1st October, 1929, the special lists now in course of preparation under the Apportionment Act will be incorporated in the valuation lists in force, and the entries relating to agricultural land and agricultural buildings which appear in the special lists will in effect be substituted for the entries at present appearing in the lists made under the Act of 1925 (Paragraph 8 of the First Schedule to the Apportionment Act). They will remain in the special lists during the period for which the valuation lists in force on the 1st October, 1929, continue to operate, but the rateable value of any such hereditament should be entered in the appropriate column of the special lists as " nil."

No entries relating to agricultural land or agricultural buildings are to be made in any new valuation list prepared after 1st October, 1929 (section 67 (2)).

PARTIAL DERATING OF INDUSTRIAL AND FREIGHT-TRANSPORT HEREDITAMENTS.

Section 68 provides for the partial derating of " industrial " and " freight-transport " hereditaments as defined in the Apportionment Act. The section will apply to all hereditaments required to be entered in Parts II. and III. of the special lists now being prepared under that Act and thereafter to all industrial and freight-transport hereditaments distinguished as such in future valuation lists. As from the 1st October, 1929, when the entries as to such hereditaments in the special lists will in effect be substituted for those appearing in the current valuation lists, rate relief will be accorded to industrial and freight-transport hereditaments by the reduction of the rateable value.

The Rating and Valuation (Apportionment) Act (Special List) Rules, 1928 (S. R. & O., 1928, No. 627, *post*, p. 3711), provided that no entries should be made in any of the columns of the special list in which rateable value is to be shown—*i.e.*, in columns 9b, 10b and 11 of Part II., and in columns 10c, 11b, 12b and 13 of Part III. This provision was necessary because Parliament, at the time when the Rules were issued, had not decided what the rateable value was to be. The Minister has now made amending Rules superseding this provision, and it will accordingly be necessary to complete the lists by inserting in the appropriate columns the rateable value ascertained in accordance with section 68. A copy of the amending Rules (S. R. & O., 1929–244, *post*, p. 3727), accompanies this Memorandum.

ASCERTAINMENT OF RATEABLE VALUE OF INDUSTRIAL HEREDITAMENTS.

In the case of a hereditament occupied and used wholly for industrial purposes the rateable value to be entered in columns 9b and 11 of Part II. of the special list will be one-quarter of the net annual value as shown in column 9a.

In the case of a hereditament occupied and used partly for industrial purposes and partly for non-industrial purposes the rateable value to be entered in column 9b will be one-quarter of the net annual value shown in column 9a, the rateable value to be entered in column 10b will be the same as the net annual value shown in column 10a, and the total rateable value to be entered in column 11 will be the sum of the amounts shown in columns 9b and 10b.

The foregoing instructions will require modification in the case of any *industrial* hereditament of which the rateable value ascertained under the Act of 1925 was not identical with the net annual value. These will be hereditaments which

(*a*) being in an urban area, were entitled under the Act of 1925 to a deduction from net annual value for the purpose of determining rateable value by virtue of any scheme made under Part III. of the Second Schedule to that Act, or by virtue of any earlier local Act (*i.e.*, any industrial hereditament assessed as land covered with water and therefore marked " W " in column 8 of Part II. of the special list) ; or

(*b*) were entitled to such a deduction under any scheme for the preservation of privileges of rating made under section 64 of the Act of 1925.

In either of these cases the appropriate deductions from net annual value provided for in the scheme or local Act should first be made. The rateable value will, under the provisions of section 68 (1) Proviso, be calculated in the manner above described from the net annual value as so reduced.

ASCERTAINMENT OF RATEABLE VALUE OF FREIGHT-TRANSPORT HEREDITAMENTS.

In the case of freight-transport hereditaments the rateable value to be entered in column 10c of Part III. of the special list will be one-quarter of the amount shown in column 10b, and the rateable value to be entered in column 11b will be one-quarter of the amount shown in column 11a. The rateable value in column 12b will be the same as the net annual value shown in column 12a. The totals of the rateable values in columns 10c, 11b and 12b will be entered in column 13.

INCIDENCE OF RATES IN 1929–30 ON INDUSTRIAL AND FREIGHT-TRANSPORT HEREDITAMENTS.

As already indicated, the special lists in which the reduced rateable values provided for in the Act are to be shown will come into force on the 1st October, 1929.

In the case of any rate made in respect of a period commencing on or after that date the ratepayer's liability will be determined by the new rateable values shown in those lists.

In cases where a yearly or other rate is made in respect of a period commencing before and continuing after 1st October, 1929, the occupier's liability, as shown by the original entries in the rate book, will require to be adjusted as follows :—

(*a*) In the case of a yearly rate—*i.e.*, one made in respect of the whole of the period 1st April, 1929, to 31st March, 1930—the occupier's liability is to be calculated as if two rates had been made—one for the first half of the financial year (1st April to 30th September, 1929) and the other for the second half (1st October, 1929, to 31st March, 1930). The poundage of the rate is, in such a case, to be divided equally between these two notional rates.

(*b*) If the period of any rate runs into both half-years, but is less than a full year, the poundage will, for the purpose of determining the occupier's liability, be apportioned according to the number of days in each part of the period. (Section 68 (2).)

(The proviso to sub-section (2) of section 68 is applicable only in one or two special cases and will not concern rating authorities generally.)

The Act empowers any person who has paid a sum in excess of the amount properly chargeable under section 68 (2) to recover from the rating authority the amount overpaid (section 68 (3)).

AMENDMENT OF SECTION 3 OF THE APPORTIONMENT ACT.

Section 69 of the Act removes a doubt which has arisen as to the application of the definition of "industrial hereditament" in section 3 (2) of the Apportionment Act to premises in which no person is employed, within the meaning of the Factory and Workshop Acts.

The effect of the section is to secure that the mere fact that the owner or occupier of a hereditament is the only person working therein, or that no other person working therein is in his employment, shall not in itself preclude the hereditament from being deemed for purposes of the Apportionment Act to be used as a factory or workshop, and therefore, if the other conditions are satisfied, being treated as an "industrial hereditament."

AMENDMENT OF VALUATION LISTS.

The Act contains detailed provisions as to the method of making any amendment of a valuation list necessitated by reason of a hereditament having become or ceased to be an agricultural, industrial or freight-transport hereditament, and for this purpose it adapts, with certain modifications, the existing machinery. The relevant provisions, so far as they are of a permanent character, are contained in section 70, while certain temporary provisions are included in Part II. of the Ninth Schedule.

N.B.—For the sake of brevity, the fact that a hereditament has become or ceased to be an agricultural, industrial or freight-transport hereditament is referred to in this Memorandum as a change in the *status* of a hereditament, and that phrase is intended to cover not only cases where the circumstances determining the classification of a hereditament actually change after 1st October, 1929, but also cases where the classification adopted for the purposes of the special list is (or is alleged to be) incorrect on the circumstances existing immediately before 1st October, 1929.

(i) PERMANENT PROVISIONS.

The general effect of the permanent provisions is to make a change in the *status* of a hereditament a ground for making a proposal for amendment of the valuation list under section 37 of the Act of 1925.

In this connection attention may be drawn to the following points :—

(*a*) The permanent provisions operate only in cases where proceedings for the amendment of a list are initiated after 1st October, 1929, as from which date the entries in the special lists are to be read in substitution for the corresponding entries appearing in the main valuation list.

(*b*) Only owners or occupiers can move to amend a list on the ground that a hereditament ought to be, but is not, treated therein as an agricultural, industrial or freight-transport hereditament (section 70 (2)).

(c) If it is desired that a hereditament should be treated as an agricultural, industrial or freight-transport hereditament the proposal for amendment must contain such particulars as the Minister may prescribe (section 70 (2)). These particulars will be prescribed in due course.

(d) Amendments effected by the applied machinery above referred to will have effect as regards the ratepayer's liability as from the same date as any other amendment made by a proposal for amendment. The change in the *status* of a hereditament will be treated as "an event giving rise to an alteration of value" within the meaning of the proviso to section 37 (10) of the Act of 1925 (section 70 (3)).

Note.—The dates as from which amendments made as a result of proposals instituted during the twelve months, 1st October, 1929, to 1st October, 1930, will have effect for purposes of the calculation of the new Exchequer grants are governed by the provisions of section 133 and are dealt with below.

It is to be noted also that, in the case of future valuation lists, a claim by the owner or occupier will be a condition precedent to the treatment of any hereditament as an agricultural, industrial or freight-transport hereditament unless the hereditament was so treated in the last preceding list (section 70 (4)).

(ii) TEMPORARY PROVISIONS.

The temporary provisions contained in the Ninth Schedule (Part II.), other than the provisions as to the Revenue Officer, referred to below, affect, in the case of areas outside London, only the period prior to 1st October, 1929.

The general object of these provisions is to secure that the classifications and apportionments of value, on which both rate relief and calculation of grant will depend, shall be complete and correct at the earliest practicable date. To this end the schedule provides machinery for correcting the special lists prior to the date of their operation (1st October, 1929) and for amending the valuation lists with which they are, as from that date, incorporated, by proceedings commenced at any time up to 1st October, 1930, with such retrospective effect as is described below.

Correction of Special Lists.

In order that full use may be made of the period between the deposit (or approval) of draft special lists under the Apportionment Act and the 1st October, 1929, for the purpose of making any necessary additions and corrections, the Act authorises the lodging of objections at any time before the 1st October, 1929, whether the list has been approved or not.

The relevant provisions are contained in paragraph 1 of Part II. of the Ninth Schedule, and attention is drawn to the following points:—

(a) Where no claim has been made for the inclusion of a hereditament in a special list, an objection on the ground that it should be included can only be lodged by the owner or occupier.

(b) An objection to the *value* of a hereditament appearing in the special list can be lodged by the owner or occupier, the rating authority or (if he considers the value excessive) by the Revenue Officer, notwithstanding that the rating authority or Revenue Officer may have previously inserted or approved of that value.

(c) An objection under (a) must contain the same particulars as would have been required in the case of a claim under the Apportionment Act.

(d) If any such objection be not decided until after the 30th September, 1929, the decision is to be deemed to have been given on that date.

Sub-paragraph (4) of paragraph 1 of Part II. of the Ninth Schedule secures that the gross vlaue (if any) and net annual value of any hereditament as shown in the valuation list current during the half-year commencing the 1st April, 1929, shall be altered where necessary to agree with the corresponding value as shown in the special list as approved, and that any necessary alteration shall be made in the rateable values.

This provision will relieve both rating authorities and ratepayers of the need for dealing during this period with two separate lists and instituting separate "proposals" under section 37 of the Act of 1925 in order to bring values in the main valuation list into accord with the corresponding values as determined for the purposes of the special list.

For the purpose of rates current during the period 1st April—30th September, 1929, the alterations so made in the current valuation lists will have effect as from the 1st April, 1929, unless they are attributable to some event which happened after that date, in which case they would have effect only from the date of the event, as in the case of amendments made in pursuance of "proposals" under section 37 of the Act of 1925.

Provisions as to Revenue Officer.

In connection with all proceedings instituted prior to 1st October, 1930, for the amendment of the list which involve a question as to the *status* of a hereditament as at 1st October, 1929, and therefore have an effect on the calculation of grant, the Revenue Officer is given the same rights and powers as the ratepayer, except that (as in the case of proceedings under the Apportionment Act) he cannot contend that the gross or net annual value of a hereditament as a whole ought to be increased (Ninth Schedule, Part II., paragraph 4).

EFFECT OF AMENDMENTS OF VALUATION LISTS.

It may be convenient to summarise the effect of Amendments made by the procedure above described—

(i) as regards the liability of the ratepayer, and
(ii) as regards the calculation of the new Exchequer grants.

(i) *Effect as Regards the Liability of the Ratepayer.*

The ratepayer's liability will be determined primarily by the rateable value of his hereditament as appearing in the valuation lists on 1st October, 1929, on which date the reduced rateable value as entered in the special list will be substituted for the rateable value appearing in the valuation list current immediately prior to that date.

An amendment of the rateable value as at 1st October, 1929, which is made on the ground of change of *status*, in pursuance of a proposal for amendment initiated before 1st April, 1930, will have effect from 1st October, 1929, or from the date of the change, whichever is later. If the proposal is initiated after 1st April, 1930, the resulting amendment will, under section 37 of the Act of 1925, have effect only as from 1st April, 1930 (the date of the commencement of the rate) or the date of the change of *status*, whichever is later.

The date of operation of an amendment made on any other ground—at whatever date the proceedings are commenced—will be determined by the provisions of section 37 of the Act of 1925.

(ii) *Effect as Regards Calculation of new Exchequer Grants.*

Whether or not the ratepayer's liability during the six months ending 31st March, 1930, is affected by an amendment, section 133 effectively safeguards the interests of local authorities. The effect of that section is to secure that, for grant purposes, an amendment made, by the appropriate procedure, on the ground that a hereditament was or was not *on the 1st October*, 1929, an agricultural, industrial or freight-transport hereditament shall have effect as if it had been made immediately before that date, provided that the proceedings resulting in the amendment were initiated before 1st October, 1930. "Reduced rateable value" and "unreduced rateable value" are to be ascertained accordingly for all the purposes of the Act except section 112.

The reason for the specific exception in regard to section 112 will be apparent to local authorities. That section deals with the *temporary* grant in respect of loss of rates incurred in respect of the six months, 1st October, 1929, to 31st March,

1930. If an amendment of the list affects the ratepayer's liability in respect of that period of six months (or any part of it) and the amendment is a reduction of rateable value, the resultant loss of rates to the local authority will be made good out of the temporary grant. If it does not reduce the ratepayer's liability during that period, there will be no loss of rates to be made good out of the temporary grant.

PROVISION AS TO RATES, PRECEPTS AND GRANTS FOR THE TRANSITORY PERIOD OF SIX MONTHS 1ST OCTOBER, 1929—31ST MARCH, 1930.

As explained above, a temporary exchequer grant will be paid to rating authorities in accordance with the provisions of section 112 to make good the loss of rate income incurred by them in respect of that period by reason of the derating provisions of the Act.

In these circumstances there will, for that half-year, be no need for local authorities, in estimating or calculating for rating or precepting purposes the produce of a penny rate, or in determining the poundage of a rate, or in making any apportionment between two or more rating areas, to take account either of the effect of the derating provisions of the Act, or of the amount of the new temporary grant, and section 112 provides accordingly that they shall not be taken into account for those purposes.

MISCELLANEOUS RATING AND CONSEQUENTIAL PROVISIONS.

Part V. of the Act includes a number of provisions connected with rating and valuation or rendered necessary by derating and the consequential alterations of the valuation list.

(i) *Rating of Owners of Small Hereditaments.*

Amendment of Section 11 *of the Rating and Valuation Act,* 1925.

By section 11 (1) of the Rating and Valuation Act, 1925, rating authorities were empowered, by resolution, to direct that, in the case of hereditaments falling within a class to be defined by them, the owners shall be rated instead of the occupiers. It was, however, provided that the class should not be so defined as to include any hereditament with a rateable value exceeding £13 (except where a higher value was in force for the purposes of section 3 of the Poor Rate Assessment and Collection Act, 1869) or any hereditament the rent of which becomes payable or is collected at quarterly or longer intervals.

Section 71 gives rating authorities a wider discretion in the matter. They may now define the class to which the rating of owners is to apply either by reference solely to the limit of rateable value specified in section 11 (1) of the Act of 1925, or, if they so desire, by reference to that limit of value and also to the interval at which rent becomes payable and is collected.

(ii) *Valuation of Farmhouses and Farm Cottages.*

Section 72 preserves the basis of assessment, which, since 1896, when agricultural holdings ceased to be assessable as single units, has applied to the buildings forming part of such a holding (as distinct from the land) in pursuance of the provisions of section 5 (c) of the Agricultural Rates Act of that year. It will be observed that the section applies to farm houses and also to farm cottages (whether held on a tenancy or on a service occupation, strictly so-called) where residence depends on employment on the particular agricultural land in connection with which the cottage is occupied.

It does not apply to cottages not coming within that category, although they may be occupied by agricultural workers.

The date of operation of this section is the 1st April, 1930, as from which date the Agricultural Rates Act, 1896, will be repealed.

(iii) *Industrial Hereditaments Let at Inclusive Rentals.*

Section 73 is designed to secure to the tenants of industrial hereditaments which are let at inclusive rentals (the landlord paying the rates) the benefit of the rate relief conferred by the Act.

Under sub-section (2) of the section it will be the duty of the rating authority, on the application of the landlord or tenant, to certify the amount to be paid or allowed by the landlord in any case where—as happens, for instance, under what are known as " Room and Power Agreements "—part of any premises for the time being assessed as a single industrial hereditament is let (or sublet) by the person rated in respect of the whole.

The section operates only during the currency of existing tenancies.

(iv) *Water Rates.*

Adaptations are required in Acts and Orders regulating the charges for the supply of water in consequence of the provisions of the Act under which the rateable value of industrial and freight transport hereditaments will be reduced and particulars of agricultural land and buildings will be omitted from future valuation lists.

By section 77 of the Act, where the water rate is required to be levied on the rateable value of the premises as shown in the valuation list, the net annual value of the premises as so shown is to be substituted as the basis upon which the water rate is to be levied.

Where the water rate is required in an Act or Order to be levied on a value which will not in future appear in the valuation list, the value for the purposes of the water rate is to be determined, in case of dispute, by two justices of the peace.

(v) *Drainage Rates.*

As certain hereditaments liable to drainage rates (*i.e.*, " rates assessed under any commission of sewers or in respect of any drainage, wall, embankment or other work for the benefit of the land ") will not appear in future valuation lists, and others will appear with a materially reduced rateable value, it is necessary to provide some other basis in cases where the authority levying such rate is now required to assess them on values as appearing in the valuation lists for the time being in force.

Section 78 is designed to secure that, in such cases, the basis shall be—for all properties liable to be assessed to such rate—the gross value for Income Tax, Schedule A. If the property is not assessed to Schedule A the value is to be determined, in the event of dispute, by a court of summary jurisdiction. Provision is made for any necessary apportionment of the Schedule A value.

(vi) *Qualification of Jurors and Special Jurors.*

For the same reasons it is provided that, as from the 1st October, 1929, net annual value for rating purposes will be substituted for rateable value for the purposes of determining the qualification of a juror or special juror; and if no net annual value is shown in the valuation list the qualification will be determined on the net annual value for purposes of Income Tax, Schedule A. Provision is made for any necessary apportionment of the net annual value by the Registration Officer, subject to revision, on appeal, by a court of summary jurisdiction (section 79).

(vii) *Qualification of Voters.*

Where the qualification of voters is defined in the Representation of the People Act, 1918, in relation to the yearly value of land, that value is to be taken to be the gross value for rating purposes ; or, if there is no gross value in the valuation list, the gross value for purposes of Income Tax ; or, in any other case, the amount which the Registration Officer estimates would have been the gross value for rating purposes under the law in force in 1918. (Section 80.)

(viii) *Access to Schedule A Valuations.*

The authorities and persons concerned with voters' lists, jurors' lists and the levying of drainage rates are empowered to obtain from the Surveyors of Taxes copies of the Schedule A values at the maximum rate of 5*s.* per hundred entries. (Section 81.)

The provisions contained in Part V. relating to (*a*) borrowing power limits, (*b*) limits on expenditure, (*c*) parochial balances, (*d*) Welsh education, and (*e*) general adaptation of enactments, etc., are referred to in other memoranda.

MINISTRY OF HEALTH,
Whitehall, S.W.1.
18*th April*, 1929.

Memorandum L.G.A. 13.

County Councils (including London County Council).
Town Councils.
Urban District Councils.
Rural District Councils.
Joint Town Planning Committees.

LOCAL GOVERNMENT ACT, 1929.

TOWN PLANNING.

(PART III., SECTIONS 40 TO 45.)

Summary of Town Planning Changes.

1. The sections of the Act dealing with town planning make four changes of importance in the law on the subject:—

(1) Machinery is provided (by means of joint committees) to enable county councils to become more closely associated with town planning authorities in the preparation of schemes (sections 40, 41 and 43);

(2) The Minister is authorised to require the constitution of joint committees for the preparation of schemes (section 41);

(3) County councils are enabled to become responsible authorities under schemes in matters within their jurisdiction (section 42);

(4) The period for the obligatory submission of schemes by borough and urban district councils with a population of more than 20,000 at the 1921 census is extended to the 1st January, 1934, or to such later date (before the 31st December, 1938) as the Minister may allow (section 44).

2. The first and third changes are made in recognition of the important share to which county councils are entitled in preparing and carrying out town planning schemes by reason of their enlarged interests in road administration; the second is made partly to provide a means, where necessary, of enforcing recognition of a county council's right to participate in the preparation of schemes, and partly on grounds of general expediency; the last will provide time to secure the joint action between local authorities (including county councils) in the preparation of schemes which is essential for the proper co-ordination of development over extended areas.

3. The town planning provisions come into force on the 1st April, 1930.

Preparation of Schemes ((1) *and* (2) *in Paragraph* 1).

4. Borough, including county borough, and district councils are already empowered to form joint committees for the preparation of schemes (section 2 of the Town Planning Act, 1925), and a large number of joint committees have already been established.

5. Most of these committees are advisory, their powers being limited to making recommendations for submission to their constituent authorities, who still retain their right of making their own statutory schemes. Some of the committees, however, are executive, being endowed by their constituent authorities with power to prepare concerted statutory schemes on their behalf (but they do not necessarily or normally administer the schemes, this being a matter to be determined in the schemes themselves).

6. The new Act enables county councils to join with other authorities (including other county councils) in the formation of joint committees, or to join existing committees (in most of which they have already taken an informal part) without invalidating the prior proceedings of any existing committee they join or requiring its formal reconstitution.

7. County councils and other authorities will no doubt promote their own local arrangements for this purpose in consultation with the local authorities concerned and without the intervention of the Minister; but, as county councils have no independent powers of promoting town planning schemes and might therefore be left without any means of securing their right to recognition in the event of local disagreement, the Minister is authorised himself to require the formation of a joint committee where local arrangements fail, a power which he may also exercise to prevent the frustration of a generally agreed scheme for a joint committee by any unreasonable refusal of co-operation on the part of a small minority.

8. County councils can already claim to be consulted by local authorities preparing schemes in county districts under the existing town planning regulations, and this form of co-operation may be found sufficient in many county districts for which schemes can be prepared under the Town Planning Act, especially where the preparation of schemes has already reached an advanced stage.

9. In other cases county councils may wish to be more closely identified with the preparation of schemes, and for this purpose they may join existing joint (executive) committees, where they have already been formed, or promote the constitution of new executive committees, on the basis of a convenient grouping of county districts—and in conjunction with county borough councils, where association with the latter is desirable in order to obtain a good planning unit, and the county borough council are prepared to participate.

10. The extent and form of co-operation must depend largely on local circumstances; but, where a county council wish to be closely identified with the work of preparing schemes and the town planning areas lend themselves to convenient grouping, it will no doubt be found more convenient to form or join committees for groups of neighbouring authorities than to form a separate committee with each individual authority. Neighbouring counties and their county districts can combine, where this provides a more convenient local grouping.

11. The distinction between advisory and executive committees, already referred to, should be clearly appreciated in this connection. It is not contemplated that the existing grouping of local authorities on either advisory or executive joint committees, where they exist, should be disturbed, though minor rearrangements may be found necessary and justifiable. The existence of an advisory committee does not, however, preclude the formation of executive committees from among the authorities represented on the advisory committees. Executive committees have in some instances already been formed on the basis of convenient grouping of the constituent authorities of the advisory committees, and executive committees can be promoted within the membership of other advisory committees.

12. County councils will no doubt wish to place their present informal connection with advisory committees on a suitable basis of formal membership, and may desire to promote the formation of additional advisory committees, where committees do not at present exist; but, where a county council wish to be identified with the actual preparation of schemes in their areas and not to rely on the machinery of consultation provided in the existing regulations, the constitution of executive, as distinct from advisory committees, will be essential (except when the local councils cede their powers to the county council as explained below). For practical convenience in the preparing of schemes the grouping for the purpose of executive

committees may need to be over smaller areas than the whole of the region of an advisory committee, where this is large.

13. In case local authorities feel any hesitation in devolving their powers on joint executive committees, it may be pointed out that a council's representatives can be instructed to keep in close touch with the council during the work of preparing a scheme and to submit any plans and proposals for the council's consideration before their deposit under the town planning regulations.

14. Borough and district councils may, where they so wish, relinquish their powers of preparing schemes to the county council on agreed terms, and may do so without ceding their title to their proper share in the administration of a scheme, when made. Where councils are willing to do so, this may form a conveniently simple method of preparing a single scheme for combined districts.

15. The London County Council (unlike other county councils) already have full town planning powers, but the new Act enables them to join a combination of authorities in which other county councils are included.

Responsibility for the Administration of Schemes ((3) *in Paragraph* 1).

16. Under the Town Planning Act, 1925, responsibility for the administration of schemes (outside the county of London) could be entrusted only to the borough (including county borough) or district council preparing the scheme, or, where the scheme extended to more than one local government district, one or other of the councils of those districts or a joint body specially constituted by the scheme and representative of the councils.

17. The new Act enables county councils to take their due share in the administrative and financial responsibility for schemes—that is, just as a borough or district council can undertake responsibility for the carrying out of the provisions in a scheme as to buildings and open spaces, and as to new streets and improvements of existing streets (including building lines) for which they would normally be responsible under the general law, so a county council can undertake responsibility for roads and road improvements which come within their jurisdiction, including projected roads likely to be of county status.

18. County responsibility could be made effective in town planning schemes broadly in one of three ways:—

(*a*) The county council could be made expressly responsible in the scheme itself for the particular roads and road improvements in which they were interested. They would then be immediately responsible for the exercise of the powers of the scheme as regards those roads, and would be directly liable for compensation and entitled to betterment in respect of the roads.

The main advantage of this method is the simplicity and avoidance of dual control within the limits to which it is applied. This is, however, more apparent than real where new roads are concerned, as the construction of major and minor roads must always be correlated.

(*b*) The borough or district council could be left with primary and direct responsibility for the whole of the scheme, subject to the inclusion in the scheme of provisions to safeguard the interests of the county council in roads properly coming within their jurisdiction, and for the reimbursement by the county council to the borough or district council of expenditure properly chargeable to the county council.

The advantage of this course is that it leaves the whole of the direct administration of a scheme in the same hands, a great convenience to building owners, and the surest way of facilitating negotiation with owners and enabling any gain to an estate in one respect to be set off against any loss in another (*e.g.* concessions on minor streets or other advantages in estate development to be balanced against increased requirements on major streets).

(*c*) The borough or district council could be left with complete primary responsibility as in (*b*), but the provision for repayment by the county council and for safeguarding the county council's interest could be effected by an agreement between the county council and borough council or district council authorised by the scheme.

19. The extent and form of responsibility to be undertaken by a county council in a town planning scheme must of necessity vary with different schemes, and will also depend on such matters as the extent to which road administration is claimed or is delegated. For these reasons it is not practicable at present to recommend any uniform adaptation of the model town planning clauses for schemes in which county councils are concerned; but the Minister is preparing adaptations of the clauses to suit what seem likely to be the more common requirements, for consideration and trial.

Extension of Time for Preparation of Obligatory Schemes ((4) *in Paragraph* 1).

20. It is unnecessary to comment in detail on this provision, except to say that the extended date should not be treated as the earliest, instead of the latest, date for the submission of schemes, and that it is important that schemes for obligatory areas, and also for areas where town planning is not obligatory but where development is likely, should be prepared and submitted as soon as practicable.

21. The statutory extension of the period for the submission of schemes does not carry an automatic extension of the periods fixed under the regulations for schemes already commenced, but the Minister will be prepared, where good grounds are shown, to grant reasonable extensions of these periods, where private interests would not be prejudiced.

MINISTRY OF HEALTH,
Whitehall, S.W.1.
23*rd April*, 1929.

Memorandum L.G.A. 15.

County Councils.
Town Councils.
Urban District Councils.
Rural District Councils.

LOCAL GOVERNMENT ACT, 1929.

REVIEW OF DISTRICTS AND GENERAL LOCAL GOVERNMENT.

The present memorandum deals with matters of general local government contained in the Local Government Act, 1929, which it is desired to bring specially to the notice of local authorities.

I.—REARRANGEMENT OF COUNTY DISTRICTS.

First Review (*Section* 46).

1. These provisions are based on the recommendations in the second Report of the Royal Commission on Local Government, and require each county council to make a review of the districts in their county and to submit to the Minister proposals for their rearrangement where desirable. (In section 134 of the Act "district" is defined as meaning a county district—that is to say, a non-county borough or other urban district or a rural district). The review is to be made as soon as may be after the commencement of the Act (section 46 (1)), meaning as soon as may be after the passing of the Act. Thus, not only section 46 of the Act, but sections 48 and 49, which also deal with alterations of boundaries, are already in operation.

If in any case a survey has already been made within the three years preceding, the Minister may decide that a further review is unnecessary (sub-section (6)). Otherwise the county council must submit their proposals to him before the 1st April, 1932, though the Minister may extend that date. If they fail to do so, the Minister may himself make proposals (sub-section (5)).

The points to be borne in mind are :—

(1) Before making their proposals the county council must confer with the representatives of the councils of the several districts wholly or partly within the county and with the councils of county boroughs adjoining the county. Every endeavour should be made to reach agreement ;

(2) After the completion of the review as respects the whole or any part of the county, the county council must send the Minister a report of the review, together with proposals as to the changes (if any) which they consider desirable ;

(3) As soon as the proposals are made to the Minister, the county council are required by sub-section (3) to—

  (*a*) send copies of them to the councils of the several districts affected thereby ;

  (*b*) advertise them in one or more of the newspapers circulating in the districts affected by the proposals and include in the advertisements statements that a copy of the proposals is open to inspection at a specified place and that representations with respect to the proposals may be made to the Minister within six weeks after the publication of the notice ;

(4) The proposals may include an alteration or definition of the boundaries—

  (*a*) of urban and rural districts ;

  (*b*) of non-county boroughs ;

  (*c*) of county boroughs (but only in agreement with the county borough council) ;

  (*d*) of parishes ;

(5) New urban districts, rural districts or parishes may be formed or existing districts or parishes may be united, but the procedure does not allow of the constitution under it of a new borough or the abolition of an existing borough (see sub-section (2) and section 65).

2. The Minister may by order confirm the proposals or any of them, with or without modifications, or may reject them, and his decision is final ; but if the proposals are objected to by a local authority who are affected by them, and the objection is not withdrawn, the Minister must hold a local inquiry before deciding to issue an order or orders (sub-section (4)).

3. The county council may submit proposals dealing with a part only of the county ; but usually it will doubtless be found advisable to deal with the county as a whole. Where proposals are submitted for a part only of a county, care should be taken to make sure that this part is a satisfactory unit ; otherwise it may be found, when other parts of the county are considered, that the best arrangements have not been put forward.

4. The Minister is preparing a statement to assist county councils in making the reviews (*a*). This will specify the particulars with which the Minister will require to be furnished, when proposals are submitted, for the purpose of drafting the order or orders, and will contain suggestions as to the information which county councils will find it advantageous to obtain for the purpose of their reviews. It may, however, be stated generally that, subject to their complying with the statutory requirements as outlined above, county councils may use their discretion as to the method of and procedure for the conduct by them of the reviews.

5. Attention is drawn to the remarks of the Royal Commission on Local Government in their second Report that they " are of opinion that the need for a general review of areas of county districts and parishes has been established. The representatives of the local authorities have not dissented from the view that there are at present authorities who cannot efficiently discharge the functions entrusted to them and that a review of areas should be undertaken in order to see how far ineffective units can be eliminated by reorganisation " (paragraph 39, page 15). The Commission further state (paragraph 61, page 25) : " The primary object of the reorganisation of areas recommended by us, and indeed of all alterations of local government areas, being to improve their local administration, we are hopeful that

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(*a*) This statement is contained in L.G.A. 24, *post*, p. 3518.

the adoption of our proposals on this subject and of those in our First Report will result in the elimination to a large extent of those councils of county districts who by themselves are not strong enough financially to perform the essential sanitary services, and that most parts of the country will be within the jurisdiction of local authorities who are able to discharge their duties without further financial assistance." While the Commission recognised that probably "some councils of county districts will remain who either are or will become financially incapable of carrying out essential services, particularly the provision of a proper water supply and a system of sewerage and sewage disposal," yet, having regard to the existence of many such districts, it will be necessary that the review and proposals of the county council should be of a thorough nature.

Later Reviews (*Section* 47).

6. Similar reviews can be made subsequently when desirable or when required by the Minister ; but ten years at least must elapse between any two reviews. The procedure will be similar, subject to this important difference, that if the resulting proposals would alter borough boundaries and are objected to by the town council of the borough, that council may object to the order of the Minister by which effect is given to the proposal, and in that event the Minister's order will become a provisional order and will need confirmation by Parliament.

Divided or Detached Areas (*Section* 49 (1)).

7. County councils may put forward to the Minister agreed proposals for an order so altering a county boundary as to secure that the whole of a district or parish shall be within one county and that there shall no longer be detached parts of counties. The policy that the whole of each parish and of each rural district should be within the same county was enunciated in section 36 of the Local Government Act, 1894, but the section enabled the county council for special reasons to direct that a rural district should continue in more than one county, and several rural districts are so situate at the present day, or where the portion in each county was constituted a separate rural district, are "temporarily" administered by the council of an adjoining rural district under section 24 (5) of the Act of 1894. The Royal Commission on Local Government stated in their second Report that in their opinion "it is desirable that every parish and every district should be wholly within the area of one administrative county for all purposes" (page 17 (g)) ; and county councils should take concerted and agreed measures for dealing with the anomalies that remain.

Under section 49 of the new Act a district not wholly comprised within one county may be brought wholly within one county by an alteration of the county boundary. A similar result may be reached by means of a proposal under section 46 of the Act, as for the transfer of all the parishes of the district which are within the same county to a borough, urban district or rural district in that county, or to more than one of these units of local government. Under this procedure an alteration of the county boundary would not be necessary for the purpose of securing that the district should cease to be in more than one county.

Detached parts of counties, several of which exist, are likely to lead to difficulties in the administration of poor relief, and it is hoped that county councils will formulate representations under section 49 (1) of the Act which will lead to a general abolition of these anomalous areas.

Adjustments of Boundaries between a County and County Borough (*Section* 49 (2)).

8. A county council and a county borough council may also make a joint representation to the Minister for an order to alter the boundary between their areas. Any district council who may be affected by the alteration should, of course, be fully consulted. A detached part of a county borough could be abolished by an order under this sub-section.

Proposals for Alterations in Individual Cases (*Section* 48).

9. The present machinery contained in sections 54 and 57 of the Local Government Act, 1888, for the constitution of new urban or rural districts or for the

alteration of the boundaries of individual boroughs, districts and parishes will continue in operation.

Important modifications, however, which came into operation on the passing of the Act, are made in section 57 of the Act of 1888 :—

(1) County councils will have power to make orders under the section of their own accord ; doubts have been felt as to whether they could take action in the absence of a proposal for the alteration ;

(2) It has been considered that neither the county council nor the Minister could travel beyond the scope of the original proposal submitted to the county council. Power is now given to make modifications, if desirable, after due notice and hearing of representations ;

(3) The Minister previously was obliged to confirm an unopposed order of the county council, even though he thought the alteration undesirable. Power is now given to the Minister to modify or reject an order whether it is opposed or not ;

(4) Complaints have been made that there was no appeal against a decision of a county council rejecting an application for an order. The section now provides for an appeal to the Minister in such cases.

The amendments above mentioned will extend to county borough councils in making orders under section 57 of the Act of 1888 (see sub-section (2)).

Scope of Orders of the Minister (*Section* 66).

Any order of the Minister under section 46 of the Act must obviously contain supplemental provisions for the purpose of carrying it into effect. This point is met by section 66 of the Act which applies section 59 of the Local Government Act, 1888, to all orders made under Part IV. of the recent Act, with the result that the Minister will be able to include in any order made by him all such provisions as are commonly included in an order of a county council under section 57 of the Act of 1888. Provision is also made for financial adjustments consequent upon the order, as section 62 of the Act of 1888 is also applied by section 66 of the new Act. An order under Part IV. of the Act cannot affect the limits of any parliamentary county or parliamentary borough (section 66 (2)). Orders under the Local Government Act, 1888, are subject to a similar restriction (see section 92, Local Government Act, 1888).

II.—REVIEW OF ELECTORAL DIVISIONS (SECTION 50).

County councils must make a review of the electoral divisions, in accordance with the procedure laid down in the section. This must be made as soon as possible after the first general review of county districts and before the 1st January, 1933, but the Secretary of State may in individual cases extend that date, or, where he considers such a review to be unnecessary, he may relieve the county council from the duty of making it. If the county council fail to put proposals before him, the Secretary of State may himself make proposals.

In making their proposals the county council should act on the principles laid down for the constitution of electoral divisions in section 51 of the Local Government Act, 1888.

III.—TRAVELLING EXPENSES OF MEMBERS OF COUNTY COUNCILS (SECTION 52).

This section enables a county council to provide as from the 1st April, 1930, for the travelling expenses necessarily incurred by members in attending meetings of the council or in carrying out any necessary inspection. So far as committees, sub-committees and joint committees are concerned, the application of the section is limited by sub-section (4) to such of these bodies as are appointed for the discharge of functions throughout the whole area for which the county council is charged with those functions.

The powers given by this section are new. It is provided by sub-section (2) that they are not to take the place of any powers of this nature already belonging to the council, for example, in relation to meetings of insurance committees under section 84 of the National Health Insurance Act, 1924, or of county agricultural committees under section 7 (5) of the Ministry of Agriculture and Fisheries Act, 1919.

No expenditure incurred under this section is to rank for grant from the Exchequer, and any such expenditure must be excluded from claims for grant (sub-section (3)).

IV.—APPROPRIATION OF LAND BY COUNTY COUNCILS (SECTION 53 (2)).

County councils are empowered (with the Minister's approval, and subject to the like restrictions as are contained in section 95 of the Public Health Amendment Act, 1907) to appropriate land for any purpose for which they are authorised to acquire land, if the land is no longer required for the purpose for which it was acquired. County councils had formerly no general power enabling them to appropriate land in this manner, and it is expected that this power will be of much use in connection with the exercise of the functions transferred to county councils by this Act.

The restrictions of section 95 of the Act of 1907 are that nuisance must not be permitted and that uses for certain purposes (sinking a well, use for cemetery, sewage farm, infectious disease hospital, etc.) are not to be allowed except after local inquiry.

The section does not supersede any other enactment conferring powers of appropriation on county councils.

V.—SPECIAL EXPENSES AND CONTRIBUTIONS.

Contributions by Rural District Councils (*Section* 56 (1)).

1. Certain expenses incurred by a rural district council, including the expenses of constructing, maintaining and cleansing sewers in a contributory place and the provision of a supply of water to a contributory place and the maintenance of the necessary works, are declared to be special expenses chargeable upon the contributory place (section 229, Public Health Act, 1875). Further (under the same section and section 49 of the Public Health Acts Amendment Act, 1890), expenses of a rural district council for other purposes, such as scavenging, may be determined by order of the Minister to be special expenses, and are then similarly chargeable.

Rural district councils are empowered, as from the passing of the Act, for the first time to contribute from their general funds the whole or part of any expenses payable as special expenses, whether incurred before or after the passing of the Act.

Contributions by County Councils (*Section* 57 (1)).

2. This sub-section empowers the county council as from the passing of the Act to contribute towards the expenditure incurred, whether before or after the passing of the Act, by the council of a district wholly or partly within the county in connection with sewerage, sewage disposal and water supply. The county council may contribute such sums as appear to them to be reasonable, having regard to the resources of the district and the circumstances of the case.

The county council may, therefore, help a district or parish where a scheme is highly desirable but where the burden would be too heavy for local resources, or where, for instance, even though a scheme may not be urgently required for the district or parish itself, it is advantageous that it should be carried out because of the benefits to other areas, as in the protection of water supplies.

A number of cases will occur where it is not likely that a scheme can fairly be expected to be executed without some outside assistance; and the Minister hopes that rural district councils and county councils will not hesitate to use these new powers.

Apportionment of Expenses in Rural Areas (*Section* 56 (2) *and* (3)).

3. Section 229 of the Public Health Act, 1875, empowered a rural district council to apportion between two or more contributory places, as they might think just, their expenditure on constructing and maintaining any work of sewerage or water supply or other work executed under the Act for the common benefit of the contributory places and chargeable thereon as special expenses. An appeal could be made under the section to the Minister against the apportionment.

These provisions are repealed (see Part IV. of the Twelfth Schedule to the Act); and a rural district council may now apportion between two or more contributory places, in such proportions as they think just, any expenses which are chargeable as special expenses, whether incurred before or after the passing of the Act. The appeal to the Minister is abolished, and any determination or apportionment by a rural district council under section 56 of the new Act is final.

VI.—TRANSFER OF FUNCTIONS TO COUNTY COUNCIL.

Relinquishment of Functions (*Section* 57 (2)).

1. A district council may by agreement with the county council relinquish in favour of the county council any of their functions relating to public health. A copy of any such agreement must be sent to the Minister.

Default (*Section* 57 (3) *and* (4)).

2. On the default of a district council the Minister may, after holding a local inquiry, issue an order requiring the defaulting authority to carry out their duty within a specified time.

If the council fail to comply with the order, the Minister may make a further order transferring to the county council the function with respect to which default has been made. This order may make applicable any of the provisions of the new Act relating to the transfer, superannuation and compensation of officers, and any of the provisions of section 63 of the Local Government Act, 1894, for the purpose of enabling the expenses incurred by the county council in discharging the function to be met and for other purposes.

The sub-sections will apply where default arises in regard to any of the following matters, namely, the provision of a sewerage system or sewage disposal works or an adequate supply of water for the district of the council or any part thereof, or the discharge of any other function relating to public health which it is the duty of the council to discharge.

The existing provisions of the Public Health Act, 1875 (sections 299 to 302), relating to default powers are repealed as regards district councils. They are continued in force for county borough councils.

VII.—BORROWING AND EXPENDITURE.

The Act empowers county councils and county borough councils to borrow for the purposes of the Act (section 128 (3)). It also provides (section 128 (1)) that all expenses of a county council under the Act, unless otherwise provided in the Act or in a scheme for the provision of infectious diseases hospitals, shall be general and not special expenses, and that all expenses of a county borough council shall, subject to similar exceptions, be defrayed as general expenses in the execution of the Public Health Acts.

The Act also removes or expands certain limitations upon the borrowing and expenditure of local authorities, as follows:—

1. *Extension of Loan Periods* (*Section* 53 (1)).

The maximum limit of thirty years fixed by the Local Government Act, 1888, for repayment of loans raised by county councils, and by the Municipal Corporations Act, 1882, for the repayment of loans raised by town councils, is extended to sixty years, the maximum period prescribed by the Public Health Act, 1875.

2. *Abolition of Borrowing Limits* (*Section* 74).

The statutory limits hitherto fixed on borrowing powers are abolished as from the 1st October, 1929. These have long ceased to be of their original value because of the many classes of expenditure which have been placed by the legislature outside the limits. The derating provisions of the Act will now further make rateable (or assessable) value no longer an appropriate limit.

The limits which have been abolished are:—

Urban and Rural Sanitary Authorities.—Two years' assessable value of the district (Public Health Act, 1875, section 234 (2)).

County Councils.—One-tenth of the rateable value of the county (Local Government Act, 1888, section 69 (2)).

Parish Councils.—One-half of the assessable value of the parish (Local Government Act, 1894, section 12).

Further, section 234 (3) of the Public Health Act, 1875, provides that a local inquiry shall be held where a proposed loan, added to the balances of previous loans, would exceed one year's assessable value. This provision has been in abeyance since the passing of the Local Authorities (Financial Provisions) Act, 1921, and is now repealed as from the 1st October, 1929.

Needless to say, it will not be the less incumbent on local authorities carefully to scrutinise their proposed capital expenditure and to satisfy themselves that it is prudent to incur it. Local authorities would do well as a regular procedure to have an annual capital budget (any expenditure outside the budget being considered only in proved exceptional circumstances). Furthermore, it is a wise policy, when each year's capital budget is considered, that there should at the same time be a survey of the capital expenditure for the next four years, so far as can be gauged.

3. *Widening of Certain Expenditure Limits* (*Section* 75).

There are a number of provisions in Acts of Parliament which restrict the expenditure which a local authority may incur for specified purposes to a certain rate in the £. The reduction of the produce of a penny rate in consequence of derating has reduced the amount of expenditure which can be incurred by local authorities under these Acts.

The section provides that, as from the 1st October, 1929, the existing limits shall be increased by 33⅓ per cent. This should give a sufficient limit for most local authorities; but if in any case it proves insufficient the authority may apply to the Minister for an order, which has to be laid before Parliament, increasing the permitted limit.

VIII.—PARISH PROPERTY.

(SECTION 115 AND SEVENTH SCHEDULE.)

Consequent upon the abolition of boards of guardians, the law relating to the holding and disposal of parish property (usually consisting of old parish workhouses and cottages, parochial offices and vestry rooms) has been recast, to take effect as from the 1st April, 1930.

Parish property may be vested in the borough or urban district council, parish council, or, in rural parishes without a parish council, in a statutory representative body; but a sale or letting of this property devolves in urban parishes ordinarily upon the board of guardians.

Parish property vested in any council or representative body already mentioned will continue so vested; but the Act transfers the powers exercised by the guardians as well as all the guardians' interests in parish property (including sale proceeds and any securities in which sale proceeds have been invested), to the council or representative body.

The principal matters to which attention need be drawn are:—

(1) The Minister's approval and, where the property belongs to a rural parish, the consent of the parish meeting will continue to be required to the sale, exchange, letting, etc., of parish property, except in the case of a letting for a term not exceeding one year;

(2) It will no longer be necessary for the consent of the owners and ratepayers to be obtained to a sale of the property belonging either to an urban parish or a rural parish;

(3) Parish councils have in the past been empowered to expend money out of the rates on works relating to parish property, and similar powers could be conferred on a town or urban district council by an order of the Minister under section 33 of the Local Government Act, 1894. Such an

order will now no longer be necessary, these councils being given the necessary powers. Similar powers are also given to parish meetings ;

(4) The expenses of the council of a borough or urban district in relation to parish property may, at the discretion of the council, be charged to the general rate levied for the whole borough or district or be levied as an additional item of such rate on the parish or parishes to which the property belongs (sub-section (4)) ;

(5) Section 3 of the Union and Parish Property Act, 1835, gave the Minister control over the application of the rents and profits of a letting, as well as over the proceeds of a sale, of parish property. This section is repealed (Part VII. of the Twelfth Schedule to the Act). Under paragraph 4 of the Seventh Schedule the rents and profits of letting parish property are to be applied for the benefit of the parish. The consent of the Minister is, however, still required by paragraph 2 of the same Schedule to the application of the proceeds of a sale ;

(6) Subject to the provisions of the Sale of Exhausted Parish Lands Act, 1876, which give a right of pre-emption to an owner of adjoining land and deal with minerals, etc., under the land, the above provisions are applied to a sale of any property under the Act, generally quarries which were allotted to surveyors of highways for the purpose of the repair of public and private roads in the parish ;

(7) The before-mentioned provisions do not extend to recreation grounds, village greens or open spaces, nor do they affect the powers of parish councils as to the letting, sale or exchange of property under section 8 (2) of the Local Government Act, 1894, which relates to property acquired by the council out of rates or applicable in aid of rates or held by the council in trust for charitable purposes.

MINISTRY OF HEALTH,
WHITEHALL, S.W.1.
17*th May*, 1929.

Memorandum L.G.A. 17.

County Councils.
Town Councils.
Urban District Councils.
Rural District Councils.
Metropolitan Borough Councils.
Corporation of the City of London.

THE LOCAL GOVERNMENT ACT, 1929.

(PART VI. AND THE SECOND, THIRD, FOURTH AND FIFTH SCHEDULES).

Exchequer Grants and other Financial Matters.

I.—INTRODUCTORY.

1. A general description of the provisions of the Local Government Act, 1929, other than the financial provisions contained in Part VI. and the Second, Third, Fourth and Fifth Schedules of the Act will be found in other Memoranda. The present Memorandum deals with these financial provisions, and in particular indicates in some detail the first steps to be taken by the Minister of Health and the local authorities respectively in order to bring them into operation.

The Agricultural Rates Act, 1929, which provides (i) that occupiers of agricultural land and agricultural buildings (other than dwelling houses) shall be wholly exempt from rates during the half-year from the 1st April, 1929, to the 30th September, 1929 ; and (ii) for a compensatory Exchequer Grant to rating authorities for that half-year only, is not dealt with in this Memorandum but in a separate circular which has already been sent to local authorities.

2. Throughout this Memorandum the word "Act" means, unless the context otherwise requires, the Local Government Act, 1929, and the provisions of Part V. of the Act relating to the complete or partial exemption from rates of the occupiers of certain hereditaments are referred to as "the derating provisions," while the Poor Law and Highway services which, under Parts I. and III. of the Act respectively, will be transferred mainly to the councils of counties and county boroughs are referred to, as in the Act itself, as "the transferred services."

The derating provisions of the Act will take effect on the 1st October, 1929, and the transferred services will be transferred on the 1st April, 1930. The period between these two dates is throughout this Memorandum called "the transitory period."

3. Part VI. of the Act contemplates that the present system of Exchequer Grants which was in operation in the year ending 31st March, 1929, shall continue to operate in respect of the whole of the year ending 31st March, 1930, and provides that as from that date certain of those grants shall be discontinued and a new system of Exchequer Grants brought into operation. In the last six months of the year ending 31st March, 1930, during which the derating provisions of the Act will be in operation, an additional (temporary) grant will be payable in respect of that period only. The object of this grant is to make good to rating authorities the loss of rate-income arising during the transitory period by reason of those provisions.

4. Stated very broadly, and from the point of view of local government only, the principal objects of the new system of grants which will operate as from 1st April, 1930, are (i) to provide a contribution from the State towards local government expenses ; and (ii) to secure that the amount of this contribution shall ultimately be distributed among the several counties and county boroughs in proportion to their respective needs as measured in the manner laid down in the Act. In order to avoid too violent a dislocation of existing local financial arrangements, the Act provides that certain modifications of this ultimate basis shall apply during the first seventeen years of the scheme, *i.e.*, during the period between the 1st April, 1930, and the 31st March, 1947.

5. The following sections of this Memorandum deal successively with :—

(i) the transitory period ;
(ii) the discontinuance, as from the 31st March, 1930, of certain Exchequer Grants and the winding up of the Local Taxation Account and of the Exchequer Contribution Accounts ;
(iii) the new system of Exchequer Grants to be brought into operation on the 1st April, 1930 ;
(iv) some miscellaneous financial provisions ; and
(v) the steps necessary to bring the new scheme of grants into operation.

II.—TRANSITORY PERIOD.

(1ST OCTOBER, 1929, TO 31ST MARCH, 1930.)

6. As already stated, the derating provisions of the Act will come into operation on the 1st October, 1929, and there will be a temporary Exchequer Grant to make good to rating authorities the loss created by those provisions in the produce of the rates of the transitory period. In these circumstances sub-section (1) of section 112 provides, in effect, that rating authorities and precepting authorities in estimating the produce of a penny rate in respect of the transitory period, or in determining the amount in the pound of any rate or precept, or in making any apportionment between two or more rating areas for that period, shall ignore both the loss of rates arising from the derating provisions and the compensation for that loss of rates to be provided out of the temporary Exchequer Grant. The sub-section also provides that in ascertaining the amount due in respect of the transitory period under any precept to which section 9 (2) of the Rating and Valuation Act, 1925, applies, the amount produced by a rate of the poundage specified in the precept shall be taken to

be the amount which would have been so produced if the derating provisions had not been in force.

7. It is proposed to pay in the course of the transitory period, to each rating authority, instalments on account of the temporary grant of such amounts and at such dates as will ensure that the authority shall be in as good a position to meet payments due under precept or otherwise as it would have been if the derating provisions had not been in operation. Thus, it is hoped that, with the active co-operation of the rating authorities, it may be practicable to pay the first instalment of the temporary grant early in November, 1929, the second instalment about the middle of December, 1929, the third instalment early in February, 1930, and the fourth instalment early in March, 1930. In a normal case, the total of these four instalments, to be paid within the transitory period, should be equivalent (as nearly as a calculation necessarily based on provisional figures will allow) to the loss of rate-income arising within that period in consequence of the derating provisions.

8. In order to carry out this programme it is essential that each rating authority shall furnish to the Minister, early in October, 1929, information as to the poundage of the rate for the transitory period, the estimated produce of the rate, and the relevant rateable values. This information will be required in order that the Minister may be in a position to make, in accordance with the provisions of sub-section (2) of section 112, a provisional estimate of the loss of rate-income arising in the rating area, in respect of the transitory period, from the derating provisions. A form in which to enter this information will be forwarded to the rating authority about the end of September, 1929, and should be completed and returned to the Minister immediately after the 1st October, 1929, *i.e.*, as soon as figures become available showing, according to the valuation list in force on that date, the relevant rateable values.

9. A proviso to sub-section (2) of section 112 enacts that if the Minister is satisfied that the amount in the pound of the rates levied by any rating authority in respect of the transitory period has been abnormally increased by reason of charges not ordinarily falling to be borne by rates having been imposed thereon, the sum payable to the rating authority out of the temporary grant shall be such sum as may be estimated by the Minister as the sum which would have been payable if there had been no such abnormal increase.

10. Entries showing the loss of rates arising solely from the derating provisions of the Act in respect of industrial and freight-transport hereditaments should be made in a separate column of the rate book or rate account book in the case of a rate made for the transitory period only. In the case of a yearly rate, or a rate made for any other period partly within the transitory period and partly outside that period, the poundage of the rate will, for the purposes of the ascertainment of the amount of the temporary grant, be divided appropriately in the manner provided for in sub-section (2) of section 68; in such a case the separate column already mentioned should include, in addition to entries showing the loss of rates arising from the derating provisions of the Act in respect of industrial and freight-transport hereditaments, entries showing the loss arising from those provisions in respect of agricultural hereditaments.

11. The provisional estimate of the amount of the temporary grant will require revision after the end of the transitory period, when the amount of the grant finally payable in respect of the half-year will be ascertained. This amount will be equivalent to the losses incurred by rating authorities by reason of the derating provisions, and accordingly it is proposed to issue to rating authorities towards the end of March, 1930, forms in which the information required for the purposes of such revision will be specified.

The entries in these forms will be compared by the district auditor with the entries in the relevant rate book or rate account books and valuation lists, and, subject to any adjustments found to be required to give effect to the provisions mentioned in paragraph 9 above, any over-payments or under-payments which are found to have been made in connection with the provisional estimates will thereupon be rectified, if they have not been rectified at an earlier date. In many

Appendix II. cases it may be practicable upon receipt of the completed forms to proceed forthwith to make a final adjustment of the amount of the temporary grant. It will, however, be realised that the final adjustment of the temporary grant to a rating authority cannot properly be made until all outstanding objections and appeals affecting the liability, under the derating provisions, of the individual ratepayers of the rating area for the payment of rates during the transitory period have been determined.

III.—DISCONTINUANCE OF CERTAIN GRANTS AND THE WINDING-UP OF THE LOCAL TAXATION ACCOUNT AND OF THE EXCHEQUER CONTRIBUTION ACCOUNTS.

12. The Second Schedule to the Act specifies the exchequer grants which under sub-section (1) of section 85 cease to be payable in respect of any period after the 31st March, 1930. The grants to be discontinued are :—

- (i) All grants hitherto paid out of the Local Taxation Account, viz. :—
  - (*a*) The estate duty grant ;
  - (*b*) The equivalent of the proceeds of such of the local taxation licence duties as are not levied by the councils of counties and county boroughs (including the fixed sums payable in respect of the duties on carriage licences and liquor licences) ;
  - (*c*) The annual grant of £60,000 towards the cost of the collection of licence duties ;
  - (*d*) The fixed grant payable in respect of the proceeds of the Local Taxation (Customs and Excise) Duties ;
  - (*e*) The fixed grant payable under the Agricultural Rates Act, 1896 ; and
  - (*f*) The variable grant payable under the Agricultural Rates Act, 1923.
- (ii) The undermentioned grants hitherto made in respect of certain health services, viz. :—
  - (*a*) Grants for maternity and child welfare, other than the training of midwives and health visitors ;
  - (*b*) Grants for the treatment of tuberculosis ;
  - (*c*) Grants for the treatment of venereal diseases ;
  - (*d*) Grants for the welfare of the blind ; and
  - (*e*) Grants in respect of mental defectives.
- (iii) The undermentioned road grants hitherto made out of the Road Fund, viz. :—
  - (*a*) Classification grants in respect of Class I. or Class II. roads and bridges in London and county boroughs ; and
  - (*b*) Grants for the maintenance of unclassified roads in areas comprised in administrative counties.

The above-mentioned grants will be payable in respect of the year ending the 31st March, 1930.

13. The sums payable or transferable out of the Exchequer Contribution Accounts of the several counties and county boroughs in respect of the year ending 31st March, 1930, should be paid or transferred, as may be appropriate in the special circumstances. The Local Taxation Account and the Exchequer Contribution Accounts will thereupon be wound up in accordance with the provisions of section 85. Financial adjustments affecting the discontinued grants will cease to have effect, but in certain cases provided for in sub-section (5) of section 85 a new financial adjustment may be necessary.

14. Steps have been taken to expedite the determination of the amounts payable to the credit of the Exchequer Contribution Accounts of the councils of counties and county boroughs in respect of the standard year (i) by the Minister, out of the Local Taxation Account ; and (ii) by the Postmaster-General, in respect of the proceeds of the Local Taxation Licence Duties levied by the councils.

Information showing the extent, if any, to which the amounts paid to the credit of the Exchequer Contribution Accounts for the standard year are affected by financial adjustments will in due course be called for by the Minister from the councils of counties and county boroughs in order that he may be in a position to certify, for each county and county borough, the net amount of such of the discontinued grants for the standard year as are affected by those adjustments. It is essential that in the meantime any council concerned with an outstanding financial adjustment shall proceed without delay to dispose of all outstanding questions affecting the apportionment of the discontinued grants. The attention of the councils of counties and county boroughs is specially directed in connection with this matter to the provisions of sub-section (5) of section 85.

Local Taxation Licence Duties levied by the Councils of Counties and County Boroughs.

15. These duties will continue to be leviable by the councils of counties and county boroughs after the 31st March, 1930, and the proceeds thereof will, after that date, be applicable in the case of a county council to expenses chargeable on the general county fund, and in the case of a county borough to expenses chargeable on the general rate. Any financial adjustment affecting the allocation of such proceeds should be dealt with in accordance with the provisions of sub-section (5) of section 85.

Certain payments hitherto charged on Exchequer Contribution Accounts to be charged on County and County Borough Funds.

16. Payments corresponding to those which the councils of counties and county boroughs have hitherto been liable to make out of their Exchequer Contribution Accounts towards the salaries of medical officers of health and sanitary inspectors and the remuneration of public vaccinators will be made, after the 31st March, 1930, by those councils out of their general funds in accordance with the provisions of the Third Schedule to the Act.

Payments hitherto made out of, or diverted from, the Local Taxation Account in respect of charges on the Cattle Pleuro-Pneumonia Account and in respect of rates on certain tithe rent charges.

17. In connection with the winding-up of the Local Taxation Account, the arrangements set out in paragraphs 1 and 2 of the Third Schedule will come into operation. One result will be that the amount of exchequer grants distributable to local authorities will no longer be affected by any variation in the amounts of the payments mentioned in the heading to this paragraph.

Sums hitherto paid out of the Local Taxation Account which were applicable specifically towards the costs of the pay and clothing of the police and police superannuation and the costs of higher education.

18. It is intended that, in respect of any period after the 31st March, 1930, these payments, so far as they relate to the police, shall be merged in grants to be paid by the Home Office, and, so far as they relate to higher education, shall be merged in grants to be paid by the Board of Education.

IV.—NEW EXCHEQUER GRANTS-IN-AID OF LOCAL GOVERNMENT EXPENSES.

19. The local authorities to whom the new grants will be paid as from the 1st April, 1930, are county councils, county borough councils, metropolitan borough councils and the common council of the city of London, and the councils of county districts, that is, non-county boroughs, urban districts not being boroughs, and rural districts. The new grants will be paid by the Minister directly to these authorities.

20. The general outline of the new scheme of grants is as follows:—Each year there is to be provided by Parliament, for distribution to local authorities in England and Wales, a sum of money called the *General Exchequer Contribution.*

The annual amount of the General Exchequer Contribution will not vary during a "fixed grant period." In accordance with the provisions of sub-section (2) of section 86 the annual amount of the General Exchequer Contribution for the first fixed grant period will be revised for the second fixed grant period as from the beginning of that period; the annual amount for the second fixed grant period will for the third fixed grant period be revised as from the beginning of the third grant period; and so on for each subsequent fixed grant period.

The first fixed grant period is the period of three years from the 1st April, 1930, to the 31st March, 1933; the second fixed grant period is the period of four years from the 1st April, 1933, to the 31st March, 1937; and each subsequent fixed grant period is the period of five years from the expiration of the previous period. At each revision the amount of the General Exchequer Contribution is to be determined by Parliament, subject, however, to the condition contained in sub-section (3) (*c*) of section 86, which provides for the maintenance of a certain minimum ratio between the General Exchequer Contribution and the total rate and grant-borne expenditure of the country.

The General Exchequer Contribution will first be apportioned, on a basis specified in the Act, among all the administrative counties and county boroughs, the amount so apportioned to any county being called the *County Apportionment* and the amount so apportioned to any county borough being called the *County Borough Apportionment.* In the case of a county borough, the County Borough Apportionment will be payable to the council of that county borough as its *General Exchequer Grant.* In the case of a county, the County Apportionment is to be divided between the councils of the county districts on the one hand and the county council on the other hand; and the balance of the County Apportionment which remains after the amount payable to the councils of the county districts has been set aside for that purpose, will be payable to the county council as its *General Exchequer Grant.* The total grant payable to the council of a county district is the General Exchequer Grant of that council.

In any case where the County or County Borough Apportionment does not reach a certain sum specified in the Act an *Additional Exchequer Grant* will be payable to the council of that county or county borough. Any such grants will be provided by Parliament out of moneys additional to the General Exchequer Contribution.

In accordance with section 105 the General Exchequer Grant and the Additional Exchequer Grant (if any) of a county council are to be applicable to general county purposes.

There is a further type of grant, called the *Supplementary Exchequer Grant,* which is not part of the main scheme, but is a temporary and diminishing grant intended to ease the transition from the existing system of local government to the new system. The authorities to whom supplementary grants will be payable are mentioned in later paragraphs. These grants are intended to ensure that no separately rated area shall, owing to the operation of the scheme, suffer any increase of rate poundage for the first five years of the scheme. After the first five years each Supplementary Exchequer Grant is to be reduced annually by one-fifteenth of its initial amount, so that after 19 years no Supplementary Exchequer Grant will be payable. These Supplementary Grants, like the Additional Exchequer Grants, will not be payable out of the General Exchequer Contribution, but out of additional sums to be provided by Parliament.

Estimated total amount of the New Exchequer Grants.

21. It is estimated upon the basis of figures for 1926–27 that in each year of the first fixed grant period the amount of the General Exchequer Contribution for England and Wales will be about £45,500,000, that the Additional Exchequer Grants will amount to about £650,000, and that the Supplementary Exchequer Grant will amount to about £1,680,000, making a total of about £47,830,000 annually.

In the following paragraphs, further particulars are given as to the new system of grants.

The General Exchequer Contribution.

22. Section 86 provides that the General Exchequer Contribution for England and Wales shall be the total of the following amounts:—

(i) An amount equal to the total "losses on account of rates" arising from the derating provisions. (This amount is at present estimated to be about £24,000,000 for England and Wales.)

(ii) An amount equal to the total "losses on account of grants" arising from the discontinuance of certain existing grants. (This amount is at present estimated to be about £16,500,000 for England and Wales.)

(iii) An additional amount which, for each of the three years 1930–31, 1931–32 and 1932–33, is fixed at £5,000,000 for England and Wales.

"*Losses on account of Rates.*"

23. Part I. of the Fourth Schedule sets out the rules for determining the amounts of the losses on account of rates due to the derating provisions of the Act. [" Rates " has the same meaning as in sub-section (1) of section 68 of the Rating and Valuation Act, 1925, *i.e.*, it comprises general rates, additional items of general rates, and special rates only.] The "loss on account of rates of a county" is for the purposes of the Act to be deemed to be the aggregate of the losses on account of rates of all the separate rating areas in the county. For the purpose of determining these losses the Minister is to estimate and certify as respects each rating area the expenditure in respect of the "*standard year*" (that is, the financial year 1928–29), which would have fallen to be borne by rates levied in that area on certain assumptions, set out in Rule I. of Part I. of the Fourth Schedule, the most important being that expenditure on the transferred services is to be treated as if it had been expenditure of county or county borough councils.

In the case of a joint authority and in a case where the area of an authority extends into more than one county or county borough, and it is, therefore, necessary to apportion the expenditure of the authority, the apportionment will be made in accordance with the provisions of sub-section (1) of section 108 or sub-section (1) of section 109 as may be appropriate.

Under section 107 it is provided that for the purposes of estimating losses on account of rates, contributions in lieu of rates in respect of Crown property shall be treated as rates.

24. To enable the Minister to make these estimates of rate-borne expenditure every local authority is required, under the Local Government (Statements of Rate-borne Expenditure) Regulations, 1929, issued under section 108 (1) (*c*), to furnish to him a statement giving information in a prescribed form and by a prescribed date as to the income and expenditure of the authority in respect of the standard year. The Regulations define the expression "income and expenditure" and provide that the statements shall be compiled from the accounts as made up and balanced in accordance with the established practice of the authority. Statements of receipts and expenditure will be accepted in appropriate cases.

25. It will be seen from paragraph 22 of this Memorandum that the amount of the General Exchequer Contribution, on which is to be based the grant to each individual authority, cannot be finally determined until that part of it relating to total losses on account of rates in England and Wales has been ascertained. It is obvious that this cannot be done until every local authority has furnished the statement as to income and expenditure which is mentioned above. It is accordingly of paramount importance that these statements should be sent to the Ministry as soon as possible.

26. It is intended that most of the "prescribed forms" mentioned in paragraph 24 shall be issued to local authorities during April and May, 1929, and in view of what is stated above the latest dates for the submission of the statements to the Minister have been fixed by the Regulations as follows:—

(i) Boards of guardians and joint authorities representative only of those boards—31st May, 1929.

(ii) Rural district councils and joint authorities representative only of rural district councils—30th June, 1929.

(iii) Councils of municipal boroughs (not being county boroughs) all of whose accounts are subject to audit by district auditors, councils of urban districts (not being boroughs) and joint authorities upon which any of those councils are represented—30th June, 1929.

(iv) Councils of counties and municipal boroughs (excluding boroughs to which paragraph (iii) above relates), councils of metropolitan boroughs, the common council of the city of London, and any other local authorities—31st July, 1929.

"*Losses on account of Grants.*"

27. The present Exchequer Grants which cease under sub-section (1) of section 85 to be payable in respect of any period after the 31st March, 1930, have been specified in paragraph 12. It has also been mentioned in paragraph 18 that although all these grants are to be discontinued, sums representing the portions of them at present applicable specifically in aid of the costs of the police and costs of higher education will in future be paid to local authorities by the appropriate Government departments.

The total of the "losses on account of grants" is the total amount of the discontinued grants payable in respect of the standard year, excluding, however, the sums which were applicable in aid of higher education and police services referred to above. These amounts will be estimated and certified from the records of the appropriate Government departments; and, except as regards financial adjustments of Local Taxation Account moneys (see paragraph 14), local authorities will not be required to furnish returns specifically for this purpose.

The rules for determining losses on account of grants are contained in Part II. of the Fourth Schedule.

The "loss on account of grants of a county" is the aggregate of those losses for the county council and for every borough council, district council and other spending authority (including boards of guardians and voluntary associations) within the county.

28. Provision is made in the rules—see paragraph 2 of Part II. of the Fourth Schedule—for calculating the loss on account of classified road grants as if those grants had been made in respect of the standard year at the higher rates (viz., 60 per cent. for Class I. roads and 50 per cent. for Class II. roads) at which they will be made in respect of the year 1929–30.

29. Sub-section (2) of section 109 deals with the apportionment of discontinued grants in cases where apportionment is necessary, *e.g.*, where a board of guardians, rural district council or voluntary association has operated in more than one county.

County Apportionments and County Borough Apportionments.

30. Provision is made in section 88 whereby eventually, that is, from 1st April, 1947, the whole of the General Exchequer Contribution will be apportioned between counties and county boroughs on the basis of "weighted population." The formula for arriving at weighted population is set out in Part III. of the Fourth Schedule of the Act, and is explained in the Appendix to this Memorandum. During the first four fixed grant periods part only of the General Exchequer Contribution will be allocated on the basis of weighted population. For these four periods each County Apportionment and each County Borough Apportionment will be made up of (i) the "appropriate percentage" of the losses on account of rates and the losses on account of grants of the county or county borough for the standard year, and (ii) the share of the county or county borough, in proportion to weighted population, of the balance of the General Exchequer Contribution. The "appropriate percentage" means for the first two fixed grant periods 75 per cent., for the third fixed grant period 50 per cent., and for the fourth fixed grant period 25 per cent.

Grants to Councils of Counties other than London.

31. As already mentioned in paragraph 20, the *General Exchequer Grant* of the council of a county is such portion of the County Apportionment of that county as is not required to be set aside for making grants to the councils of the county districts within the county (section 89). The grants so payable to the councils of county districts are described in paragraphs 33 to 37 below.

32. As also stated in paragraph 20, an *Additional Exchequer Grant* is payable (section 90) to the council of a county in any case where the County Apportionment

falls short of a certain amount. This amount is the "standard sum," which, in the first fixed grant period, is the sum of the losses on account of rates and the losses on account of grants of the county in the standard year. In any case where the County Apportionment for the first fixed grant period falls short of the "standard sum" increased by a sum equivalent to one shilling per head of the estimated population (unweighted) of the administrative county for the standard year, the amount of the Additional Exchequer Grant for that fixed grant period will be equal to the amount of the deficiency.

Grants to non-County Borough Councils and other Urban District Councils.

33. Any grant payable under the Act to the council of a non-county borough or other urban district will be called the *General Exchequer Grant* of that council, and will, in accordance with the provisions contained in sections 91, 93 and 94, be arrived at as follows :—

(*a*) Sums set aside from the County Apportionment :—

  (i) A capitation grant, calculated at a flat rate per head of (unweighted) population for every urban district in England and Wales (see paragraph 34) ; and

  (ii) A sum allocated to any council which administers maternity and child welfare services—such sum to be determined in accordance with a scheme to be made by the Minister (see paragraph 35).

(*b*) A sum added by way of Supplementary Exchequer Grant in any case where it is estimated that an increase of rates would result from the operation of the scheme (see paragraph 36).

(*c*) In any case where it is estimated that a decrease of rates would result from the operation of the scheme there will be deducted from the amount of the above-mentioned capitation grant for the district a sum representing a contribution towards the losses in other districts in the county (see paragraph 36).

34. Under Part IV. of the Fourth Schedule the flat rate at which the above-mentioned capitation grant will be paid will be determined by dividing one-half of the aggregate of the County Apportionments of counties other than London by the aggregate population (unweighted) of those counties, the result being taken to the nearest penny. It is estimated that the flat rate would have been about 12*s.* 6*d.* per head in the year 1926–27 if the Act had been in operation in that year.

35. Section 93 provides that for each county containing a district, the council of which have established a Maternity and Child Welfare Committee, the Minister shall, after consultation with the county council and the councils of the districts concerned, make a scheme. The scheme will specify the addition to be made to the grants payable by the Minister out of the County Apportionment to each of the district councils administering maternity and child welfare services. The Minister will in due course prepare a scheme for every such county and will forward the draft scheme to the county council and the district councils concerned, for their consideration.

36. As mentioned in paragraph 20 above, the Act makes provision, as part of the gradual process by which the new scheme is to be brought into operation, that no separately rated area * shall suffer an increase of rate poundage by reason of the operation of the scheme during the first five years in which it is in force, and that any necessary rate adjustments consequent on the operation of the scheme shall be spread gradually over the following fourteen years.

The adjustments will be based on "gains" or "losses" which the Minister is to ascertain in respect of each separately rated area in accordance with the Rules set out in the Fifth Schedule to the Act. If the calculations made under that schedule show that any such area would suffer a loss (*i.e.*, an increase of rate poundage) by reason of the operation of the scheme, then to the General Exchequer Grant otherwise payable by the Minister to the borough or district council of the area he will add for each of the first five years of the scheme a sum equal to the whole amount of the loss as ascertained in accordance with the rules.

Appendix II. The money out of which any such additional sum will be paid by the Minister will be obtained from the under-mentioned sources :—

(A) One-half will be obtained from contributions drawn from those separately rated areas within the county which "gain" under the scheme. All the areas which gain will for this purpose give up, by way of deductions made from the General Exchequer Grants otherwise payable to their councils, an equal proportion of their gains, provided that no council will be required to give up, by way of such deduction, a sum larger than the amount of its capitation grant.

(B) The other half, together with any deficiency in the contribution arising from the limitation mentioned in (A), will be obtained from a further Exchequer grant called the "*Supplementary Exchequer Grant.*"

The amount of each of the sums mentioned in (A) and (B) above will remain fixed for each area for the first five years of the scheme. Thereafter the amounts of any contributions so made by the areas and the Exchequer will be reduced annually by one-fifteenth of the initial amounts, and the sums received out of those contributions will likewise be reduced by one-fifteenth annually.

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* The whole of any borough or district which is not subject to separate or differential rating is a "separately rated area"; and if, within a borough or district, there is a parish or other part which is subject to separate rating or to differential rating of a permanent character, that parish or part is a "separately rated area"—see definition in section 134.

37. Regulations will in due course be made under section 94 (1) (*d*) by the Minister for securing that the grant paid to the council of any non-county borough or other urban district which contains two or more separately rated areas shall be so distributed as to effect a rate adjustment between those areas in the manner contemplated by the Act. But, subject to these Regulations, the grant payable to the council of any such borough or district is applicable in aid of the total expenses otherwise falling to be met out of the general rate of the borough or district, including expenses of the county council as well as expenses of the borough or district council.

Grants to Rural District Councils.

38. Any grant payable under the Act to the council of a rural district will be called the *General Exchequer Grant* of that council and will be arrived at in a similar manner to that for the councils of urban districts, and paragraphs 33 to 36 apply equally to councils of rural districts, with the following modifications :—

(i) The capitation grant will be calculated at a flat rate which will be one-fifth of that applicable in the case of urban districts ;

(ii) In calculating "losses" and "gains" of separately rated areas, parish rates * and special rates * will not be brought into account.

(iii) Section 92 provides that, where a parish rate or special rate was levied within a rural district in the standard year, there shall, in addition to the sums mentioned in paragraph 33 (*a*) of this Memorandum, be set aside out of the County Apportionment a further sum which is to be paid by the Minister to the rural district council in respect of losses on account of special rates and parish rates levied within the rural district. For the first and second fixed grant periods this further sum will be equivalent to 75 per cent. of the losses on account of such rates estimated on the basis of the figures for the standard year. During these two periods the remaining 25 per cent. of the last-mentioned losses will be paid by the county council to the rural district council. The manner in which the additional sums so received by a rural district council (*a*) from the Minister and (*b*) from the county council are to be applied in aid of special and parish rates will be dealt with in Regulations to be made in due course by the Minister under sub-section (2) of section 92. Provision for periods subsequent to the second fixed grant period is contained in the section.

The Regulations mentioned in paragraph 37 will apply also to rural district councils.

Appendix II.
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The grants payable under the Act to a rural district council (other than the grants in respect of parish rates and special rates) will be applicable to all expenses chargeable on the general rate of the district, including expenses of the county council.

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* "Parish rate" means a rate or an additional item of a rate levied to meet the expenses of a parish council or parish meeting (other than expenses, if any, which are chargeable on a special rate) and includes any additional item of the general rate which by virtue of section 3 of the Rating and Valuation Act, 1925, is to be levied in lieu of a special rate. "Special rate" has the same meaning as in the Rating and Valuation Act, 1925.

Grants to County Borough Councils.

39. As stated in paragraph 20 of this Memorandum, the whole of the County Borough Apportionment will be paid to the county borough council and will be the *General Exchequer Grant* of the council (section 95).

40. An *Additional Exchequer Grant* will, under section 96, be payable to the council of a county borough in any case where the County Borough Apportionment falls short of a certain amount. This amount for the first fixed grant period is the "standard sum" increased by a sum equivalent to one shilling per head of the (unweighted) population of the county borough for the standard year. The "standard sum" for the first fixed grant period is so defined as in effect to be equal, in the case of a county borough which is coterminous with a poor law union, to the aggregate of the losses on account of rates and the losses on account of grants as estimated for the standard year. In the case of any other county borough the "standard sum" is so defined as in effect to be equal to the corresponding aggregate for that borough, increased by the loss, or reduced by the gain, of the county borough as a whole, due to any alteration of area of charge consequent upon the transfer of poor law functions to the council of that borough. "Losses" and "gains" will be calculated in the manner laid down in the Fifth Schedule.

41. Where a county borough contains two or more separately rated areas, section 97 provides for an adjustment of the "losses" and "gains" of those areas and for the payment of *Supplementary Exchequer Grants* in certain cases. The purpose of the Supplementary Exchequer Grant is to make good, at the cost of the Exchequer, one-half of the amount of the "loss" of each separately rated area. In the case of a county borough in respect of which an Additional Exchequer Grant is payable, these losses will already have entered into the calculation of the amount of the Additional Exchequer Grant. The section provides in such a case that a Supplementary Exchequer Grant shall be payable only if the Additional Exchequer Grant is less than one-half of the aggregate amount of the losses of those separately rated areas within the county borough which lose, and that the amount of the Supplementary Exchequer Grant shall be such that the total of the Additional and Supplementary Exchequer Grants is equal to one-half of the aggregate losses. Regulations designed to effect the rate-adjustments contemplated by the Act will in due course be made under the section by the Minister. These Regulations will deal with the method of distributing the grants between any separately rated areas within a county borough.

Grants to the London County Council.

42. The London County Apportionment will be calculated in the same manner as for other administrative counties, and, under section 98, the *General Exchequer Grant* to the London county council will be the balance of the County Apportionment after deducting the sums set aside for payment to the common council of the city of London and the councils of the metropolitan boroughs. The provisions as to *Additional Exchequer Grants* also apply to the London county council as they apply to the councils of other administrative counties (section 99). In the case of London, however, there are special provisions relating to the *Supplementary Exchequer Grants* (section 100). These grants are necessarily payable to the local authorities charged with the duty of making such rate-adjustments as will ensure that no separately rated area shall, for the first five years, lose by reason of the scheme.

Except in the county of London these authorities are the rating authorities. In London, because the rate-adjustments will, under the provisions of section 100, be made, not by the rating authorities, but by the county council, and by means of a differential county rate, the Supplementary Grant in respect of areas within the county will be payable to the county council.

Grants to the Common Council of the City of London and to the Councils of Metropolitan Boroughs (*section* 98).

43. The only grant payable under the Act to each of these councils is the *General Exchequer Grant* of that council. These grants will be set aside by the Minister out of the London County Apportionment and paid by him to each council. They will not be calculated in the same manner as those set aside for county districts out of the County Apportionments of Counties other than London, but will be more analogous to the General Exchequer Grants payable in the case of county boroughs. Thus, the General Exchequer Grant payable to each of these councils will, for the first fixed grant period, be the sum of the following amounts :—

(i) 75 per cent. of the aggregate of the losses on account of rates and the losses on account of grants of the council.

(ii) a grant based on population weighted by the children and rateable value factors only, and calculated at one-third of the rate per head applicable in the case of county boroughs.

An appropriate proportion of the expenditure and grants of the Receiver of the Metropolitan Police District will for this purpose be regarded as rates and grants of the council of each metropolitan borough [section 108 and Fourth Schedule, Part II., paragraph 6 (*b*)].

Sub-section (4) of section 98 provides that the London (Equalisation of Rates) Act, 1894, shall cease to have effect as from 1st April, 1930.

Payment of Grants.

44. Section 103 provides that the new grants shall be payable as and when the Treasury may direct.

The proposal as regards the payment of the grants for the transitory period will be found in paragraph 7 of this Memorandum.

As regards the new Exchequer grants payable after 1st April, 1930, it is contemplated that eight payments will be made in each year and that the method of payment will be that adopted in the case of grants from the Local Taxation Account, namely, by payment to the banking account of the local authority's treasurer through the head office or the London agent of his bank. It is proposed that the first payment of grant shall be made in May, 1930. It is intended to send a further communication to local authorities on this subject in due course.

V.—OTHER FINANCIAL PROVISIONS IN PART VI. OF THE ACT.

Voluntary Associations carrying out Health Services.

45. Direct grants will no longer be payable to these associations by the Minister, but will be replaced by contributions payable to them by local authorities. In the case of voluntary associations providing maternity and child welfare services (section 101) or services for the blind or mental defectives (section 102) the amounts of these contributions will be determined by schemes to be approved or made by the Minister. As regards the schemes under section 101 relating to the maternity and child welfare services, Memorandum L.G.A. 5 has already been addressed to county and county borough councils. Section 102 also provides for a scheme to be made by the Minister to determine the amounts of the contributions payable by the councils of counties and county boroughs in Wales and Monmouthshire to the Welsh National Memorial Association in respect of the treatment of tuberculosis.

Section 106 provides that the Minister, at the request of the council of a county or county borough, may pay the contribution of that council directly to any voluntary association and deduct the amount of such payment from the General Exchequer Grant of that council.

Appendix II.

Power of the Minister to reduce grants.

46. Section 104 provides that in circumstances specified therein the Minister may, subject to confirmation by Parliament, reduce by such amount as he thinks just the amount of grant payable in any year under the Act to any council.

Power of the Minister to make Regulations.

47. Section 108 gives the Minister the power to make Regulations for giving effect to the provisions of Part VI. of the Act, and provides in particular that Regulations may be made as to—

(*a*) the manner in which the expenditure of joint authorities is for the purposes of Part VI. to be apportioned between the areas of the constituent authorities ;

(*b*) the manner in which the new grants are to be adjusted in connection with alterations of authorities or boundaries taking effect on or after the 1st April, 1930 ; and

(*c*) the manner in which estimates and calculations are to be made for the purposes of Part VI., and the manner in which the necessary information for those purposes is to be obtained.

Such Regulations, when made, must be laid before Parliament.

Adjustments necessitated by alterations of area, etc., taking effect between 1st April, 1928, and 1st April, 1930, will be made by the Minister under section 111.

VI.—SUMMARY OF THE STEPS NECESSARY TO BRING THE NEW SCHEME OF GRANTS INTO OPERATION.

48. It has already been explained that the new grants payable to any individual local authority cannot be determined until the amount of the General Exchequer Contribution for England and Wales has been estimated, and that in order to estimate this amount it is necessary, among other things, to ascertain the loss on account of rates for every separately rated area. The loss on account of rates is calculated in part from the rate-borne expenditure of the standard year, and accordingly it is of the utmost importance that information sufficient to enable the Minister to estimate the amount of this expenditure shall be furnished at the earliest possible moment. It will be appreciated that, even when all the material is available, the necessary calculations will involve much labour and time. The Minister is of opinion that, in order that the new scheme may be brought into operation with the minimum of inconvenience to ratepayers and local authorities, the work to be done under Part VI. of the Act should progress at a pace which will enable him to indicate to every local authority early in 1930 the amount which will be paid to them during the financial year 1930–31 out of the new grants and the dates by which payments will be made. It is necessary for this purpose that both the department and the local authorities shall work to a time-table.

49. Several of the dates by which particular items of information must be in the hands of the Minister have already been given in this Memorandum, but for convenience a summary of the chief stages in the contemplated procedure and the latest dates by which those stages should be completed is appended :—

Steps to be taken.	*Date by which to be taken.*
Local authorities to close their accounts for the year 1928–29.	As soon as possible after 31st March, 1929.
Issue by the Minister of Regulations as to, and forms for, statements to be prepared by local authorities, showing their income and expenditure in respect of the year 1928–29, or in appropriate cases their receipts and payments during that year.	Ditto.
Boards of guardians, and joint authorities representative only of those boards, to furnish such statements not later than the 31st May.	April and May, 1929.

Appendix II.

Steps to be taken.	*Date by which to be taken.*
Rural district councils and joint authorities representative only of rural district councils to furnish the above-mentioned statements not later than the 30th June.	May and June, 1929.
Councils of municipal boroughs (not being county boroughs) all of whose accounts are subject to audit by district auditors, councils of other urban districts (not being boroughs) and joint authorities upon which any of those councils are represented, also to furnish the above-mentioned statements not later than the 30th June.	Ditto,
County and county borough councils to be informed on or about the 30th June of the amounts payable to them out of the Local Taxation Account for 1928–29 in respect of the Estate Duty Grant and other "assigned revenues."	
Councils of counties and county boroughs, and councils of other boroughs (including the common council of the city of London and metropolitan borough councils but excluding the municipal boroughs mentioned above), and all authorities not already mentioned, to furnish the above-mentioned statements not later than the 31st July.	June and July, 1929.
Issue by the Minister to rating authorities of forms for returns as to (i) rateable value and reduced rateable value, according to lists in force on 1st October, 1929; and (ii) the actual (or, in some cases, the closely estimated) product of 1*d.* rate for the half-year ending 30th September, 1929.	September, 1929.
Issue by the Minister to rating authorities of forms of claim for grants in respect of the transitory period.	
Rating authorities to forward to the Minister returns as to rateable value and reduced rateable value.	October, 1929.
Rating authorities to forward to the Minister their claims for grant in respect of the transitory period.	
Rating authorities to forward to the Minister, as early as possible in the month, the above-mentioned returns as to the product of 1*d.* rate for the half-year ending September, 1929.	November, 1929.
Payment to be made to rating authorities of the first instalment of the grant for the transitory period.	
Payment to be made to rating authorities of the second instalment of the grant in respect of the transitory period.	December, 1929.
Notification to each local authority entitled to grant of the amount of the grant to be paid to it during 1930–31.	February, 1930 (early in).
Payment to be made to rating authorities of the third instalment of the grant in respect of the transitory period.	February, 1930.
Payment to be made to rating authorities of the fourth instalment of the grant in respect of the transitory period.	March, 1930.
Payment to councils of counties, boroughs and districts of the first instalment of the new Exchequer Grants for 1930–31.	May, 1930.

Appendix II.

APPENDIX.

RULES FOR DETERMINING WEIGHTED POPULATION.

(*Part III. of the Fourth Schedule.*)

I.—As stated in paragraph 30 of this Memorandum, the Act provides (section 88) that ultimately (*i.e.*, from the 1st April, 1947) the whole of the General Exchequer Contribution for England and Wales shall be apportioned amongst the several counties and county boroughs therein on the basis of weighted population, but that during the first two fixed grant periods (*i.e.*, during 1930–37) only part—approximately one-third—is to be so apportioned. The Act also provides (section 110) that before the expiration of the second fixed grant period, *i.e.*, before the 31st March, 1937, the working of the rules as to the calculation of weighted population shall be inquired into and reported upon to Parliament.

II.—For the purposes of the Act the weighted population of each administrative county, each county borough and (in a modified form, see paragraph 43) of the city of London and each metropolitan borough, will be determined. It will not be necessary to determine the *weighted* population of any parish, district, or other area within an administrative county, county borough, or metropolitan borough.

III.—Weighted population for each county and county borough will be determined for the period 1930–37 in the following manner :—

(1) The population as estimated by the Registrar-General (*hereinafter referred to as "the population"*) will be increased :—
  (i) where the proportion of children under 5 years of age per 1,000 of the population is more than 50, by the percentage which the excess over 50 bears to 50 ; and
  (ii) where the rateable value per head of the population is less than £10, by the percentage which the amount of the difference between £10 and the rateable value per head bears to £10.

(2) The population, as increased under (1) above, will be further increased :—
  (iii) where the average number of unemployed insured men, plus 10 per cent. of unemployed insured women, as certified by the Minister of Labour, expressed as a percentage of the population, exceeds one-and-a-half, by a percentage equal to 10 times the excess ; and
  (iv) in the case of administrative counties only, and excluding London, by a percentage in respect of sparsity of population : this percentage will be arrived at as follows :—
    (*a*) Where the population per mile of public road is less than 100, the percentage addition will be the percentage represented by the proportion which the difference between 200 and the population per mile of road bears to 200 ;
    (*b*) Where the population per mile of public road is greater than 100, the percentage addition will be the percentage represented by the proportion which 50 bears to the population per mile of road.

IV.—The following example shows the method of applying the factors in a hypothetical county the population of which is taken to be 400,000, the rateable value per head £4, the percentage of unemployment 2½, and the population per mile of road 250 :—

(1) The population		400,000
(i) Number of children under 5 years of age per 1,000 of the estimated population	90	
Excess of 90 over 50 is 40, which is 80 per cent. of 50. Therefore, add 80 per cent. of 400,000	=	320,000
(ii) Rateable value per head	£4	
£4 is less than £10 by £6, which is 60 per cent. of £10. Therefore, add 60 per cent. of 400,000	=	240,000
Total of foregoing numbers		960,000
(2) (iii) Percentage of unemployment as certified by Minister of Labour	2½	
Excess of 2½ per cent. over 1½ per cent. is 1 per cent. ; 10 times this excess is 10 per cent. Therefore, add 10 per cent. of 960,000	=	96,000

(iv) Population per mile of road	250	
250 being greater than 100, the percentage addition is represented by the proportion which 50 bears to 250. 50 is 20 per cent. of 250. Therefore, add 20 per cent. of 960,000	=	192,000
Weighted population of county, being total of foregoing numbers		1,248,000

MINISTRY OF HEALTH,
Whitehall, S.W.1.
May, 1929.

MINISTRY OF HEALTH. Memorandum L.G.A. 18.

County Councils.
County Borough Councils.

LOCAL GOVERNMENT ACT, 1929.

SUBMISSION OF SCHEMES UNDER SECTION 4 AND SECTION 101 OF THE ACT.

1. *Transfer of Functions of Guardians* (*section* 4).

The Minister desires to be furnished with twelve copies of every scheme submitted by the council of a county or county borough under section 4 of the Act, two of which should be sealed copies.

These copies should be accompanied by a note of any proposed appropriation of poor law premises for the purposes of some other Act administered by the council.

Where the council have included in their scheme a declaration under section 5 of the Act of 1929 in respect of any particular service involving institutional treatment, it will be appreciated that it is necessary for the Minister, in considering the scheme, to be furnished with information as to the appropriation of any institutions proposed to be used for these services. In other cases the fact that appropriation may be under consideration should not delay the submission of the scheme, but any information available as to the council's proposals should be forwarded.

A statement of the position in regard to the agreements made, or to be made, with the councils of adjacent areas in regard to the allocation of the property or officers of a poor law authority which is partly within the county or county borough should also be furnished.

The scheme should be accompanied, or followed as soon as practicable, by a copy of each newspaper containing the notice published in accordance with section 8 (1) of the Act, and, in the case of a scheme submitted by a county council, by a certificate of the clerk of the county council that a copy of the scheme has been sent to the council of each district wholly or partly within the county. Forms of notice and certificate which may be used for this purpose are appended.

The Minister would remind the council that normally the latest date for the submission of a scheme under Part I. of the Act is the 27th September, 1929. The scheme should therefore be adopted by the council at the latest at a meeting held in the course of September. Where no ordinary meeting of the council will be held in that month, it will be necessary either to adopt the scheme before the summer vacation or to hold a special meeting of the council for its adoption, unless the council, after approving the main outline of the scheme, are willing to remit to a suitable committee its actual drafting and submission.

It will be remembered that the Minister is bound to give consideration to any representations received from any local authority or other party who appears to him to be interested within four weeks of the publication of the prescribed notice of the making of a scheme, and it will be desirable for the council to make such arrangements as will enable them to deal promptly with any communications which the Minister may address to them on the subject of such representations. This will of course be of special importance where the council meet only at considerable intervals.

Appendix II.

2. *Contributions of Councils in respect of Public Health Services* (*section* 101).

With reference to Memorandum L.G.A. 5 of the 18th April, 1929, attention is again drawn to the requirement that the first schemes prepared under section 101 of the Act must be submitted to the Minister *by the* 30*th September next.* There is no provision in the Act enabling the Minister to extend the time for the submission of these schemes, and if in any case the scheme is not ready for adoption by a council at their last meeting before the summer vacation, it will be necessary to hold a meeting of the council in August or September for the purpose of adopting the scheme.

The Minister desires to be furnished with three copies of every scheme submitted under section 101 of the Act.

MINISTRY OF HEALTH,
9*th July*, 1929.

APPENDIX I.

FORM OF NEWSPAPER NOTICE.

County
County borough } of ________________

Local Government Act, 1929.

Notice is hereby given that the ________________________________ council of ______________ have submitted to the Minister of Health a scheme of the administrative arrangements proposed to be made for discharging the functions transferred to the council under Part I. of the Local Government Act, 1929, and that a copy of the scheme has been deposited at ______________ and will be open to inspection between the hours of ________ and ________ without payment.

Representations with respect to the scheme may be made to the Minister of Health, Whitehall, London, S.W.1, within four weeks from the date of publication of this notice and a copy thereof should be furnished at the same time to the clerk of the ____________ council of ______________ at ______________.

Dated this ________ day of ______________.

Town Clerk or
Clerk of the County Council.

APPENDIX II.

FORM OF CERTIFICATE.

Local Government Act, 1929.

County of ________________

Scheme of the administrative arrangements proposed to be made for discharging the functions transferred to the council under Part I. of the Act.

I ____
clerk of the county council of ______________________________
DO CERTIFY AS FOLLOWS:

that on the ________ day of ______________ I sent a copy of the scheme to the council of each of the following districts wholly or partly comprised within the county.

Names of councils.

Clerk of the county council of ____________

Appendix II.

Memorandum L.G.A. 22.

Councils of Certain County Districts.

1. LOCAL GOVERNMENT ACT, 1929.
2. MATERNITY AND CHILD WELFARE.
3. VOLUNTARY ASSOCIATIONS.

1. Section 101 of the Local Government Act, 1929, requires the council of every county, six months at least before the beginning of each fixed grant period, to prepare and submit to the Minister for his approval a scheme for securing the payment by the council of annual contributions towards the expenses of voluntary associations, if any, providing maternity and child welfare services in or for the benefit of the county. Subsection (2) provides that the associations to be included in these schemes are (*a*) those whose services are approved by the Minister immediately before the appointed day; and (*b*) those whose services are not so approved but are utilised by the council.

2. Section 101 (4) provides that a scheme made by a county council under the section shall determine whether and to what extent the services provided by any voluntary association are such that contributions thereto should be paid by a council of a district in the county who have established a maternity and child welfare committee under the Maternity and Child Welfare Act, 1918; and that where the scheme provides for such contributions being made by the council of any district a copy thereof shall be sent to that council by the county council when the scheme is submitted to the Minister. The subsection proceeds to impose on the council of the district the duty of preparing and submitting to the Minister within three months after the receipt of the said copy, a scheme for the payment of such contributions by the council.

3. Clause 4 of the scheme made by the county council under section 101 determines that the maternity and child welfare services provided by the voluntary association(s) named in column 1 of the Second Schedule to the scheme are such that contributions thereto should be paid by the council(s) of the district(s) named in column 2 of that schedule. It is, therefore, the duty of the $\begin{Bmatrix}\text{town council}\\ \text{urban district council}\end{Bmatrix}$ to prepare and submit to the Minister within three calendar months after the receipt of a copy of the scheme made by the county council, a scheme for the payment of such contributions by the $\begin{Bmatrix}\text{town council}\\ \text{urban district council}\end{Bmatrix}$.

4. Copies of a model scheme which the Minister has caused to be prepared for use by the council of county districts are enclosed with this memorandum. The Minister will be prepared to approve schemes on the lines of this model, and he suggests that the council should adopt this form of scheme.

5. A statement (in duplicate) is enclosed showing the amount of the grant paid by the Minister in respect of the standard year to the association(s) named in column 1 of the Second Schedule to the scheme of the county council. The statement contains a column for the amounts, if any, of the contributions paid by the council of the county district to the association(s) in respect of that year, and this column should be completed and one copy of the statement returned to the Minister as soon as possible.

6. The Minister will be glad on request to furnish the council with any information in his possession as to the activities or finances of the association(s) included in the statement, but before preparing their scheme the council should communicate with representatives of the association(s) with a view to obtaining particulars of the services now being rendered and proposed to be rendered during each of the three years comprised in the first fixed grant period, together with information as to the present and probable future cost.

7. Regard should of course be had to this information in considering the amounts of the annual contributions to be specified in the scheme, and the Minister is of opinion that, save in exceptional circumstances, the amount specified for each association should be not less than the total of the sums received by association

Appendix II.

in respect of the standard year from the Minister and the council, respectively. In framing the scheme to be made under section 93 of the Act for increasing the sum to be set aside out of the county apportionment in respect of the district, the Minister will take into account the amounts of the contributions for the payment of which provision is made in the scheme of the council under section 101 (4).

MINISTRY OF HEALTH,
............, 1929.

L.G.A. 23.

Councils of Certain County Districts.

MATERNITY AND CHILD WELFARE.

Scheme made by the Council of the $\left\{\begin{matrix}\text{borough}\\ \text{urban district}\end{matrix}\right\}$ of under section 101 (4) of the Local Government Act, 1929, for securing the payment by the Council of annual contributions towards the expenses of voluntary associations providing maternity and child welfare services in or for the benefit of the $\left\{\begin{matrix}\text{borough}\\ \text{urban district}\end{matrix}\right\}$.

1. (i) Subject to the conditions prescribed in paragraph 2 of this scheme the Council of the $\left\{\begin{matrix}\text{borough}\\ \text{urban district}\end{matrix}\right\}$ of (hereinafter referred to as "the Council") will, in each of the three financial years 1930–31, 1931–32 and 1932–33 pay by way of annual contributions to each of the voluntary associations named in column 1 of the schedule to this scheme, the sum specified in column 2 of that schedule and placed opposite to the name of the association.

(ii) Such annual contribution shall either be paid in a single sum before the 30th September in each year, or may, by arrangement with the voluntary association concerned, be paid in equal half-yearly instalments.

2. It will be a condition of the payment of a contribution to any voluntary association under this scheme—

(i) that the Council are satisfied as to the efficiency of the maternity and child welfare services provided by the association, and that such services are being used by a reasonable number of those persons for whom the services are provided;

(ii) that no reduction or alteration of such services is made without the consent of the Council;

(iii) that such services, and any premises in which those services are carried on, are open to inspection at all reasonable times by an officer of the Council duly authorised by the Council and by any officer of the Ministry of Health appointed for that purpose by the Minister.

(iv) That the association sends to the Council in each year a copy of the annual report of the association on the maternity and child welfare works of the previous year together with a statement of the accounts of the association for such year relating to that work and a copy of the auditor's certificate thereon and furnishes the Council from time to time with such other information relating to the maternity and child welfare services provided by the association and the expenditure thereon as the Council may reasonably require;

Provided that the Council shall not terminate or make any reduction in the annual contribution payable to an association on the ground that any of the foregoing conditions are not fulfilled except with the consent of the Minister of Health.

3. Any dispute or difference between the Council and an association in connection with any matter arising out of this scheme shall be referred to the Minister of Health whose decision shall be binding and final upon the Council and the association.

Appendix II.

4. This scheme shall come into operation on the 1st day of April, 1930, and continue in force until the 31st day of March, 1933, subject to any alteration which may be made by the Council with the approval of the Minister of Health under section 131 (2) of the Local Government Act, 1929, or by the Minister under section 101 (5) of that Act.

MINISTRY OF HEALTH,
August, 1929.

Memorandum L.G.A. 24.

County Councils.
Town Councils.
Urban District Councils.
Rural District Councils.

LOCAL GOVERNMENT ACT, 1929.

REVIEW OF COUNTY DISTRICTS.

I.—GENERAL PURPOSE OF MEMORANDUM.

1. The object of this memorandum is to suggest to county councils the procedure and the considerations to be observed in reviewing the areas of county districts. It also sets out the information which will be essential for the Minister in considering proposals, and other information which may be found desirable for the purpose of enabling county councils and the Minister to come to a decision.

In giving this advice the Minister desires only to assist county councils and in no way to interfere with their discretion as to the procedure for the conduct by them of the review.

II.—PROCEDURE.

2. County councils will probably consider it desirable to appoint a special committee to deal with the review, and to allocate to the committee the services of an official, under the clerk, thoroughly conversant with the subject.

The Act does not authorise the holding of public inquiries by county councils. The intention is that the proposals should be formulated after conferences with representatives of local interests, and that any public inquiry that may be necessary should be held by the Minister after the proposals are submitted to him (proviso to section 46 (4)).

While the Act only requires county councils to confer with the district councils in the county, it is desirable that, wherever it appears that there would be advantage in consulting representatives of other local bodies—for example, parish councils and parish meetings—this course should be taken at an early stage. A better understanding will thus be promoted, and objections to proposals possibly avoided.

After a preliminary survey of the position, the committee would do well to arrange as soon as possible for the necessary consultations with the councils of the various districts. These consultations are likely to be of greatest service if they are of informal character, so as to obtain a frank interchange of views in the friendliest spirit.

If in any case it is thought advisable to have local and public investigation, the special committee might make an informal visit to the district. The visit might be advertised with a notification that it would be open to any person interested to attend, but it would not be a statutory inquiry, and the costs of the visit could not be recovered by the county council. The visit would, in fact, be merely an informal conference, but could be local and public.

3. Following on the consultation, the county council could frame tentative proposals and submit them to the local authorities concerned for their observations, including, where appropriate, the parochial authorities, before framing the final proposals for submission to the Minister. It is well that liberal publicity should be given to the tentative proposals in order that the county council may have the

opportunity of considering any representations from other interested parties before the final recommendations are arrived at by the county council.

The Act requires the county council, before making their proposals, to consult with the councils of the county boroughs adjoining the county (proviso to section 46 (1)).

The final proposals, together with the report of the county council's review, must (unless the Minister in any case extends the date) be submitted to him not later than the 1st April, 1932 (section 46 (1)).

The county council, if they so desire, can review the county in parts instead of as a whole (section 46 (1)), but if this course is adopted the area to be reviewed must be self-contained and such that the review of the other parts of the county will not affect or be affected by it.

The review must deal with all the changes which are contemplated, whether relating to county districts or parishes. It is not competent for the county council to submit proposals for county districts and then later to submit proposals as to parishes in those districts. All the proposals must be included in one scheme, and, as there cannot be another general review for at least ten years (section 47 (1)), it is desirable that the review should be comprehensive.

III.—CONSIDERATIONS TO BE TAKEN INTO ACCOUNT.

4. Attention has already been drawn in Memorandum L.G.A. 15, issued on the 17th May last, to the remarks of the Royal Commission on Local Government in their second Report that they "are of opinion that the need for a general review of areas of county districts and parishes has been established. The representatives of the local authorities have not dissented from the view that there are at present authorities who cannot efficiently discharge the functions entrusted to them, and that a review of areas should be undertaken in order to see how far ineffective units can be eliminated by reorganisation" (page 15, paragraph 39). The Commission further state (page 25, paragraph 61): "The primary object of the reorganisation of areas recommended by us, and, indeed, of all alterations of local government areas, being to improve their local administration, we are hopeful that the adoption of our proposals on this subject and of those in our First Report will result in the elimination to a large extent of those councils of county districts who by themselves are not strong enough financially to perform the essential sanitary services, and that most parts of the country will be within the jurisdiction of local authorities who are able to discharge their duties without further financial assistance." The Commission recognised that probably "some councils of county districts will remain who either are or will become financially incapable of carrying out essential services, particularly the provision of a proper water supply and a system of sewerage and sewage disposal"; but there are now a large number of such districts, and the review and proposals of the county council must be of a thorough nature if the object stated by the Royal Commission is to be achieved, namely, to secure that districts shall form good local government units readily and economically administered and with sufficient financial means to carry out their duties in a satisfactory manner. Exceptions should not be made unless there are the strongest local reasons. Many of the present areas have been formed long years ago under conditions far different from those of the local government of to-day. Hitherto there has not been any systematic review so as to bring areas more into accord with requirements. This important task now devolves on the county councils, and it is for them to rise to the measure of the opportunity.

5. County councils will probably find cases in which it will be necessary to suggest alterations of some or all of the following types:—

(1) Alteration of the boundaries of boroughs and urban districts;
(2) De-urbanisation of small districts;
(3) Amalgamation of urban districts;
(4) Formation of new urban districts;
(5) Alteration of the boundaries of rural districts;
(6) Amalgamation of rural districts;
(7) Alteration of the boundaries and parishes and amalgamation of parishes; and

(8) Minor alterations of district and parish boundaries for the purpose of removing anomalies due to detached parts and unsuitable or inconvenient boundaries.

The council will bear in mind that another comprehensive review cannot be made for ten years. They should endeavour, therefore, not only to effect the changes required by present conditions, but also, as far as can be foreseen, changes which are desirable in view of prospective developments.

6. It will be observed that the Act of 1929 follows section 54 of the Local Government Act, 1888, in retaining the word "desirable" as the criterion of the merits of proposals for altering the areas of county districts and parishes. The Royal Commission in their first Report (page 463, paragraph 1235) stated that, while the process of determining whether the word "desirable" applied to a particular proposal could not be reduced to a rigid form, it means that a proposal must be desirable in the interests of all concerned, and that, if the various interests are divergent, the question must be decided on an equitable balance as between those interests.

7. The following paragraphs contain observations on some of the principal considerations which will have to be weighed by county councils in arriving at their recommendations.

(1) *Financial strength and general good government.*

As already indicated, the paramount consideration is the delimitation of areas so that local authorities are not only willing but able to discharge their functions with efficiency and with fullest return for the time and money spent on their work. While paying reasonable regard to other circumstances, care should be taken that they are not allowed to obscure the main object of the review. In order to be in a satisfactory financial position a district should, wherever possible, have sufficient resources to provide all the necessary sanitary and other services without special assistance. The advantage of being able to employ fully qualified whole-time officers should also be borne in mind.

County councils may have to consider the union of districts which may not have much in common but which, nevertheless, would form a satisfactory unit of local government. In some counties the existing assessment areas might be considered for such units. In the case of small urban districts it will be necessary to consider whether it is desirable on the grounds of financial ability and general efficiency that they should be continued or whether they should not be added to adjoining boroughs or urban or rural districts. The past records of such districts in providing necessary services should help the county council in arriving at their conclusions. Where for special local reasons it is proposed that a small urban district should be continued, it might be considered whether for convenience of administration the district might be made the centre of a larger area, including possibly undeveloped rural areas. Such cases would, however, require careful consideration so that there shall be a reasonably fair distribution of local burdens.

The provision of sewerage and sewage disposal and other sanitary works will be a factor of some importance, though not a governing consideration, as it does not always follow that the whole of a local government area should necessarily be provided with all its services by one authority, and various enactments enable agreements between authorities to be made in such matters. Weight should, however, be given to reasons showing that an alteration of areas will facilitate substantial improvements in sanitary services not otherwise likely to be achieved.

(2) *Wishes of the inhabitants.*

The question of the weight to be given to the wishes of the inhabitants has always given rise to differences of opinion.

The Minister sincerely trusts that local electors will recognise to the full the importance of securing efficient units of local government, and will acquiesce in the alterations requisite to attain that object. Due care will no doubt be taken to see that the case for the alterations is fully explained to and appreciated by local electors, and their views will be carefully weighed. In the last resort, however, the consideration of the public advantage must prevail.

(3) *Equity of local burdens.*

The distribution of local burdens between ratepayers in different areas has always been a factor in boundary questions. The position in this respect will be materially affected, and in many cases may be substantially eased, by the new system of General Exchequer Grants, and alterations which are desirable for administrative reasons may thus be facilitated.

(4) *Community of interest.*

Community of interest is an important element in proposed alterations o boundaries, but the term is often loosely used.

The expression is not rightly used when, for instance, there is but one interest in common between the areas. It applies to a general common interest in a variety of matters, such as a common centre for industry, shopping and amusements, and sharing in various common services. None of these matters taken singly can be regarded as constituting a community of interest, but taken as a whole they may have a decisive bearing, especially in proposed extensions of boroughs and urban districts. But even this factor must be conditioned by the primary consideration, improvement of local government, and should by no means be accepted as conclusive if this object would be hindered.

8. Whilst bearing in mind the foregoing and other pertinent considerations, county councils should make every endeavour to obtain agreement on their proposals. Experience indicates that a large measure of agreement, if not complete agreement, is usually possible where there is frank consultation and discussion between the parties and a reasonable spirit of accommodation.

9. Where it is proposed to convert what is now an urban area into a rural area, it may tend to remove opposition if the rural district council indicate that they are prepared to delegate functions to a parochial committee.

In cases where an alteration of areas is proposed with a view to the provision of services in a particular area, it may assist to remove opposition if the local authority are willing to give a definite undertaking to provide the required services as soon as possible.

IV.—INFORMATION TO BE OBTAINED.

10. To apply the above principles the county councils will find it necessary to consider the present administrative, sanitary and financial circumstances of the districts, and much of the information on these subjects will, no doubt, have to be obtained from the local authorities themselves. In cases which are of a fairly simple nature, or where there is agreement or a large measure of agreement, little special information will probably be required, whilst in others, where there are strong differences of opinion, a good deal of special information may be necessary, but it is important that the particulars asked for in each case should not be more than necessary for dealing with it.

In order to assist county councils, the Minister has prepared two sets of forms, copies of which are enclosed, indicating—

(*a*) information which will be required by him in all cases, including that needed for drafting the orders ;

(*b*) information which the county council may find it desirable to obtain in whole or in part according to the circumstances of the particular case.

If the county council make use of these latter forms they will, of course, use them where, and in so far as, they are suitable, but their use may save formidable statements containing masses of unnecessary material, and the experience of the Ministry is that they simplify the procedure and save much time and trouble.

Where used, copies of the forms duly filled up should accompany the county council's report to the Minister.

V.—ADVICE ON SPECIAL MATTERS.

Differential Rates.

11. Differential rating should not be allowed unless warranted by exceptional circumstances. It should be regarded, moreover, not as a factor in deciding proposals, but merely as a consequence rendered imperative for equitable treatment on the alteration of an area. The introduction of derating, the changes in the distribution of grants to local authorities and the standardisation of valuation will no doubt do away with many of the reasons which existed in the past for differential rating. Where differential rating is proposed, reasons for it should be stated when the proposals are submitted to the Minister.

In cases where it is proposed to de-urbanise districts, the question of differential rating will not normally arise, as the expenses of sewerage and water supply and other special services for the area would be chargeable as special expenses on the new contributory place.

In cases where there are special reasons to justify differential rating, the method which has been found best in practice is to provide that the rate for the first year shall be less than the rate levied on the remainder of the district by a specified sum, and that the original abatement shall be reduced each year until the abatement disappears. Long periods are undesirable, and the period should generally not exceed ten years; usually a shorter period should suffice.

Where a differential rate is proposed because of the absence of a particular service (say sewerage) it might be agreed that the abatement should cease to be allowed as soon as the service is provided for the area.

In cases where it is found desirable to include in an urban area purely rural territory which is not likely to develop, the normal form of clause which aims at equality of rating within a specified number of years, may not be appropriate, and it might be considered whether the proper course is to divide the urban district for rating under section 211 (4) of the Public Health Act, 1875.

Financial Adjustments and Compensation.

12. Compensation and financial adjustments consequent on alterations of areas should not be allowed to affect the consideration of proposals on their merits. These matters must be regarded as purely consequential, and the general law (which is applied by section 66 of the Act) provides the necessary machinery for settling them after an alteration has taken place. If agreement can be reached on these questions in advance, so much the better.

Boundaries.

13. Where new boundaries are being laid down, care should be taken to choose well-defined lines suitable for present and future requirements.

Boundaries in the centre or at the side of roads frequently give rise to difficulties, and, wherever possible, they should be fixed along some permanent feature at a distance from the road, or alternatively at such a distance from the road as to allow a sufficient building depth, say, of 150 to 250 feet, according to the local conditions and the type of development likely to take place.

The above suggestions apply to the fixing of the boundaries of districts and parishes. As regards the definition of the boundaries of wards and electoral divisions within a district, the Home Office desire that boundaries along roads should, wherever possible, follow the centre lines of the roads.

The opportunity may be taken to consider, where a parish is at present divided between two or more petty sessional divisions, whether on general grounds an adjustment of boundary is desirable which would also result in the inclusion of the whole parish in one petty sessional division.

VI.—FORM OF PROPOSALS.

14. The proposals should be under the seal of the county council, and should incorporate, or be accompanied by a copy of, the report of the review.

It will facilitate reference if the proposals are arranged in the following order:—

(1) *Main Proposals.*—The proposed alterations in the boundaries of boroughs,

districts and parishes affected should be briefly outlined. Where it is proposed to include in a district parts of districts or parishes, information should be given how the remainder of these districts or parishes is to be dealt with. If the proposals entail the abolition of any district or parish, or the naming or altering of the names of districts and parishes, this should be stated. General statistics should be furnished in Form 1.

(2) *Reasons for the Proposals.*—These should be fully stated, and any general observations which it is desired to report to the Minister should appear under this heading.

(3) *Local Government Elections.*

(*a*) *County Electoral Divisions.*—Proposals for alterations of the electoral divisions of the county will fall to be made to the Secretary of State in due course under section 50, and the proposals to the Minister under section 46 should not deal with any alterations of electoral divisions other than minor adjustments of boundaries which may appear desirable so as to secure that the electoral divisions conform with the boundaries of county districts or wards. When any such proposals are made, particulars should be given as in Form 2E.

(*b*) *Boroughs.*—Where a proposal is made for an alteration of the boundaries of a borough, particulars should be given as in Form 2A (1) and (2) of the number of councillors and of the local government electors, and the estimated population and the rateable value of the existing and proposed wards.

(*c*) *Urban and Rural Districts and Parishes.*—Particulars should be given as in Form 2B, C and D of the existing and proposed wards and number of councillors.

(4) *Consequential proposals relating to Rating, Valuation and other matters.*—Particulars as in Forms 3–11, and information as to any other proposed consequential provisions should be given under this heading.

VII.—MAPS.

15.—(1) The proposals should be illustrated by a key, or sketch, map (Map A) on a scale of about 1 inch to the mile, showing the main outlines of each proposal, the whole of any district which is affected, and as much of the adjoining districts which are not so affected as can be conveniently shown. The boundaries of existing petty sessional divisions should also be shown.

(2) Where the boundary of a district or parish is proposed to be altered, for the purposes of the order the alteration should be shown on another map (Map B) of a larger scale, preferably of 6 inches to the mile. The proposed boundary should be indicated on the map by a firm red line. The existing districts and parishes should be shown by distinctive light colour washes. The map should be brought up to date by indicating in red new buildings and streets.

In a number of cases, especially those in which there is much contention, it will also be desirable to indicate local services, etc., which have a bearing on the proposals, such as the routes of main sewers, the situation of sewage disposal works, waterworks, housing sites, public buildings, the areas unsuitable for building, etc. It has been usual in recent years to show these particulars in connection with proposals for boundary alterations. Where the particulars are shown on the map, the notation set out in Appendix III. should be followed. It will be understood that it is not desired that local authorities should be given the trouble of indicating any of those particulars when they have no bearing on the proposals.

(3) If the proposals involve the constitution or alteration of wards or electoral divisions the proposals can probably be readily indicated on Map B. If not, a separate map (Map C) will be required, which need not show the particulars already given in Map B.

(4) If for the purposes of their review the county council require a map from any borough or other district council it is suggested that such a map might be on a scale 6 inches to the mile and that the colouring and notation indicated in Appendix III. should be followed in so far as, in the opinion of the county council, the items referred to in the appendix are pertinent in any particular case. Where obtained, these maps should be forwarded to the Minister with the proposals.

VIII.—DEPOSIT AND DISTRIBUTION OF DOCUMENTS.

16. Simultaneously with the transmission of the proposals and maps to the Ministry—

(1) A copy of the proposals and the maps must be deposited at a specified place, which should be of convenient access to the areas affected, and be open to inspection at all reasonable hours without payment;

(2) A copy of the proposals must be sent to the council of each district affected;

(3) Further copies of the proposals and maps should be distributed as follows:—

Ministry of Health . . .	6 copies of the proposals.
Home Office	1 copy of the proposals, of Map A and, when proposals affecting wards or electoral divisions are made, of the Ward Map B or C as the case may be.
Ministry of Agriculture and Fisheries	1 copy of the proposals and of Maps B and C.
Registrar-General. . . .	1 copy of the proposals.

It will be sufficient if the copies of the maps sent to the Home Office and Ministry of Agriculture and Fisheries show the existing and proposed boundaries of the districts, parishes, electoral and petty sessional divisions and wards without the other particulars.

IX.—NOTICE AND REPRESENTATIONS.

17. The making of the proposals must be advertised in one or more newspapers circulating in the districts affected. The advertisement must also state the place at which a copy of the proposals may be inspected and that representations with respect to the proposals may be made to the Minister of Health within six weeks after the publication of the notice. A model form of advertisement is given in Appendix I.

The clerk of the county council must furnish the Ministry with a certificate in the form given in Appendix II. that these requirements have been fulfilled.

In conclusion the Minister wishes to state that the department will be glad to give what assistance they can to any county council in this important task of reviewing areas, consistently with the responsibility of the Minister in arriving at the final decision on proposals laid before him; and he desires to express the hope that all authorities will co-operate in a broad-minded spirit in the task, and that every endeavour will be made on all sides to obtain agreed schemes.

MINISTRY OF HEALTH,
September, 1929.

APPENDICES TO MEMORANDUM L.G.A. 24.

APPENDIX I.

FORM OF NEWSPAPER NOTICE.

County of
Boroughs of
Districts of
Parishes of

Local Government Act, 1929.

NOTICE IS HEREBY GIVEN that the county council of have made proposals to the Minister of Health under section 46 of the Local Government Act, 1929, for the following alterations of boundaries.

and that a copy of the proposals [and the map(s)] has been deposited at
and will be open to inspection during office hours, without payment.

Representations with respect to the proposals may be made to the Minister of Health, Whitehall, London, S.W.1, within six weeks from the date of the publication of this notice.

A copy of any representations so made should be sent at the same time to me at

Dated this day of

Clerk of the county council of

APPENDIX II.

FORM OF CERTIFICATE.

Proposals by the county council of the county of
under section 46 of the Local Government Act, 1929, for the alteration of the boundaries
of the Boroughs of
Districts of
Parishes of

I, , Clerk of the county council of

DO CERTIFY AS FOLLOWS :—

1. That to the best of my knowledge and belief the existing boundaries of the boroughs, districts and parishes affected by the proposals are correctly shown on the map(s) which accompany the proposals to the Minister of Health.
2. That, prior to the making of the proposals to the Minister, the county council conferred with representatives of the councils of the several districts wholly or partly within the county and consulted with the councils of county boroughs adjoining the county.
3. That simultaneously with the transmission of the proposals to the Minister of Health I deposited at for inspection without payment during office hours, a copy of the proposals [and map(s)] forwarded to the Minister of Health.
4. That on the day of I delivered a copy of the proposals to the Home Office, the Ministry of Agriculture and Fisheries, the Registrar General and to each of the following councils of districts affected by the proposals.

Names of Councils.

5. That at the same time I delivered to the Ministry of Agriculture and Fisheries copies of the Map(s) B [and C] and to the Home Office a copy of Map A [and of the Ward Map] which accompany the proposals to the Minister of Health.
6. That notice of the making of the proposals has been advertised in the , being (a) local newspaper(s) circulating in the districts affected on the $\left\{\begin{array}{l}\text{a copy}\\\text{copies}\end{array}\right\}$ of the newspaper(s) containing the advertisement $\left\{\begin{array}{l}\text{is}\\\text{are}\end{array}\right\}$ annexed hereto and marked " A " (and " B " respectively).

Clerk of the county council of

APPENDIX III.

MAP NOTATION.

1. Care should be exercised when mounting the map to retain the marginal notes showing the date of the survey.
2. A reference table of the colour and notation scheme should be attached to the map.
3. In no case should colouring or edging be applied so thickly as to hide the print on the ordnance sheets.

Areas and Boundaries.	*Colouring of Maps.*
Existing boundary	Edged on outer side blue.
Parish boundaries	Fine green line.
Boundaries of special drainage districts, under section 277 of the Public Health Act, 1875.	Dotted green line.
Ward boundaries	Distinctive light colour washes.
Electoral divisions, petty sessional divisions	Edged in distinctive colours.

Appendix II.

Streets, Buildings and Sewers.		
New streets (*i.e.*, since last survey)	Red lines.	
New buildings (*i.e.*, since last survey)	Red.	
Proposed streets and roads	Broken red lines.	
Tramways	O O O	indicated thus
Omnibus routes	■ ■ ■	
Trolley vehicle routes	X X X	
Tramways, omnibus and trolley vehicle routes.	■X O■X O■X	
Routes of main sewers	Fine blue line.	
Land and Property.		
Burial grounds and cemeteries (however provided).	Yellow wash, green edging.	
Public recreation grounds and playing fields	Dark green wash.	
Private recreation grounds (including sports and playgrounds, etc.).	Light green wash, edged green.	
Proposed public recreation grounds and playing fields.	Light green wash, hatched dark green.	
Proposed private recreation grounds and playing fields.	Hatched and edged light green.	
Allotments and small holdings—		
(*a*) existing	Burnt sienna wash, edged green.	
(*b*) proposed	Hatched burnt sienna, edged green.	
Housing sites—		
(*a*) developed	Yellow	Local authority schemes to be marked "M," public utility schemes "P.U.", and private estates "P.E."
(*b*) undeveloped or proposed	Yellow hatched	
Areas unsuitable for building	Brown hatched.	
Sewage disposal works	Burnt sienna wash, hatched green (vertical).	
Waterworks—		
(*a*) Reservoirs	Pale blue wash.	
(*b*) Catchment areas	Edged pale blue.	
(*c*) Other works	Dark blue.	
Government or municipal buildings	Orange circle.	
Public Buildings.	*Notation* (in *Red*).	
Council offices	O.	
Public elementary schools	S.	
Secondary schools	S.S.	
Police stations	P.	
Refuse destructors	D.	
Refuse tips	T.	
Gasworks	G.	
Electricity works	E.	
Public baths and washhouses	B.	
Public libraries	L.	
Hospitals	H.	
Fire stations	F.	
Poor Law Institutions.	I.	

LIST OF FORMS IN SUBJOINED APPENDICES IV. AND V.

A.—FORMS FOR INFORMATION TO BE FURNISHED TO THE MINISTER BY COUNTY COUNCILS

Form 1. *General Statistics.*
Form 2. *Wards of boroughs, urban districts, and parishes, and county electoral divisions.*
Form 3. *Differential rating.*
Form 4. *Valuation of special properties in urban areas.*
Form 5. *Assessment areas.*
Form 6. *Guardians committee areas.*

Form 7. *Petty sessional divisions.*
Form 8. *Joint boards and committees.*
Form 9. *Burial authorities.*
Form 10. *Agreements.*
Form 11. *Other consequential alterations.*

B.—FORMS FOR INFORMATION WHICH COUNTY COUNCILS MAY FIND IT DESIRABLE TO OBTAIN (*see Note to* APPENDIX V.).

Form 12. *Sanitation and health.*
Form 13. *Development, housing and town planning.*
Form 14. *Trading services.*
Forms 15, 16, 17. *Loans outstanding.*
Form 18. *Rates.*

APPENDIX IV.

FORMS FOR INFORMATION TO BE FURNISHED TO THE MINISTER BY COUNTY COUNCILS.

FORM 1.

GENERAL STATISTICS.

A.—STATISTICS OF EXISTING BOROUGHS, COUNTY DISTRICTS AND PARISHES AFFECTED.

* Name of each borough, county district or parish affected.	Area.		Population.			Rateable Value.			Produce of 1*d*. rate in the £.
	At last census.	Present estimate.	At last census.	Present estimate.	Density per acre (present estimate.)	At last census.	At present.	Per head of population (at present).	

* Where part of a county district or parish is affected figures should be given separately for the whole and the part affected.

B.—STATISTICS OF BOROUGHS, COUNTY DISTRICTS AND PARISHES AS PROPOSED TO BE ALTERED.

Name of each borough, county district or parish proposed.	Estimated area.	Estimated population.	Estimated rateable value.	Estimated produce of 1*d*. rate in the £.

FORM 2.

WARDS OF BOROUGHS, URBAN DISTRICTS AND PARISHES.

A.—TOWN COUNCILS.

(1) *Electoral.*

Name of each borough affected.	Present.			Proposed.		
	Name of each ward.	No. of L.G. electors.	No. of clrs.	Name of each ward.	No. of L.G. electors.	No. of clrs.

Note.—If there are no wards and none are proposed, give present and proposed number of town councillors.

Appendix II.

(2) *Rateable Value.*

Present wards.					Proposed wards.				
Name of each ward.	Dwelling-houses.	Company & Corpn. property.	Other property.	Total.	Name of each ward.	Dwelling-houses.	Company & Corpn. property.	Other property.	Total.
	£	£	£	£		£	£	£	£

B.—URBAN DISTRICT COUNCILS.

Name of each U.D. affected.	Present wards for U.D.C. elections.			Proposed wards (except where district to be abolished).	
	Name of each ward.	No. of clrs.	Date of retirement.	Name of each ward.	No. of clrs.

Note.—If there are no wards and none are proposed, give existing and proposed number of U.D. Councillors and dates of retirement.

C.—RURAL DISTRICT COUNCILS.

Name of each rural district affected.	Total No. of clrs. for R.D.			Wards of parish for R.D.C. elections.					
				Present.			Proposed.		
	At present.	Dates of retirement.	Proposed.	Name of each parish affected.	Name of each ward.	No. of clrs.	Name of parish.	Name of each ward.	No. of clrs.

Note.—If there are no wards and none are proposed, give existing and proposed number of R.D. Councillors for each parish in district.

D.—PARISH COUNCILS.

Information to be given for all Rural Parishes affected which have a P.C.

Name of each parish affected.	Wards for P.C. Elections.			
	Present.		Proposed.	
	Name of each ward.	No. of clrs.	Name of each ward.	No. of clrs.

Note.—If there are no wards and none are proposed, give existing and proposed number of parish councillors for each parish.

E.—COUNTY ELECTORAL DIVISIONS.

Present.		Proposed.	
Name of each division affected.	No. of L.G. electors.	Name of each division.	No. of L.G. electors.

FORM 3.

DIFFERENTIAL RATING.

Statement of each area in which differential rating is proposed.	Period of differential rating.	Amount in the £ of abatement in first year.	Amount by which differential rate is to be reduced in subsequent years.

FORM 4.

VALUATION OF SPECIAL PROPERTIES IN URBAN AREAS.

What percentage deduction is proposed for the purposes of paragraph 3 of Part III. of the Second Schedule to the Rating and Valuation Act, 1925, in respect of special hereditaments in any urban area affected.

Name of each borough or urban district affected.	Present percentage.	Proposed percentage.

FORM 5.

ASSESSMENT AREAS.

Present.				Proposed.			
Name of each assessment area affected.	Name of each county district comprised in each assessment area.	No. of representatives of each county district.	R.V. of each county district.	Name of each Assessment area affected.	Name of each county district comprised in each assessment area.	No. of representatives of each county district.	R.V. of each county district.

FORM 6.

GUARDIANS COMMITTEE AREAS.

Present.			Proposed alterations.
Name or number of each area affected.	County districts included in the area.	Number of representatives of each county district council on the committee.	

FORM 7.

PETTY SESSIONAL DIVISIONS.

Name of each division affected.	Areas comprised in the division.	Proposed alterations.

Appendix II.

FORM 8.

JOINT BOARDS AND COMMITTEES, AND OTHER COMBINATIONS OF LOCAL AUTHORITIES.

Present.						Proposed alterations.
Name of each combination affected.	Purpose.	Act or Order.	Name of each county district comprised in each combination.	No. of representatives of each constituent authority.	How expenses apportioned.	

FORM 9.

BURIAL AUTHORITIES.

Name of each burial authority in areas affected.	Area for which burial authority acts.	Constituent authorities.	Proposed alterations.

FORM 10.

AGREEMENTS.

A list should be furnished of all agreements made by the councils of any areas affected, under such enactments as sections 28, 61, 131, 285 of the Public Health Act, 1875, or (in the case of boroughs) with the Standing Joint Committee of the County as to police :—

Authority by whom made.	With whom made.	Date.	Nature and purpose.	Act and section.	Proposed adaptations.

FORM 11.

OTHER CONSEQUENTIAL ALTERATIONS.

Give particulars of any other consequential alterations. If there are no others, please state so.

APPENDIX V.

INFORMATION TO BE FURNISHED TO COUNTY COUNCILS.

Note.—These forms indicate the information which county councils may find it desirable to obtain from county district councils before formulating their proposals. They have been prepared for the convenience of local authorities and for the use of county councils where and in so far as they think fit. There will probably not be many cases in which all the information for which the forms provide will be needed.

If the information which is required by the Ministry as shown on Forms 1, 8 and 10 in Appendix IV. is not readily available to the county council and must be sought from the district councils, forms on the lines of those in that Appendix can be used.

FORM 12.

SANITATION AND HEALTH.

1. *Sewerage and Sewage Disposal*—
   (1) Is the area wholly or partly sewered ?
   (2) If only partly, state—
      (*a*) population served by system.
      (*b*) number of premises not connected to sewers.
   (3) Is the sewerage system "separate," "partially separate," or "combined" ?
   (4) Is the system by gravitation or pumping ?
   (5) If the sewage is treated, state method or methods (broad irrigation, tanks and land, tanks and bacterial filters, activated sludge process or by combinations of these systems).

Appendix II.

- (6) If the sewage is not treated, state—
  - (a) where it is discharged, and
  - (b) if discharged to tidal waters, state under what conditions of control, if any (e.g., whether at all states of tide or otherwise).
- (7) If any areas are drained to sewers of an adjoining authority or joint board or committee, state separately for each such area—
  - (a) Area so drained.
  - (b) Name of authority to whose sewers area drained.
  - (c) Population of premises so drained.

2. *Water Supply*—
   - (1) Is a piped supply general ?
   - (2) If so, is it into houses or by standpipes ?
   - (3) If not, state numbers of premises where the water supply is derived from
     - (a) Wells.
     - (b) Springs.
     - (c) Rainwater.
     - (d) Other sources.
   - (4) If piped supply provided state :—
     - (a) Name of water undertakers.
     - (b) Statutory area of supply.
     - (c) Area actually supplied.
     - (d) Is the system by gravitation or pumping ?
     - (e) Source of supply.
     - (f) Capacity of reservoirs (if any)—
       - (i) Impounding or storage.
       - (ii) Service.
     - (g) Capacity of pumps (if any).
     - (h) Average quantity supplied in gallons per 24 hours—
       - (i) domestic.
       - (ii) trade.
   - (5) Is the supply constant and sufficient ?

3. *Scavenging and Refuse Disposal*—
   - (1) *Collection of House Refuse*—
     - (a) Is collection undertaken by Local Authority ; and, if so, by direct labour or contract ?
     - (b) If part only of district, give particulars.
     - (c) How often is refuse collected ?
     - (d If refuse is not collected by local authority, has the duty of cleansing or removal been imposed upon occupiers or have voluntary arrangements been made ?
   - (2) *Disposal of House Refuse*—
     - (a) Method of disposal, e.g., tipping, incineration, separation and incineration, pulverisation or other method.
     - (b) If refuse is tipped, are proper precautions on the lines recommended by the Ministry taken to prevent nuisances ?

4. *Collection and Disposal of Night-soil (if any)*—
   - (1) Statements on the lines of 3 (1) above.
   - (2) What is the method of disposal ?

5. *Sanitary Statistics, etc.*—
   - (1) Number of—
     - (a) W.C's.
     - (b) Pan or pail closets.
     - (c) Midden privies.
     - (d) Ashpits separate from midden privies.
     - (e) Cesspools.

(2) (*a*) Are cesspools watertight ?
  (*b*) Are there any overflows ?
  (*c*) If so, where do overflows discharge ?

(3) (*a*) Steps being taken to convert privies, etc.
  (*b*) The total number of privies converted in each of the last three years.

6. *Sanitary and Housing Inspection*—

Summary of action taken in each of the past three years as follows :—

(1) Number of premises visited in each year.
(2) Number of nuisances or defects discovered.
(3) Number of nuisances or defects remedied as result of informal action.
(4) Number of statutory and informal notices served.
(5) The results of the service of such notices.

7. *Hospitals*—

(1) *Infectious Diseases*—
  (*a*) Has a hospital been provided ?
  (*b*) If so, by what authority ?
  (*c*) Is the hospital a permanent building ?
  (*d*) If not, state nature of construction.
  (*e*) Accommodation for patients.
  (*f*) Accommodation for staff.
  (*g*) Area served by hospital.
  (*h*) Population served by hospital.

(2) *Smallpox*—
  Similar information.

8. *Medical Officers of Health*—

State as regards each officer—

(1) Whether whole time is devoted to the duties of Medical Officer or to those duties with other public appointments, specifying them.
(2) Whether he acts for more than one district.
(3) If so, names of such districts.
(4) Whether he is restricted from engaging in private practice as a medical practitioner.

9. *Sanitary Inspectors*—

Statements on the lines of 8 (1), (2) and (3) above, as regards each officer.

FORM 13.

DEVELOPMENT, HOUSING AND TOWN PLANNING.

1. *Development*—

Note.—In the case of rural districts, this information is likely to be required only in respect of the parishes in which there is, or is likely to be, building development.

(1) Approximate area covered by water, rivers, canals, railways, roads, parks, recreation grounds, etc., which cannot be built over.
(2) Other land not available for building, stating why not available.

- (3) Area of land (unbuilt on) available for building.
- (4) Number and total length of private streets not yet taken over.

2. *Housing*—
   - (1) Number of houses—
     - (*a*) Now inhabited.
     - (*b*) Voids.
     - (*c*) Percentage of working class houses included in (*b*).
     - (*d*) Back to back.
   - (2) Number of working-class houses needed—
     - (*a*) To meet shortage.
     - (*b*) To meet overcrowding (other than shortage).
     - (*c*) To replace unfit houses.
   - (3) (*a*) Number of houses of all classes now in course of erection.
     - (*b*) Number completed in each of last 2 years.
     - (*c*) Total number of houses built in preceding years since 1919 :—
       - By local authority.
       - By public utility societies.
       - By private enterprise.

3. *Town Planning*—
   - (1) Approximate area for which any action has been taken.
   - (2) Stage which scheme has reached.
   - (3) Brief particulars of any special features.

FORM 14.

TRADING SERVICES (OTHER THAN WATER).

1. *Electricity*—
   - (1) Who owns undertaking ?
   - (2) Limits of supply.
   - (3) Area actually supplied.

2. *Gas*—

   Similar information as in 1.

3. *Tramways and Omnibuses*—
   - (1) Tramways—
     - (*a*) Are there any tramways ?
     - (*b*) If so, are they owned by the Local Authority ?
     - (*c*) If owned, are they operated by them or leased ?
   - (2) Omnibuses.
   - (3) Trolley vehicles.

     Similar information for both as in 3 (1).

4. *Markets*—
   - (1) Are any markets situate in the area ?
   - (2) If so, state undertaker.
   - (3) Who are the owners of the market rights ?
   - (4) Whether by Statute, Charter or Franchise.

5. *Docks, Bridges and Ferries*—
   - (1) Is there a dock, harbour, bridge or ferry undertaking ?
   - (2) If so, state undertaker.

6. In the case of any other public utility undertakings state—
   - (1) Purpose.
   - (2) Undertaker.

Appendix II.

FORM 15.

LOANS STATEMENT.

BOROUGHS, URBAN AND RURAL DISTRICTS.

Loans outstanding at the end of last financial year.

Purpose (as far as applicable).	Total amount of loans outstanding.	Total amount in Sinking Funds.	Total amount remaining to be provided for.
1. NON-TRADING SERVICES.	£	£	£
(1) *Services not specifically grant-aided.*			
Sewerage and sewage disposal . .			
Collection and disposal of house refuse			
Parks, pleasure grounds and open spaces			
Baths and washhouses . . .			
Hospitals			
Fire engines and appliances . .			
Public libraries and museums . .			
Allotments			
Council offices			
Other purposes			
Total			
(2) *Specifically Grant-aided Services.*			
Housing—			
Under Act of 1919 . . .			
Under other Acts . . .			
Total			
Roads and Bridges—			
Classified roads			
Other roads			
Total			
Education—			
Elementary			
Higher			
Total			
Small holdings			
Police			
Other purposes			
Grand Total			
2. TRADING UNDERTAKINGS—			
Waterworks			
Electricity works			
Tramways, light railways and omnibuses			
Gasworks			
Markets			
Cemeteries and burial grounds . .			
Corporation estates			
Other undertakings			
Total			

BOROUGHS, URBAN AND RURAL DISTRICTS—*continued.*

Purpose (as far as applicable).	Total amount of loans outstanding.	Total amount in Sinking Fund.	Total amount remaining to be provided for.
3. SUMMARY—	£	£	£
Total non-trading Services—			
Not specifically grant-aided .			
Specifically grant-aided services			
Total trading undertakings . .			
Grand total			
Temporary loans or overdrafts under the Local Authorities (Financial Provisions) Act, 1921 . .			

Amount of outstanding debt per head of present estimated population

Note.—Services in respect of which a grant has been made by the Unemployment Grants Committee should not be treated as grant-aided services.

FORM 16.

LOANS STATEMENT.

RURAL PARISHES.

Loans outstanding at end of last financial year.

Loans chargeable upon each Contributory Place.

Rural District of

Purposes (so far as applicable).	(Name of Contributory Place.)			(Name of Contributory Place.)		
	Total amount of loans outstanding.	Total amount in Sinking Funds.	Total amount remaining to be provided for.	Total amount of loans outstanding.	Total amount in Sinking Funds.	Total amount remaining to be provided for.
Loans contracted by rural district council—	£	£	£	£	£	£
Sewerage & Sewage disposal .						
Water supply .						
Other loans, namely :—						
Totals .						
Loans contracted by parish council or parish meeting—						
Allotments .						
Recreation grounds .						
Burial grounds .						
Other loans namely—						
Totals .						

FORM 17.

LOANS STATEMENT.

JOINT BOARDS, BURIAL BOARDS, ETC.

Loans outstanding at the end of last financial year.

Name of Joint Board, Burial Board, etc.	Purpose of loans.	Total amount of loans outstanding.	Total amount in Sinking Funds.	Total amount remaining to be provided for.
		£	£	£

FORM 18.

RATES.

(Name of Borough, Urban District or Parish.)

Purpose.	Rates for last five years.				
	Year.	Year.	Year.	Year.	Year.
	s. d.	*s. d.*	*s. d.*	*s. d.*	*s. d.*
*TRUE RATES (that is, the amounts expended out of rates during the year, expressed in terms of a penny rate) .					
Education, Elementary					
,, Higher					
Public libraries					
Public Health—					
Sewers and sewage disposal . .					
Collection and disposal of house and trade refuse					
Hospitals, sanatoria and dispensaries					
Maternity and child welfare . .					
Baths					
Parks					
Public conveniences . . .					
Other health services . . .					
Lunacy and mental deficiency . .					
Housing and town planning . .					
Allotments, small holdings, etc. .					
Highways and bridges—					
Classified roads					
Other roads					
Public lighting					
Fire brigade					
Police					
Relief of the poor					
All other expenses					
Total					
Contributions to meet deficiencies on trading services					
Total					

* If there is difficulty in furnishing figures of true rates, the actual rate levied for each service should be given. But in that case the *total* amount of (*a*) the rates collected, and (*b*) the actual rate-borne expenditure for the year should also be stated.

RATES—*continued.*

Purpose.	Rates for last five years.				
	Year.	Year.	Year.	Year.	Year.
Deduct :—	*s. d.*	*s. d.*	*s. d.*	*s. d.*	*s. d.*
(1) Trading profits applied to rates .					
(2) Other income (not apportionable among services specified above)					
Net rate					
Actual Rates levied to meet expenses of—					
T.C. or U.D.C.*					
R.D.C.—					
General, including additional items .					
Special					
Board of Guardians of Union Union					
County Council					
Other local authorities . . .					
Total					
Rates collected per head of population during the year					

* If there is differential rating, give particulars.

Memorandum L.G.A. 28.

Maternity and Child Welfare Authorities (outside London).

LOCAL GOVERNMENT ACT, 1929.

CHILDREN ACT, 1908. PART I.

Transfer.

1. Section 2 (*a*) of the Local Government Act, 1929, provides that, as from the 1st April, 1930, the functions under Part I. of the Children Act, 1908, formerly discharged by poor law authorities, shall be discharged by the councils of counties and county boroughs as functions under the Maternity and Child Welfare Act, 1918, except that where the council of a district have established a maternity and child welfare committee the said functions shall in that district be discharged by the council of the district.

Notification of Children.

2. The main object of Part I. of the Children Act is to secure that any child under seven years of age who is maintained "for reward" shall be notified to the Local Authority in order that it may be kept under observation and supervision.

Section 1 of the Act provides accordingly that a person who undertakes for reward the nursing and maintenance of one or more infants under the age of 7 years apart from their parents, or having no parents, must, when any such infant is received for more than 48 hours, give to the local authority, within 48 hours from its reception, written notice stating the name, sex and date and place of birth of the infant, the name of the person receiving the infant, and the dwelling within which the infant is being kept, and the name and address of the person from whom the infant was received.

Appendix II.

Written notice of any change of residence of a person receiving such infants must within 48 hours thereof be given to the local authority, and where the new residence is in the district of another local authority, similar notice as regards each infant must be given to that authority as on the first reception of the infant.

If any such infant dies or is removed from the person having its care, written notice must within 48 hours be given to the local authority, stating in the case of removal the name and address of the person to whose care the infant has been transferred.

Failure to give notice within the time specified constitutes an offence under the Act, and it is provided that where the reward has taken the form of a "lump sum" payment, a person who has thus been guilty of an offence shall, in addition to any other penalty, be liable to forfeit that sum or any less sum as may be fixed by the court, such sums to be applied for the infant's benefit as directed by the court.

Duties of Local Authorities and Inspectors, etc.

3. Section 2 requires every local authority to provide for the administration of the Act in their area, and for this purpose from time to time to enquire whether there are persons in the area who undertake the nursing and maintenance of children in respect of whom the Act requires notice to be given. If there are such persons the authority must appoint Infant Protection Visitors, who are to visit the children referred to in any notice and the premises in which they are kept, and satisfy themselves that the children are properly nursed and maintained and give any necessary advice or directions as to their nursing and maintenance. But the local authority may exempt from being visited, either unconditionally or subject to such conditions as they think fit, any particular premises which appear to them to be so conducted that it is unnecessary that they should be visited.

The local authority may, instead of or in addition to appointing Infant Protection Visitors, authorise in writing suitable persons to act as such visitors, subject to such terms and conditions as the authority thinks fit, and where infants are placed out by a philanthropic society, the society may itself be so authorised to act in this respect subject to the obligation to furnish periodical reports to the local authority.

If a visitor or other person thus authorised is refused entrance to premises where there are such infants or suspects that any such infants are being kept in any premises in contravention of Part I. of the Act, he may apply to a Justice of the Peace. The Justice, if satisfied that there is reason to believe that any offence has been committed under Part I. of the Act, may grant a warrant authorising an entry.

Local authorities may combine for the purpose of executing the provisions of Part I. of the Act and for defraying the expenses of administering those provisions.

Persons prohibited from receiving children.

4. Section 3 provides that infants may not be received for reward without the local authority's written sanction:

(*a*) by persons from whose care children have been removed under the Act or under the Infant Life Protection Act, 1897.

(*b*) in premises from which an infant has been removed under the Act on account of their being dangerous or insanitary, or under the Act of 1897 on account of their being so unfit as to endanger the infant's health.

(*c*) by persons convicted of offences under Part II. of the Children Act or the Prevention of Cruelty to Children Act, 1904.

Number of Infants kept.

5. Section 4 enables the local authority to fix the number of children under seven who may be kept in premises in respect of which notice has to be given under the Act.

Removal of Infants.

6. Section 5 empowers an Infant Protection Visitor, or other authorised person, to apply either to a justice or to the local authority for an order requiring the removal of an infant to a place of safety if kept—

(*a*) in overcrowded, dangerous or insanitary premises; or,

(b) by persons unfit to have the care of it owing to negligence, ignorance, inebriety, immorality, criminal conduct, or other similar cause; or,

(c) by any person or in any premises in contravention of any of the provisions of Part I. of the Act.

If there is refusal to comply with such an order, or the visitor or other authorised person is obstructed in the execution of the order, it may (if made by a justice) be enforced by the visitor or by the police. If the order was made by the local authority, the visitor may apply to a justice for an order directing the infant's removal. Such an order may also be enforced by the visitor or by the police.

Notices to Coroner.

7. In the case of the death of an infant in respect of whom notice is required to be given under Part I., section 6 requires the person who had the care of the infant to give notice to the coroner within 24 hours of its death. The coroner is required to hold an inquest unless a certificate of a duly qualified medical practitioner is produced, certifying that he has personally attended the infant in its last illness, and specifying the cause of death, and the coroner is satisfied that there is no ground for holding an inquest.

Insurance.

8. Section 7 provides that a person required to give notice of reception of an infant under Part I. of the Act shall be deemed to have no insurable interest in its life, and any such insurance is an offence on the part of the person insuring and also on the part of any company and its agents who knowingly issue the policy.

Prosecution of offences.

9. Under section 9 of the Act, persons guilty of offences under Part I. are liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding £25. Such fines are payable to the local authority and are to be applied to the purposes to which the fund or rate, out of which the expenses of the local authority under Part I. are defrayed, is applicable.

An infant in respect of whom an offence has been committed may be removed by order of the court to a place of safety.

Exemptions.

10.—Part I. of the Act does not apply to relatives or legal guardians who take an infant for reward. Relatives are defined as "grandparents, brothers, sisters, uncles and aunts," including in the case of illegitimate infants the persons who would be so related if the infant were legitimate.

The following are also exempt:—

Persons taking infants for reward under any poor law provisions.

Hospitals, convalescent homes, or institutions established for the protection and care of infants and conducted in good faith for religious or charitable purposes.

Boarding schools at which efficient elementary education is provided.

Administration.

11. In view of the provisions of section 2(a) of the Local Government Act, 1929, the administration of Part I. of the Children Act will stand referred to the Maternity and Child Welfare Committee of the local authority and may be delegated to that Committee with or without restrictions or conditions. In most cases no doubt the health visitors of the local authority will be appointed Infant Protection Visitors under Part I. of the Children Act, as has already been done in some areas by arrangement between the Board of Guardians and the Maternity and Child Welfare Authority. The health visitors will be already visiting some, if not all, of the children under five years of age to whom Part I. of the Children Act applies, but as Infant Protection Visitors they will be required to visit all such children up to the age of

seven years. In those areas in which the health visitors do not at present act as Infant Protection Visitors, arrangements should be made to give them appropriate instruction as to their new duties, the procedure to be followed under Part I. of the Act, the reports to be made and the registers to be kept.

One of the duties of Infant Protection Visitors is to ascertain, so far as practicable, whether there are any children in their districts who are being maintained for reward, but in respect of whom notice has not been given under Part I. of the Act. In this matter, it may be found desirable to authorise other officers of the local authority to assist the health visitors. It will also be observed that Infant Protection Visitors are required to satisfy themselves as to the proper nursing and maintenance of the children visited, and for this purpose it is requisite that they should inspect the premises in which the children are kept, and the persons under whose care they are placed. In some cases it may be necessary to arrange for an inspection of the premises by the sanitary inspector.

It is important that the registers of persons who give notice under Part I. of the Act and of the premises in which children are kept should be maintained up-to-date, and that prompt notice should be sent to the appropriate local authority if any child is removed to the care of a person residing outside the area of the authority to whom the original notice was given.

Advertisements.

12. It is suggested that the local authority should take suitable steps in March, 1930, to make known in their area the name and address of the officer to whom notices under Part I. of the Act must be sent on and after the 1st April, 1930. It is also important that the requirements of Part I. should be advertised from time to time in order to ensure that all persons who maintain young children for reward may be made aware of their obligations under the statute.

MINISTRY OF HEALTH,
Whitehall, S.W.1.
26*th November*, 1929.

CIRCULAR 1072.

MINISTRY OF HEALTH,
Whitehall, S.W.1.
12*th February*, 1930.

LOCAL GOVERNMENT ACT, 1929.

SIR,—1. I am directed by the Minister of Health to refer to section 59 of the Local Government Act, 1929, and to enclose copies of the regulations (*a*) made under that section prescribing the qualifications of medical officers and health visitors appointed by local authorities under the Maternity and Child Welfare Act, 1918, the Public Health (Tuberculosis) Act, 1921, and the Public Health (Venereal Diseases) Regulations, 1916. These regulations will come into operation on the 1st April next, and on and after that date it will not be necessary for local authorities to obtain the approval of the Minister to individual appointments of any officers appointed to carry out duties under the Acts of 1918 and 1921, or the Regulations of 1916.

2. The Minister has had under consideration the general question of the extent to which the statutory provisions now governing the administration by local authorities of the maternity and child welfare, tuberculosis, and venereal diseases services, will necessitate his approval being obtained after the 31st March next to developments of these services. He is advised that these provisions generally require his approval or sanction to the arrangements made by local authorities for discharging the functions in question. The principle underlying the Local Government Act, 1929, is that local authorities should have as much freedom as possible in administering the health services. The Minister has caused the existing statutes and regulations to be examined from that standpoint, and instructs me to make the following observations as to each of the three specified services.

(*a*) These regulations are set out at p. 3624, *post*.

Maternity and Child Welfare.

3. Section 1 of the Maternity and Child Welfare Act, 1918, enables local authorities to make such arrangements as may be sanctioned by the Minister for attending to the health of expectant and nursing mothers, and of children under the age of 5 years who are not being educated in schools recognised by the Board of Education; and section 2 of the Notification of Births (Extension) Act, 1915, empowers local authorities, for the purpose of the care of expectant and nursing mothers and young children, to exercise any powers which a sanitary authority have under the Public Health Acts, 1875 to 1907, or the Public Health (London) Act, 1891.

4. The Minister is advised that the latter section enables local authorities to provide infant welfare centres, ante-natal clinics, hospitals for pregnant women, and for sick and ailing children, and convalescent homes for mothers and young children. It will, therefore, not be necessary for the Minister's sanction to be obtained in future to the provision or extension of any institutions of these kinds unless the local authority propose to raise a loan to defray any necessary capital expenditure. Similarly, any arrangements which the local authority propose to make with the managers of voluntary institutions of these kinds, which provide services of the standard required by the local authority, can be made without the sanction of the Minister.

5. The authority for other services commonly provided as part of the arrangements for maternity and child welfare, such for instance as health visiting, a midwifery service, maternity nursing and nursing for expectant mothers and young children, home helps, day nurseries, and the supply of milk or meals, must be found in section 1 of the Act of 1918, and the Minister is advised that his sanction will still be necessary to the provision of any of these services. But in all cases in which any one of these services has already been provided by a local authority with his approval, he hereby sanctions the extension of that service to such an extent, and in such a manner, as the authority think desirable.

Treatment of Tuberculosis.

6. Under the Public Health (Tuberculosis) Act, 1921, county and county borough councils are required to carry out and continue in operation the schemes of institutional treatment approved by the Minister or his predecessors, and any modifications of those schemes need the Minister's approval. The institutions in which treatment is given, *i.e.*, dispensaries, sanatoria and hospitals, have also to be approved by the Minister. Section 3 of the Public Health (Prevention and Treatment of Disease) Act, 1913, enables local authorities to make such arrangements as may be sanctioned by the Minister for the treatment of tuberculosis.

7. The Minister is advised that it will be necessary for his approval to be obtained to any proposed modification of an approved scheme of institutional treatment which would result in smaller provision being made for treatment, but he hereby sanctions any extension of a scheme which the council may think desirable, so long as the extension provides for treatment being given at institutions approved by the Minister.

8. The formal approval of institutions has been given by the Minister subject, in each case, to certain specified conditions (see section 3 of the Act of 1921), and the Minister hereby varies those conditions in the case of institutions belonging to county and county borough councils, or joint committees of those councils, so as to require only the following conditions to be observed:—

(1) That the institution and the records kept thereat will be open to inspection at any time by any officer of the Ministry.

(2) That such records will be kept and such returns will be made in connection with the institution as the Minister may from time to time require.

And, in the case of an institution in which children are treated, the following further condition:—

(3) That if the Board of Education make any requirements in regard to educational arrangements for the children, those requirements will be satisfactorily met.

It will not in future be necessary for the Minister's approval to be obtained to proposed extensions of these institutions unless the cost is to be defrayed by means of a loan.

9. Under section 3 of the Act of 1913 arrangements have been sanctioned by which local authorities have been enabled to provide certain forms of non-institutional treatment for tuberculosis, such as nursing in the homes of patients and the supply of extra nourishment for patients who are living at home. The Minister is advised that it will be necessary for his sanction to be obtained in any case in which a local authority propose to initiate any such arrangements, but he hereby sanctions any extension which the local authority think desirable of arrangements already approved.

Venereal Diseases.

10. The Public Health (Venereal Diseases) Regulations, 1916, require county and county borough councils to make arrangements for the pathological examination of specimens, for the provision of treatment at hospitals or other institutions, and for the supply of arsenobenzene preparations to medical practitioners. These arrangements are subject to the approval of the Minister, and the regulations also require his approval of the laboratories at which specimens are examined, and of the institutions at which treatment is given.

11. The Minister is advised that it will be necessary, under the regulations, for his approval to be obtained to any proposed modifications of the arrangements already approved which would result in a curtailment of the existing facilities for diagnosis or treatment, but he hereby sanctions any extension of such arrangements which the councils may think desirable, provided that the arrangements are made with approved laboratories or institutions. It will also be necessary to obtain his approval of the supply to medical practitioners of any arsenobenzene preparation which is not included in the lists of approved preparations issued from time to time by this department.

12. The Minister's approval of laboratories and institutions has been given subject in each case to certain specified conditions, and he hereby varies the terms of these approvals so as to require only the following conditions to be observed :—

(1) That the laboratory or institution, and the records kept thereat, will be open to inspection at any time by any officer of the Ministry.

(2) That such records will be kept, and such returns will be made, of the work of the laboratory or institution, as the Minister may from time to time require.

(3) That the Wassermann tests at the laboratory will be performed under the personal supervision of the medical officer in charge of the laboratory, and that such tests will conform to the standards of technique approved by the Minister.

And, in the case of a laboratory or institution which is not provided by a local authority, the following further condition :—

(4) That the medical officer in charge of the laboratory or institution possesses the qualifications prescribed in the regulations made by the Minister under section 59 of the Local Government Act, 1929, for a medical officer in charge of a laboratory or for a medical officer in clinical charge of a treatment centre, provided by a local authority, as the case may be.

General.

13. Although the formal approval of the Minister will not in future be required to the establishment or extension of institutions provided under these three services, unless it is proposed to raise a loan to defray the cost, the department will, of course, be prepared at any time to advise on the planning, equipment or staffing of such institutions, or in regard to any proposed extensions. Considerable experience has now been accumulated in the planning of maternity homes, sanatoria and venereal disease clinics. It seems to the Minister essential that the fullest use should be made of this experience and the Ministry will hold itself in readiness to place it at the disposal of local authorities, and to give any other assistance or advice which may be desired.

14. The inspection by the medical officers of the department of these services, and of the institutions and premises in which the services are carried on, will, in future, usually form part of the general inspection of public health services to be undertaken from time to time in each area. These inspections, both general and

particular, will be required in order that the Minister may be satisfied that each local authority is maintaining a reasonable standard of efficiency and progress in the discharge of their functions relating to public health services, as defined in the Local Government Act, 1929, regard being had to the standards maintained in other areas whose financial resources and other relevant circumstances are substantially similar.

15. A further communication will be addressed to local authorities in due course relative to the annual returns which the Minister will require in future under section 51 of the Act with respect, *inter alia*, to the three services to which this circular refers.

I am, Sir,
Your obedient Servant,
A. R. MACLACHLAN,
Assistant Secretary.

The Clerk of the Council,
or Joint Committee,
or The Town Clerk.

MARKETS.

CIRCULAR TO RURAL DISTRICT COUNCILS AS TO THE PUBLIC HEALTH ACT, 1908

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
September 7th, 1908.

SIR,—I am directed by the Local Government Board to call the attention of the rural district council to the Public Health Act, 1908 (8 Edw. 7, c. 6), which has recently been passed and which has for its object to make certain sections of the Public Health Act, 1875, with respect to the provision and regulation of markets applicable in rural districts.

The Act is to be construed as one with the Act of 1875. Under section 166 of that Act urban district councils are empowered,

(1) to provide a market place and construct a market house and other conveniences for the purpose of holding markets,
(2) to provide houses and places for weighing carts,
(3) to make convenient approaches to the market,
(4) to provide all such matters and things as may be necessary for the convenient use of the market,
(5) to purchase and take on lease land, and public and private rights in markets and tolls for any of the above-mentioned purposes, and
(6) to take stallages, rents, and tolls in respect of the use by any person of the market.

No market may, however, be established in pursuance of the section so as to interfere with any rights, powers, or privileges enjoyed within the district by any person without his consent.

In the case of an urban district council other than a town council the powers above referred to can only be exercised with the consent of the owners and ratepayers of the district.

For the purpose of enabling any urban authority to establish or regulate markets, section 167 of the Act of 1875 incorporates certain provisions of the Markets and Fairs Clauses Act, 1847 (10 & 11 Vict. c. 14), in so far as they relate to markets, namely:—the provisions (1) with respect to the holding of the market, and the protection thereof (sections 12 to 16 inclusive); (2) with respect to weighing goods and carts (sections 21 to 30 inclusive); and (3) with respect to the stallages, rents, and tolls (sections 31 to 41 inclusive). The same section enables an urban authority with respect to any market belonging to them to make byelaws for any of the purposes mentioned in section 42 of the Markets and Fairs Clauses Act, 1847, so far as those purposes relate to markets, and requires that printed copies of any byelaws so made shall be conspicuously exhibited in the market. It is necessary that the byelaws should be confirmed by the Board, and, similarly, any tolls leviable by the local authority must receive the Board's approval.

The powers thus conferred upon urban authorities are supplemented by section 168 of the Act of 1875, which enables these authorities to purchase market rights, powers, and privileges from market companies.

The new Act will enable any rural district council, with the consent of the Board, to exercise with respect to the provision or regulation of markets any powers which an urban district council may exercise with the consent of owners and ratepayers under section 166 of the Public Health Act, 1875, as above-mentioned. In the case of a rural district council, the consent of the owners and ratepayers will not be required. And sections 167 and 168 of that Act are made applicable with respect to the exercise of those powers by a rural district council in the same manner as they apply with respect to the exercise of those powers by an urban district council.

Cases in which rural district councils require to exercise powers under the new Act may not be very numerous, but the need for such powers has occasionally been shown, and it has been thought desirable that they should be in existence. Where, for example, it is the custom to hold live stock markets on a portion of the public highway, the provision of a properly constructed and regulated market-place is frequently expedient not merely on sanitary grounds, but for the well-being of the animals offered for sale, and for the convenience both of persons attending the market and of the users of the highway.

It will be observed that the powers given by the new Act can only be exercised with the consent of the Board. In any case where they may be thought to be needed the rural district council in applying for consent should furnish the Board with full particulars of the circumstances which in the opinion of the council render the application necessary and of the action which they would propose to take if consent were given.

The Board may mention that the provision of a market, with proper accessories, will be a purpose for which the council will be enabled to borrow money under the Public Health Act, 1875.

The expenses of the council in relation to the maintenance of any market which they may establish will be defrayable as general expenses unless they are determined by order of the Board to be special expenses under section 229 of the Act of 1875.

As already indicated, any byelaws made by the council with respect to any market provided by them under the provisions of section 167 of the Act of 1875, as applied by the new Act, must be submitted to, and confirmed by the Board before they can take effect, and the requirements in relation to byelaws contained in sections 182 to 185 of the Act, of 1875 must be otherwise complied with as regards any byelaws so made

I am, etc.

ORDER OF THE MINISTER OF AGRICULTURE AND FISHERIES, DATED 23RD DECEMBER, 1925.

MARKETS, SALES AND LAIRS ORDER OF 1925.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1925, and of every other power enabling him in this behalf, hereby orders as follows :—

Paving of Markets, Saleyards, etc., used for Animals.

1.—(1) No market, fair, or sale of animals shall be held in or upon any market-place, fairground, highway, saleyard, or other premises on any day until after the expiration of twenty-four days from the date on which the premises or any parts thereof were previously so used, unless the premises or a part thereof sufficient to accommodate the number of animals usually exposed at such market, fair, or sale, are so paved with cement, concrete, asphalt, or other hard material impervious to water, as to permit of the same being effectually cleaned by washing, and are at all times maintained in that condition.

(2) On every occasion of a market, fair, or sale of animals held on premises to which this Article applies, the animals shall stand or be penned as far as practicable on the paved accommodation required to be provided under this Order.

(3) This Article shall not be deemed to prohibit the holding of any fair under lawful authority on two or more consecutive days.

Paving of Lairs adjoining Markets and Saleyards, and Regulation of Lairs by Licence.

2.—(1) No lair adjoining premises on which or on any part of which a market, fair, or sale of animals is held at intervals of twenty-four days or less shall be used for the reception or temporary detention of animals before or after their exposure for sale on such adjoining premises, unless

(*a*) the lair is so paved with cement, concrete, asphalt, or other hard material, impervious to water as to permit of the same being effectually cleansed by washing and is at all times maintained in that condition; and

(*b*) the use of the lair for that purpose has been authorised by a licence of the local authority which shall not be granted unless the local authority are satisfied after inquiry that the provisions of this Article with regard to the paving of the lair have been complied with.

(2) A licence granted under this Article may be cancelled at any time by a notice served upon the occupier of the lair (or upon the person to whom the licence was granted) by an officer of the Ministry or of the local authority if the surface of the lair is not, in the opinion of the Minister or of the local authority, as the case may be, maintained in the condition required by this Article.

(3) This Article shall come into operation on the first day of July, nineteen hundred and twenty-seven.

Cleansing and Disinfection of Markets, Saleyards, and Lairs.

3. [*Revoked by Order of* 14*th May*, 1926.]

Local Authority to Enforce Order.

4. The provisions of this Order, except where it is otherwise provided, shall be executed and enforced by the local authority.

Offences.

5.—(1) If a market, fair, or sale of animals is held in contravention of this Order, the person holding the same shall be deemed guilty of an offence against the Act of 1894, and the owner or consignee of each animal exposed thereat, and the person exposing the same thereat, and the purchaser thereat of any animal, knowing the market, fair, or sale to be held in contravention as aforesaid, shall, each according to and in respect of his own acts and defaults, be deemed guilty of an offence against the Act of 1894.

(2) If anything is done or omitted to be done in contravention of this Order, the owner and the lessee and the occupier of the place or thing in respect of which anything is so done or omitted (as the case may be) shall, each according to and in respect of his or their own acts or omissions, be deemed guilty of an offence against the Act of 1894.

Interpretation.

6. In this Order, unless the context otherwise requires :—

"Animals" means cattle, sheep, goats, and swine.

"Lair" means a building, erection, pen, yard, or other enclosure used for the reception or temporary detention of animals before or after their exposure for sale, but does not include a grass enclosure.

"An approved disinfectant" means a disinfectant approved for the purposes of the Diseases of Animals (Disinfection) Order of 1925.

"Local Authority" means the local authority of the district for the purposes of the Act of 1894.

"Minister" and "Ministry" mean the Minister and Ministry of Agriculture and Fisheries.

"Person" includes persons or any body corporate or unincorporate.

"The Act of 1894" means the Diseases of Animals Act, 1894.

Other terms have the same meaning as in the Act of 1894.

Revocation.

7. The Markets and Sales Order of 1910 and all licences issued under that Order or continued in operation by that Order, are hereby revoked.

Commencement.

8. This Order (except Article 2) shall come into operation on the first day of February, nineteen hundred and twenty-six.

S. R. & O., No. 546.

ORDER OF THE MINISTER OF AGRICULTURE AND FISHERIES, DATED 14TH MAY, 1926.

MARKETS, SALES AND LAIRS (AMENDMENT) ORDER OF 1926.

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1925, and of every other power enabling him in this behalf, hereby orders as follows :—

Amendment of Article 3 *of the Markets, Sales and Lairs Order of* 1925.

1. Article 3 of the Markets, Sales and Lairs Order of 1925 is hereby revoked, and the following Article is substituted therefor :—

"*Cleansing and Disinfection of Markets, Saleyards and Lairs.*

"3.—(1) Any market-place, fairground, highway, saleyard, or other premises in or upon which markets, fairs or sales of animals are habitually held and any lair adjoining such premises which is used for the reception or temporary detention of animals before or after their exposure for sale, shall, as soon as practicable after being used for any such purpose on any day and before being again so used, be cleansed and disinfected as follows :—

"(i) The premises or lair or the parts thereof for the purposes of the market, fair or sale shall be thoroughly scraped as far as practicable, and swept, then effectually cleansed by washing ; and after such cleansing the said premises or lair or parts thereof shall be thoroughly washed with an approved disinfectant : Provided that in the case of any such premises or lair which are incapable of being cleansed and disinfected in the aforesaid manner, such cleansing and disinfection shall be carried out as far as may be practicable.

"(ii) All pens, hurdles, and other fittings used in or in connection with the market, fair, sale, or lair, shall as soon as practicable after being used for such purpose, and before being again so used, be thoroughly cleansed by scraping and washing. After such cleansing the pens, hurdles and other fittings so used shall be thoroughly washed with an approved disinfectant.

"(iii) The scrapings and sweepings of the premises, lair, pens, hurdles and other fittings, and all dung, saw-dust, litter and other matter removed therefrom, shall forthwith be well mixed with quicklime and be effectually removed from contact with animals, or be effectually destroyed by fire.

"(2) The cleansing and disinfection required by this Article shall, in the case of a market-place, fairground, saleyard or other premises or lair in the occupation of any person, and any pens, hurdles and other fittings used in or in connection with such premises or lair, be carried out by and at the expense of that person, and in any other case be carried out by the local authority of the district."

Commencement.

2. This Order shall come into operation on the 1st day of July, 1926.

S. R. & O., No. 982.

ORDER OF THE MINISTER OF AGRICULTURE AND FISHERIES, DATED 6TH OCTOBER, 1927.

MARKETS, SALES, AND LAIRS (AMENDMENT) ORDER OF 1927, MADE BY THE MINISTER OF AGRICULTURE AND FISHERIES UNDER THE DISEASES OF ANIMALS ACTS, 1894 TO 1927.

Amendment of the Markets, Sales, and Lairs Order of 1925.

1. The Markets, Sales, and Lairs Order of 1925 (hereinafter referred to as the principal Order), is modified in the manner hereinafter provided.

Power to require Paving, Cleansing, and Disinfection of Lairs other than those adjoining Markets, etc.

2. An inspector or other officer of the Ministry acting under the direction of the Minister may by notice served upon the occupier of any lair used for the temporary reception or detention of animals before or after their exposure for sale—other than any lair to which Article 2 of the principal Order applies—

(i) prohibit the use of any such lair for the temporary reception or detention of animals before or after their exposure for sale unless the lair is so paved with cement, concrete, asphalt, or any other hard material impervious to water as to permit of the same being effectually cleansed by washing and is at all times maintained in that condition; and

(ii) require that the lair shall as soon as practicable after being used for the purpose aforesaid on any day, and before being again so used, be cleansed and disinfected in the manner prescribed in Article 3 of the principal Order as amended by the Markets, Sales, and Lairs (Amendment) Order of 1926, as if the said lair were a lair referred to in that Article.

Interpretation.

3. For the purposes of the principal Order as amended by the Markets, Sales, and Lairs (Amendment) Order of 1926 and this Order, the expression "an approved disinfectant" means a disinfectant approved for the purposes of the Diseases of Animals (Disinfection) Order of 1926 if used at the dilution at which such disinfectant is so approved.

Short Title, etc.

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MATERNITY AND CHILD WELFARE.

See also "LOCAL GOVERNMENT," *ante* p. 3457.

Note.—The Circular and the Regulations of August, 1918, are reprinted in this edition, although the grants formerly payable under the Regulations are among those discontinued by Sched. II. of the L. G. A., 1929. The Circular sets out the scope and nature of the services which the Minister is prepared to approve under the Act, *q.v* at p. 1240, *ante*, and it has been considered by the Editors that the Regulations will be of use to local authorities in framing schemes under ss. 93–101 of the L. G. A., 1929, *ante*, p. 1956 and 1962. See also the circular letter of the Minister of Health set out at p. 3540, *ante*.

CIRCULAR TO COUNTY COUNCILS, ETC.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.1.

August 9th, 1918.

SIR,—1. I am directed by the President of the Local Government Board to bring to the notice of the council the provisions of the Maternity and Child Welfare Act, 1918, which has recently passed.

The Act widens the powers of local authorities in the matter of maternity and child welfare. It enables them to make such arrangements as may be sanctioned by the Board for attending to the health of expectant mothers and nursing mothers and of children who have not attained the age of five years, and are not being educated in schools recognised by the Board of Education.

A council exercising powers under the Act must appoint a maternity and child welfare committee. This committee may be specially appointed for this purpose or may be an existing committee or a sub-committee of an existing committee, and it must include at least two women. Subject to two-thirds of the members of the committee being members of the council, persons specially qualified by training or experience in subjects relating to health and maternity who are not members of the council may be appointed as members of the committee. A committee appointed under the section may also appoint sub-committees consisting wholly or partly of members of the committee. Mr. Hayes Fisher considers it is important that working women should be represented on the committee. In seeking such representatives the local branches of working women's organisations or the standing joint committee of Industrial Women's Organisations, 33, Eccleston Square, London, S.W.1, might usefully be consulted.

2. The supreme importance of maternity and child welfare work at the present time needs no emphasis. With a view to encouraging the provision of further services, which experience has shown would be of value for conserving infant lives and health, Mr. Hayes Fisher has obtained the sanction of the Treasury to a considerable extension of the scope of the Board's grant. A copy of the new regulations is appended to this circular.

The additional services for which the grant is now available, subject to the Board approving the arrangements, are chiefly:—

Hospital treatment for children up to five years of age.

Lying-in homes.

Home helps.

The provision of food for expectant and nursing mothers and for children under five years of age.

Crèches and day nurseries.

Convalescent homes.

Homes for the children of widowed and deserted mothers and for illegitimate children.

Experimental work for the health of expectant and nursing mothers and of infants and children under five years of age.

In certain other respects the scope of the grant has been enlarged.

With a view to assisting local authorities and voluntary agencies in developing this work the Board submit the following comments. These should be read as supplementing the observations made in earlier circulars.

Administrative Arrangements.

3. In their original circular of 30th July, 1914, on the subject of this grant, the Board stated:—

> "For the rural and smaller urban areas the Board think it will generally be found desirable to develop a county organisation, but in all cases the county work should be intimately related with that of the local sanitary authority, and on the other hand any work separately undertaken by a sanitary authority should be co-ordinated with the county scheme."

The Board may also draw attention to the following observations which were contained in their circular of the 29th July, 1915, in regard to the Notification of Births (Extension) Act, 1915:—

> "The Act contemplates that arrangements for attending to mothers and young children may be made either by county councils or by sanitary authorities. The Board recognise that the organisation must vary to some extent with local conditions and that a considerable degree of elasticity is necessary. They are, however, of opinion that it will generally be desirable to formulate comprehensive schemes for counties and county boroughs, although in some cases portions of the services may be undertaken by the larger district councils with advantage. The councils of counties and county boroughs are the local supervising authorities under the Midwives Act, 1902, and they are also entrusted with the initiation and execution of schemes for the treatment of tuberculosis; if the organisation of a maternity and infant welfare scheme is also undertaken by them, it will be practicable to secure the unification of home visiting for a number of different purposes.
>
> "In all cases, however, in which a general scheme is organised for the county, the work should be carried on in close co-operation with the sanitary authority."

As a general rule, county councils have adopted comprehensive schemes for all the districts in their counties, except those which by reason of their population and number of births can properly form separate units for these services. Some smaller districts are still carrying on separate schemes, but the most advantageous course usually lies in the amalgamation of these schemes with the county scheme, and Mr. Hayes Fisher is glad to observe that the councils of many of the smaller districts have agreed to amalgamation and are co-operating with the county council in this work. Where this has occurred the county council have generally continued the work of the local sanitary authority with the staff previously employed by the smaller authority, and have availed themselves of the assistance of that authority and of their medical officer of health in carrying it out.

The work to be done is of a composite character, and, while some parts of it may in certain cases be satisfactorily undertaken by the smaller authorities, other parts should be undertaken by the county council, and it is therefore desirable that the smaller district councils should in all cases consult the county council before considering the provision of separate services.

The county council and the district council have concurrent powers, in order that for all parts of the work the most efficient arrangement may be made, but the Board look to the county council to consider the needs of the county as a whole, and how these needs may best be supplied.

The Board request that each county council will take this subject into early consideration and that they will prepare and submit to the Board a report on the work now being undertaken, on the new services which should be established and on the methods whereby the new services can best be provided. It is important that the county council in preparing their report should confer with the district councils in order to secure their co-operation at every stage.

Inspection of Midwives.

4. In the Board's view each midwife in the district should be seen by the inspector of midwives of the supervising authority not less frequently than once a quarter, at least until the inspector is satisfied that the midwife will carry out her instructions satisfactorily. Special inquiries should be made if there is any doubt as to the satisfactory character of the midwifery service, and prompt visits should be paid

Appendix II. and reports made to the medical officer of the supervising authority in such cases notified under rule 20 of the Central Midwives Board as may be determined by him, and especially when there is a rise of temperature in the mother or a discharge from the eyes of the infant.

It is important that the visits of inspection should be made the occasion for giving general instruction and assistance to the midwives. The supervising authority should therefore appoint a sufficient staff of competent inspectors. The Board consider that an inspector of midwives should, if possible, be a qualified medical woman; if this cannot be secured, she should be a certified midwife with sufficient experience in the practice of midwifery. It is important that the supervising authority should in all cases secure co-operation between the midwives and the local organisation for maternity and child welfare work.

Provision of Midwifery.

5. The object of the Board's grant in aid of midwifery is to secure that as far as is practicable there shall be an efficient midwifery service throughout the country, and the Board look to the councils of counties and county boroughs to organise arrangements for securing this. In the Board's opinion it is important that the status of midwives should be raised, and that competent trained women who devote themselves to this service should be adequately remunerated. Unless this is done the Board are satisfied that an efficient midwifery service will not be established and maintained. The Board consider that a competent trained midwife, devoting her whole time to the work, should be able to secure at the present time an income of from £120 to £150 a year.

6. The Board have indicated that a local authority may pay or guarantee the salary of a competent midwife, and they are willing to consider any scheme for improving the midwifery service which may be submitted.

In cases in which a council provide or arrange for a general midwifery service they should fix a general scale of fees, but these may be reduced or remitted in individual cases where the circumstances justify this course. In so far as the fees received do not meet the cost of this service, the Board are prepared, subject to their prior approval of the scheme, to find one-half of the deficiency.

7. In sparsely populated districts where the midwife is supported by a nursing association, the Board will base the grant on the number of cases attended during the year, either by midwives or maternity nurses. They will pay a grant to county nursing associations in respect of

(*a*) the establishment expenses of the county nursing association attributable to midwifery,

(*b*) the midwifery and maternity cases attended by (1) nurse-midwives of affiliated associations, (2) emergency nurse-midwives of the county nursing association, and

(*c*) the expenses of the county nursing association and of affiliated district nursing associations in starting new associations where there is no competent midwife.

County councils may make contributions to county or district nursing associations for these services, and where they do so the Board will make a grant in respect of their expenditure. They will also make a grant on the same basis to county councils in respect of the midwifery and maternity nursing provided by unaffiliated associations, but they recommend that such associations should become affiliated to the county nursing association.

8. In districts with a large population it is possible for the practice of midwifery to be more nearly self-supporting than in more scattered areas. Nevertheless, a number of midwives are maintained in these localities by hospitals, maternity charities, and district nursing associations, and their services are provided at less than the ordinary fee of the district for women who cannot afford to pay this fee. Moreover, in many cases the ordinary fee is not sufficient to provide a competent trained midwife with an adequate income. The Board's grant is available in respect of the loss on district midwifery, if any, made by these institutions, and it will amount ordinarily to half the deficit on the service.

9. In all cases the grant in respect of midwifery will be subject to the following

conditions: (1) that the Board are satisfied that the midwife is competent, (2) that her services are available in respect of all women who need them, and (3) that the ordinary fee of the district is charged, and that it is only reduced or remitted where the circumstances of the case justify the adoption of this course.

10. A local authority or voluntary agency may provide a midwifery outfit for any midwife employed or subsidised by them. The outfit should be retained if the midwife leaves the service, and should be given to her successor. The grant is available in respect of this expenditure and also of the cost of maternity outfits (apart from bedding) lent by a local authority or voluntary agency to lying-in women in cases where this is necessary.

Doctors' Fees.

11. The Board trust that all local authorities carrying out maternity and child welfare schemes will arrange to pay the fees of doctors when called in by midwives during the period of confinement. In cases which are not necessitous the persons concerned would no doubt be willing to bear or repay the cost, but it is important that the doctors called in should be able to look to the local authority for their fees where the persons attended are unable to pay, and that they may be so informed. Local authorities should ascertain which of the general practitioners of the district are willing to undertake to respond to the call of a midwife, and should, if possible, arrange that one of them shall always be available to answer an urgent call. The midwives should be furnished with a list of the doctors who are willing to attend.

Health Visitors.

12. As a result of their further experience, the Board consider that the standard of 500 births to each health visitor, which they have previously suggested, should be modified. The functions of a health visitor should comprise the visiting and supervision of all children under school age in the district needing this attention; the visiting of expectant mothers who have attended at an ante-natal centre, or for whom visits are desirable; inquiry into still-births and the deaths of young children; and attendance at the centre to which women and children, including those whom she has visited in their homes, come for medical and hygienic advice. Where these duties are fully performed it appears to the Board that a district with about 400 births a year will be as much as one health visitor can undertake, unless the district is very compact, or is of such a class that many infants do not need visiting. The health visitor's district should where practicable be so arranged that it is served by one centre.

Qualifications of Health Visitors (a).

13. It is not practicable at the present time to prescribe a special course of training or a standard examination for health visitors generally. The qualifications prescribed by the Board's Order of 1909 with regard to London are:—

(*a*) A medical degree, or
(*b*) The full training of a nurse, or
(*c*) The certificate of the Central Midwives Board, or
(*d*) Some training in nursing and the health visitor's certificate of a society approved by the Board, or
(*e*) The previous discharge of duties of a similar character in the service of a local authority.

The certificate of a sanitary inspector is also valuable. In the absence of one or more of these qualifications the Board are not prepared to pay a grant in respect of a health visitor's salary unless they have adequate evidence before them that she is qualified for this work.

14. Other offices, such as that of tuberculosis nurse, school nurse and mental deficiency visitor, may be held with that of health visitor in certain cases, so as to give the officer a compact district, save the time and money spent in travelling, and

(*a*) The Minister has prescribed these qualifications under s. 59 of the L. G. A., 1929, *ante*, p. 1925. See the Regulations at p. 3624, *post*.

Appendix II. reduce the number of inspectors who may have to visit a particular house. The salary of a whole-time officer acting as health visitor with or without these other posts should as a rule be not less than £120 a year.

District Nurses as Health Visitors.

15. In sparsely populated districts it may be convenient to appoint the district nurse-midwives of nursing associations as health visitors, if the medical officer of health is satisfied that they are competent to perform the work. In some cases it may be found practicable to give the nurse-midwives special instruction and training in the work of a health visitor. More than half the county councils are now using district nurse-midwives as health visitors. The advantages of employing them are that, as a rule, they are well known and well received by the women in a country parish, that their advice is readily accepted, and that the arrangement may obviate duplication of inspection, and save time and money spent in travelling.

16. Where nurse-midwives employed by associations affiliated to the county nursing association are employed as health visitors, the county council and the county nursing association may find it advantageous to combine the offices of superintendent of the county nursing association, chief health visitor and inspector of midwives, so that the nurse-midwives are inspected by one official in all capacities.

Visiting by Voluntary Workers.

17. In a few districts voluntary workers, generally without full training, engage in health visiting. Their work should always be done in connection with that of trained and paid officers and they may usefully assist at the centres and in the supervision of older children.

Appointment of Health Visitors as Infant Protection Visitors under the Children Act, 1908.

18. The local authority under the Children Act, 1908, is in London the county council, and outside London the Board of Guardians (*a*). It appears to the Board desirable that, where practicable, the health visitor and the infant protection visitor should be the same person, and they suggest that the local authorities appointing health visitors should consult with the authorities appointing infant protection visitors in their areas with a view to securing this.

Nursing.

19. The home nursing services in respect of which the grant is now available are nursing needed for expectant mothers, maternity nursing, the nursing of puerperal fever, and the nursing of measles, whooping cough and epidemic diarrhœa in young children, and of ophthalmia neonatorum.

20. The maternity nursing should be undertaken by a woman with the certificate of the Central Midwives Board: failing this qualification, the Board should be furnished with evidence of her competency if a grant is claimed. A scale of fees should be fixed for maternity nursing, but the charge may be reduced or remitted in individual cases where circumstances justify the adoption of this course.

21. The local authority may, with the consent of the Board, themselves appoint nurses for the purposes specified above, or may contract with a body such as a district nursing association for this service. Where they appoint a special nurse, her spare time may well be utilised in the ordinary work of a health visitor. Often it is more convenient to arrange with a district nursing association for the services of one of their nurses to be available when an infectious disease prevails. Most district nurses are now allowed to nurse the cases of the infectious diseases mentioned in paragraph 19, subject to their taking simple precautions, as to which the medical officer of health can advise. The local authority may pay a retaining fee to a district

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(*a*) The duties of the Guardians under this Act, *q.v.* at p. 1191, *ante*, have now been transferred to the maternity and child welfare authorities (s. 2, L. G. A., 1929, *ante*, p. 1860).

nursing association for the purpose of securing that a nurse is always available, and in addition pay a fee per visit or per case. It is particularly important that all cases of measles notified from districts in which deaths from this disease are likely to occur should be visited by a health visitor. On her report the medical officer of health can usually decide when nursing is required.

22. In districts in which the county council undertake the maternity and child welfare work it is convenient that the nurses should be employed by the council either directly or through the county nursing association. Under this arrangement the nurses are available for visiting and nursing in any district in which a nurse is needed.

Centres.

23. The number of centres has increased considerably during the past year, and much credit is due in this matter to private enterprise. Every centre, whether municipal or voluntary, should generally be supervised by at least one trained and salaried worker, but unpaid workers interested in its objects can be of great assistance in weighing babies, in entertaining the mothers, and in giving instruction in elementary hygiene, cookery, sewing, etc. Where practicable, there should be a centre for each health visitor's district, and the health visitor should attend when the centre is open in order to be able to supervise the subsequent adoption at home of the advice given at the centre.

The chief value of the centre is to provide medical and especially hygienic advice. Mothers should be urged to bring their children, whether ailing or not, for such advice and for periodical weighings. At the present time doctors are so fully occupied that regular medical attendance at many centres is impossible, but every effort should be made to secure the attendance of a doctor, if not at every meeting, at any rate not less often than once a fortnight, or, in small centres, once a month. Medical attendance should be regular and uniform, *i.e.* the same doctor should attend at stated intervals. The Board do not recommend a rota of doctors; subject to this the doctor may be a local practitioner, the medical officer of health, or the assistant medical officer of health. If the medical officer of the centre is an officer of the local authority, he or she should be paid a separate salary for this work. It is desirable that local authorities should consult the local medical practitioners before making arrangements for medical attendance at a centre.

24. Cases which are found at the centre to need anything beyond minor treatment should be referred to their own medical attendant, or, if the woman cannot afford a doctor, to a hospital, if a hospital is available. One centre may suffice for the treatment of cases from a number of centres, and such a centre may be combined with a school clinic, especially for ophthalmic and dental cases. A dental clinic should, wherever practicable, be available for expectant and nursing mothers and for children under five. The grant is available in respect of reasonable expenditure on treatment at centres, including the treatment of ophthalmic and dental cases. A charge should ordinarily be made for new dentures for women and for spectacles for children, but the Board are willing that the charge should be reduced below the cost price or remitted entirely where the circumstances of the woman or of the child's parents are such as to justify this course.

25. The Board have had under their consideration the question whether cots may be provided as part of the equipment of a centre, and after conference with the representatives of a number of hospitals and voluntary centres, their medical officer has advised that, subject to certain conditions, they may be allowed. The arrangements will be subject to revision in the light of experience; for the present they should be generally in accordance with the following conditions if a grant is desired:—

(i) Acute cases of illness, such as would ordinarily be admitted to existing hospitals, and cases of infectious disease should not be treated in cots at a centre. The centre should, if practicable, be associated with a general hospital or a children's hospital, with a view to prompt admission of acute or serious cases of illness.

(ii) The experiment of providing cots at centres should be on a small scale, with not more than two wards with four cots in each, and the fittings and furniture should be as simple and inexpensive as possible.

(iii) A whole-time nurse should be in charge by day and one by night, and the nursing staff should, as a rule, be distinct from the staff engaged in the ordinary work of the centre.

(iv) If a medical officer is not resident on the premises there should be arrangements for securing his prompt attendance when required in emergency.

The Board would welcome arrangements for the treatment of mothers with their infants when breast-feeding fails. For this purpose it may be necessary for both mother and infant to become in-patients. In other instances the infant may be admitted, the mother attending twice or three times daily in a separate room to give supplementary breast feeds.

Instruction in Hygiene.

26. The extension of the grant to this purpose has been made in order to make it available in aid of reasonable expenditure on literature, exhibitions, and on collective instruction to expectant and nursing mothers, and also to voluntary and salaried workers, where the medical officer considers that the instruction is likely to improve their competency to undertake the maternity and child welfare work assigned to them. The expenses of salaried workers engaged in such work may be included in the application for grant under this heading.

Provision for Confinements.

27. The Board are satisfied that in many areas additional lying-in accommodation is required for normal as well as abnormal confinements, and they have therefore obtained power to make a grant to encourage the provision of such accommodation. The grant for this service will as a rule be paid only to a local authority, as the Board look to the local authority to provide or arrange for the provision of the accommodation required. Voluntary societies providing homes for normal confinements, if they need financial assistance, should, as a general rule, apply to the local authority in whose district the institution is situate.

In order that such homes may be eligible for the Board's grant, they must be willing to receive cases in which the medical officer of health of the district considers that admission to the home is desirable because of domestic conditions.

A scale of charges should be fixed for the use of the lying-in home, but the charge may be reduced or remitted in individual cases where the circumstances justify the adoption of this course.

Home Helps and other Assistance.

28. In many cases a woman is unwilling to leave her home, even if its conditions are unsuitable for her confinement. If the difficulty arises from the number of children, arrangements may sometimes be made for the children to be boarded out during the mother's lying-in period; if it is due to the need for a person to look after the house during this period, whether the confinement takes place at the home or elsewhere, a home help may be supplied for the purpose. The grant is available for assistance of this character where the Board's general consent has been previously obtained to the local arrangements.

Home helps must, of course, be persons of suitable character. Where the confinement takes place at home they should undertake the necessary duties under the direction of the nurse or midwife in attendance.

The duties of a home help would be the ordinary domestic duties usually undertaken by the mother, including cleaning, cooking, washing, care of children, mending and marketing. She should not undertake any work which properly belongs to the sphere of the trained nurse or midwife, nor assist at a confinement unless a doctor or midwife is in attendance.

It is advisable to arrange for special training of home helps. This training may be given at maternity centres and day nurseries, and should include practical instruction in plain and invalid cookery, food values and prices, laundry work, mending, infant care and hygiene. A course of one to three months, according to the previous experience of the woman, should be sufficient.

A scale of charges for the service of home helps should be made, but the charge may be remitted or reduced in individual cases where the circumstances justify it.

Hospitals for Infants.

29. This grant is now extended to hospital treatment of children up to five years of age, but save in exceptional cases it will be paid only to the local authority. It is not available in respect of the hospital treatment of ordinary infectious diseases, except ophthalmia neonatorum, but for the present the Board are prepared to give a grant towards the provision of hospital beds for epidemic diarrhœa, when these beds are provided elsewhere than at an infant welfare centre.

Food.

30. The conditions under which this grant will be paid were laid down in the Board's circular letter of 9th February last. The Board consider that schemes for the supply of food and milk should, where this provision is necessary, be undertaken by the authority carrying out the maternity and child welfare scheme. Where the local authority of a county district which is not carrying out such a scheme considers that expectant and nursing mothers and young children in its district are not obtaining a proper supply of food and milk, it should consult with the county council as to the best means of supplying this need.

A scale of charges should be laid down for the supply of food and milk, but the charge may be reduced or remitted in individual cases where the circumstances justify it.

Crèches, etc.

31. The Board's grant is available in respect of expenditure by local authorities on providing or aiding crèches and day nurseries, and on placing children in the care of foster-mothers who are under supervision by the medical officer of health. The grant is also available for aiding homes where children can remain through the night as well as the day, and is especially intended for the children of mothers who go out to work. A scale of charges should be fixed for these services but the charge may be remitted or reduced in individual cases where the circumstances justify the adoption of this course.

Convalescent Homes.

32. A stay in a convalescent home is specially important for recovery after certain cases of confinement and for some conditions in young children, especially after measles and whooping cough. It is desirable, therefore, that local authorities should, either themselves or through a voluntary agency, arrange for beds in convalescent homes to be available as part of their schemes. As a general rule a grant will be paid to voluntary agencies providing convalescent homes only in respect of accommodation provided in connection with a local authority's scheme and approved by the local authority and the Board.

Homes for Children.

33. The health of infants and young children who lack the support of a father often needs special attention, and it is on all grounds desirable that the mother and child should be kept together in such cases, especially during the first year. It is notorious that the death rate of illegitimate infants, the only infants in this category for whom separate statistics are published, is about twice the death rate of legitimate infants. To some extent this is due to the difficulty experienced by their mothers in making a home for them. The mothers generally go out to work and leave their infants with foster-mothers. As a result of the war fewer suitable foster-mothers are prepared to take the children at a charge which their mothers can afford to

pay. The Board have therefore obtained the Treasury assent to the extension of the grant to homes at which mothers and children can be kept together in certain cases, and to such other arrangements as the Board may approve for attending to the health of the children under consideration. In some cases it may be desirable to pay a good foster-mother to look after a child whose mother cannot afford the whole of its keep, or to assist the mother to stay at home to attend to the child. Any scheme for this purpose should be submitted for the Board's approval before expenditure is incurred on it if a grant is desired.

Capital Expenditure.

34. The grant is available in respect of the necessary adaptation and equipment of premises for the purpose of centres, crèches, homes, and hospitals. The erection of new premises for these purposes is impracticable at present, and with a view to keeping capital expenditure within the narrowest limits suitable existing accommodation should, where possible, be obtained on lease rather than by purchase. All proposals for acquiring, adapting and equipping buildings for these purposes should be submitted to the Board before expenditure is incurred, with an estimate of the cost, if a grant is desired.

Experimental Work.

35. Mr. Hayes Fisher desires to encourage local authorities and voluntary agencies to undertake new work calculated to promote the health of mothers and children, and the Board will consider sympathetically any new proposal submitted to them under this heading. If a grant is desired, full particulars should be furnished of any such scheme and of its estimated cost before expenditure is incurred on it.

Items Excluded from Grant.

36. The grant is not available in respect of the following items, which are frequently included in applications :—

Payments to the Central Midwives Board,
Payments to registrars for returns of births,
Certificates of deaths of midwives,
Compensation to midwives for abstaining from work after contact with infection,
Expenses of deputations,
Rent of premises in the possession of the local authority or of the education committee,
Any part of the salary of the medical officer of health except an additional salary specially voted for maternity and child welfare work,
Clerical and other establishment expenses, except additional expenditure specifically necessitated by the scheme.

Applications from Voluntary Societies.

37. Grant is payable to voluntary societies on condition that the work is co-ordinated with the work of the local authority. It is convenient that applications from voluntary societies should be forwarded to the Board through the local authority with whose scheme they are co-ordinated. Where this is not done a copy of the application should be sent to the local authority at the same time as it is sent to the Board.

Use of Abortifacients.

38. A report was published by the Privy Council Office in 1910 on the practice of medicine and surgery by unqualified persons. For the purpose of that report the Board obtained some particulars from medical officers of health which showed that the sale of drugs intended to procure abortion and practice by abortion-mongers was prevalent in many parts of the country. From information obtained by medical inspectors of the Board in connection with their inquiries into maternity and child welfare work and from other material, the Board have reason to fear that these practices continue. One of the drugs most commonly employed for this purpose

is diachylon, and on 27th April, 1917, an Order in Council was made adding to the list of poisons for the purpose of Part I. of the Schedule of Poisons "lead in combination with oleic acid, or other highly fatted acids, whether sold as diachylon or under any other designation (except machine spread plasters)." The Board would urge every local authority to bring this Order to the notice of the druggists and of the practising midwives in their area, to explain to their health visitors and to the midwives the risks to life and health involved in the use of diachylon, and in every other way to do what they can to stop the traffic in abortifacients and the practice of abortion-mongers in their districts.

I am, etc.

REGULATIONS DATED AUGUST 9TH, 1918, UNDER WHICH GRANTS NOT EXCEEDING ONE HALF OF APPROVED NET EXPENDITURE WILL BE PAYABLE BY THE LOCAL GOVERNMENT BOARD TO LOCAL AUTHORITIES AND TO VOLUNTARY AGENCIES IN RESPECT OF ARRANGEMENTS FOR ATTENDING TO THE HEALTH OF EXPECTANT MOTHERS AND NURSING MOTHERS AND OF CHILDREN UNDER FIVE YEARS OF AGE (*a*).

1. The Local Government Board will pay grants during each financial year commencing on 1st April, in respect of the following services:—

(1) The salaries and expenses of inspectors of midwives.

(2) The salaries and expenses of health visitors and nurses engaged in maternity and child welfare work.

(3) The provision of a midwife for necessitous women in confinement and for areas which are insufficiently supplied with this service.

(4) The provision, for necessitous women, of a doctor for illness connected with pregnancy and for aid during the period of confinement for mother and child.

(5) The expenses of a centre, *i.e.* an institution providing any or all of the following activities: medical supervision and advice for expectant and nursing mothers, and for children under five years of age, and medical treatment at the centre for cases needing it.

(6) Arrangements for instruction in the general hygiene of maternity and childhood.

(7) Hospital treatment provided or contracted for by local authorities for complicated cases of confinement or complications arising after parturition, or for cases in which a woman to be confined suffers from illness or deformity, or for cases of women who, in the opinion of the medical officer of health, cannot with safety be confined in their homes or such other provision for securing proper conditions for the confinement of necessitous women as may be approved by the medical officer of health.

(8) Hospital treatment provided or contracted for by local authorities for children under five years of age found to need in-patient treatment.

(9) The cost of food provided for expectant mothers and nursing mothers and for children under five years of age, where such provision is certified by the medical officer of the centre or by the medical officer of health to be necessary and where the case is necessitous.

(10) Expenses of crèches and day nurseries and of other arrangements for attending to the health of children under five years of age whose mothers go out to work.

(11) The provision of accommodation in convalescent homes for nursing mothers and for children under five years of age.

(12) The provision of homes and other arrangements for attending to the health of children of widowed, deserted and unmarried mothers, under five years of age.

(13) Experimental work for the health of expectant and nursing mothers and of infants and children under five years of age carried out by local authorities or voluntary agencies with the approval of the Board.

(14) Contributions by the local authority to voluntary institutions and agencies approved under the scheme.

(*a*) See note at p. 3548, *ante*.

Appendix II.

2. Grants will be paid to voluntary agencies aided by the Board on condition :—

(1) That the work of the agency is approved by the Board and co-ordinated as far as practicable with the public health work of the local authority and the school medical service of the local education authority.

(2) That the premises and work of the institution are subject to inspection by any of the Board's officers or inspectors.

(3) That records of the work done by the agency are kept to the satisfaction of the Board.

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MILK AND DAIRIES: AND TUBERCULOUS COWS.

See also Diseases and Hospitals, *ante*, p. 3139; "Food and Drugs," *ante*, p. 3310.

S. R. & O., 1922, No. 908.

The Milk and Dairies (Consolidation) Act, 1915 (Commencement of Operation) Order, 1922, dated August 14, 1922, made by the Minister of Health under section 21 of the Milk and Dairies (Consolidation) Act, 1915.

* * * * * *

Now, therefore, the Minister of Health, in exercise of the powers conferred on him by section 21 of the Milk and Dairies (Consolidation) Act, 1915, and of any other powers enabling him in that behalf, hereby orders as follows :—

1. Sub-section (3) of section 21 of the Milk and Dairies (Consolidation) Act, 1915, so far as it relates to the repeal of the Milk and Dairies Act, 1914, and the Milk and Dairies Acts Postponement Act, 1915, shall come into operation on the 1st day of September, 1922.

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MEMO. 77/FOODS.

SALE OF MILK UNDER SPECIAL DESIGNATIONS.

"Certified"—"Grade A (Tuberculin Tested)"—"Grade A"—"Pasteurised."

General.

1. Under section 3 of the Milk and Dairies (Amendment) Act, 1922, the designations "Certified Milk," "Grade A Milk," "Pasteurised Milk," and other similar designations may only be used where a licence to sell milk under those designations has been granted by the Minister of Health or with his authority. Licences are required in the case of either Certified, Grade A (Tuberculin Tested), or Grade A Milk, both by the farmer who produces the milk and by every dealer who sells it. In the case of Pasteurised Milk a licence is required by the person who pasteurises it and by any other dealer who sells the milk.

Licences, expiring annually on the 31st December, are granted by the appropriate licensing authority, as stated at the beginning of each numbered paragraph below, subject to the conditions and upon the payments set out below. Separate licences are required for the use of each designation and separate fees are payable.*

Separate licences are required for each district † in which milk is retailed, and a separate fee is payable for each establishment. If a retailer wishes to sell milk in one district from a licensed establishment in another district, he can obtain a supplementary licence from the authority for the first district for an additional fee of 2*s.*

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* The only exceptions are that a producer holding a "Certified Milk" licence may sell milk produced in accordance with the conditions of the licence as "Grade A (Tuberculin Tested)" or "Grade A," and the holder of a "Grade A (Tuberculin Tested) Milk" licence may sell milk produced in accordance with the conditions of that licence as "Grade A," in each case without any further licence or the payment of any further fee.

† *I.e.* Borough, Urban District, or Rural District.

Certified Milk.

2. The licensing authority for the producer is the Minister of Health. The fee is £5. The licensing authority for any other dealer is the district council.* The fee is 5*s.* in respect of each establishment.

The conditions under which licences are granted for the sale of "certified milk" are as follows :—

(i) A herd book or register of all the animals in the herd (showing additions and removals) must be kept and all the animals must be suitably marked for purposes of identification.

(ii) Every animal in the herd must have passed the tuberculin tests specified in the Appendix to this Memorandum, before the licence is granted, and thereafter at intervals of six months. Every animal reacting to the tests must forthwith be removed from the farm.

No animal may be added to the herd unless it has passed the tests.

Tuberculin must not be used except for the purposes of the required tests.

(iii) An examination of the herd must be made once in every three months by a veterinary surgeon nominated by the Minister. Any animal certified as showing evidence of any disease which may injuriously affect the milk must immediately be removed from the herd and information as to its disposal given to the Minister.

(iv) Before a licence is issued the farm will be inspected and a satisfactory number of points must be obtained on the inspection report card.

(v) The milk must be bottled on the farm immediately after production, for delivery to the consumer.

(vi) Every bottle must be closed with a suitable tightly-fitting disc and covered with a suitable outer cap overlapping the lip of the bottle and so fastened as to form a secure seal. This cap must bear the name and address of the producer or of the farm where the milk is produced, the day of production, and the words "Certified Milk."

The words "produced from cows which have passed the tuberculin test" may be added, but no other matter may be inserted except with the consent of the Minister.

(vii) The milk at any time before delivery to the consumer must not contain Bacillus Coli in 1/10 c.c. and must not contain more than 30,000 bacteria per c.c.

(viii) Accurate records must be kept by every producer and distributor in such a way that they can conveniently be checked. The producer's records must show the quantities of the milk produced and sold and the names and addresses of the purchasers. The distributor's records must show the quantities purchased and sold and the names and addresses of the persons from whom the milk is purchased and to whom it is sold otherwise than by retail.

(ix) Every facility must be given at all times to any person authorised by the licensing authority to inspect the premises, processes of production, equipment, methods and records, and to take samples of the milk (free of charge).

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* Or Town Council or Metropolitan Borough Council as the case may be.

Grade A (Tuberculin Tested) Milk.

3. The licensing authority for the producer is the Minister of Health. The licensing authority for the distributor is the district council.*

The conditions as to the tuberculin testing of the herd which are set out in paragraph 2 (ii) of this memorandum must be complied with. The conditions (including those as to fees) set out in paragraph 4 below with regard to the issue of licences for the sale of "Grade A Milk" also apply, except that the milk must not be pasteurised, and that the designation "Grade A (Tuberculin Tested)" is to be substituted for "Grade A" wherever those words occur.

* Or Town Council or Metropolitan Borough Council as the case may be.

Grade A Milk.

4. The licensing authority for the producer is the council of the county or the county borough (as the case may be) in which the milk is produced. The fee is £1 1*s.* Where a producer bottles his milk and retails it at or from the place of production and has no separate retailing premises, this authority will grant a single inclusive licence to cover distribution as well as production, the fee for which is £3 3*s.* In other cases the licensing authority for the distributor is the district council.* The fee is £2 2*s.* in respect of each bottling establishment. A fee of 5*s.* is payable in respect of each establishment where the milk is received already bottled and from which it is distributed intact.

The conditions under which licences are granted for the sale of "Grade A Milk" are as follows:—

(i) A herd book or register of all the animals in the herd (showing additions and removals) must be kept and all the animals must be suitably marked for the purposes of identification.

(ii) An examination of the herd must be made once in every three months by a veterinary surgeon nominated by the licensing authority. Any animal certified as showing evidence of any disease which may injuriously affect the milk must immediately be removed from the herd and information as to its disposal given to the licensing authority.

(iii) If tubercle bacillus is at any time found in the milk the producer must arrange for bacteriological examinations of the milk to be made so that the diseased animals may be identified and removed from the herd.

(iv) The milk must be dispatched from the farm in an unventilated sealed container, bearing a suitable descriptive label with the address of the farm, the day and time of production (morning or evening), and the words "Grade A Milk."

(v) The distributor must deliver the milk to the consumer either:—

  (*a*) in the vessels in which he has received it, the seals being unbroken; or

  (*b*) in bottles † filled on the distributor's premises.

  Every bottle must be closed with a suitable tightly fitting disc and covered with a suitable outer cap overlapping the lip of the bottle and so fastened as to form a secure seal. This cap must bear the name and address of the distributor, the day of production, and the designation "Grade A Milk" (or "Grade A Milk (Pasteurised)" as the case may be) and no other matter except with the consent of the licensing authority.

  Until the milk has been bottled it must be kept entirely separate from all other milk.

(vi) The milk at any time before delivery to the consumer must not contain Bacillus Coli in 1/100 c.c. and must not contain more than 200,000 bacteria per c.c.

(vii) The milk may not be treated by any artificial heating process other than pasteurisation carried out in accordance with the conditions specified in paragraph 5 below and if it is so pasteurised it must be sold as "Grade A Milk (Pasteurised)." It must then conform to the standard as regards bacterial content specified in paragraph 5 (iii) below for pasteurised milk.

(viii) Accurate records must be kept by every producer and distributor in such a way that they can conveniently be checked. The producer's records must show the quantities of the milk produced and sold and the names and addresses of the purchasers. The distributor's records must show the quantities purchased and sold and the names and addresses of the persons from whom the milk is purchased, and to whom it is sold otherwise than by retail.

(ix) Every facility must be given at all times to any person authorised by the licensing authority to inspect the premises, processes of production, equipment, methods and records, and to take samples of the milk (free of charge).

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* Or Town Council or Metropolitan Borough Council as the case may be.

† Where the milk is being delivered in large quantities (*e.g.* to a school or hospital) cans holding two gallons or more may be used instead of bottles. Each can must be closed by means of a tightly fitting cover and suitable seal.

Pasteurised Milk.

5. The licensing authority is the district council.* The fee is £1 1*s.* in respect of each pasteurising plant. A fee of 5*s.* is payable by any dealer in respect of each set of premises at or from which milk which has been pasteurised by some other dealer is sold as "Pasteurised Milk."

The conditions under which licences are granted are as follows, subject to the temporary relaxations stated in the footnotes to conditions (i) and (iii) respectively:—

(i) The milk must be retained at a temperature of not less than 145° and not more than 150° Fahrenheit for at least 30 minutes, and must then be immediately cooled to a temperature of not more than 55° Fahrenheit.†

(ii) The milk must not be otherwise treated by heat and must not be pasteurised more than once.

(iii) The milk at any time after pasteurisation and before delivery to the consumer must not contain Bacillus Coli in 1/10 c.c. and must not contain more than 30,000 bacteria per c.c.‡

(iv) Every vessel used for distributing the milk must be suitably labelled with the day of pasteurisation and the designation "Pasteurised Milk."

(v) Every facility must be given at all times to any person authorised by the licensing authority to inspect the premises, equipment and methods, and to take samples of the milk (free of charge).

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* Or Town Council or Metropolitan Borough Council as the case may be.

† *Until the* 1*st July*, 1923, any process of pasteurisation (including the flash process) capable of effecting the necessary reduction of bacteria will be permitted. The condition as to immediate cooling must be observed.

‡ *Until the* 1*st January*, 1924, no test for Bacillus Coli will be imposed and the maximum bacterial content permitted will be 50,000 per c.c.

APPENDIX.

I.—TUBERCULIN TESTS FOR CERTIFIED MILK AND GRADE A (TUBERCULIN TESTED) MILK.

1. The producer must arrange with a veterinary surgeon nominated by the Minister to carry out the tests and to give the certificate and report specified below.

The producer must send all such certificates and reports to the Ministry (unless they are sent direct by the veterinary surgeon) within seven days of the date of the test and, in the case of an animal intended to be added to the herd, before it is added. The producer must within the same period send a declaration that every animal in the herd which is reported as reacting to the test has been removed.

2.—(*a*) The tests are to be carried out with fresh tuberculin of a satisfactory make. The name of the manufacturers of the tuberculin used and the quantity injected in each case should be stated on the test report sheet. The actual instructions supplied with the tuberculin used must be adhered to.

(*b*) The temperatures of all animals should be taken on three occasions at intervals of three hours shortly before the injections are made. The average of all temperatures within the physiological limits should be noted. Any animal persistently showing a temperature which is abnormal when compared with this average should not be included in the test, but should be tested as soon as its temperature becomes normal. No animal which has been injected with tuberculin within the previous three months may be included in the test.

(*c*) The hypodermic and ophthalmic tests should be applied simultaneously.

(*d*) After the injections, the temperature should be taken every three hours, beginning at the sixth hour and continuing until the eighteenth hour. If the temperature of any animal has shown little variation, but at the eighteenth hour shows distinct signs of rising, its temperature should be taken again after a further period of three hours. The result of the eye test should be recorded up to the eighteenth hour.

(*e*) The taking of the temperature may *only* be entrusted to an assistant if the assistant acts under the immediate personal supervision of the veterinary surgeon.

(*f*) (i) A certificate should be given on the official form. The results observed in respect of each animal should be entered separately, the description of each animal including a reference to the identification mark or number (see paragraphs 2 (i) and 4 (i) of this Memorandum).

(ii) All temperatures, including the average specified in (*b*) above, and all changes noted in the eye should be reported on the form.

II.—GENERAL VETERINARY EXAMINATION FOR CERTIFIED GRADE A (TUBERCULIN TESTED) AND GRADE A MILK.

1. The producer must arrange with a veterinary surgeon nominated by the licensing authority to make a personal veterinary examination of the entire herd and to give the certificate and report specified below.

The producer must send all such certificates and reports to the licensing authority (unless they are sent direct by the veterinary surgeon) within seven days of the date of the examination. He must also within the same period remove from the herd any animal certified as suffering from any of the diseases specified below or from any other disease likely to affect the milk injuriously, and inform the licensing authority how that animal has been disposed of.

2.—(*a*) The veterinary surgeon should make particular examination for any of the following diseases:—

(i) Tuberculosis of the udder.
(ii) Indurated udder.
(iii) Enlargement of supra-mammary lymphatic glands.
(iv) Tuberculosis in any form with emaciation.
(v) Chronic cough with definite clinical symptoms of tuberculosis.
(vi) Anthrax.
(vii) Foot and mouth disease.
(viii) Mastitis.
(ix) Abscess of the udder.
(x) Retained placenta.

(*b*) A certificate should be given on the official form specifying any clinical evidence of disease. The description of the animals given on this form should in every case include a reference to the identification mark or number (see paragraphs 2 (i) and 4 (i) of this Memorandum).

Ministry of Health,
January, 1923.

S. R. & O., 1923, No. 509.

THE PUBLIC HEALTH (CONDENSED MILK) REGULATIONS, 1923, DATED 1ST MAY 1923, MADE BY THE MINISTER OF HEALTH (*a*).

68242.

The Minister of Health in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, the Public Health (Regulations as to Food) Act, 1907, and by section 8 of the Milk and Dairies (Amendment) Act, 1922, and of every other power enabling him in that behalf, hereby makes the following Regulations, with the consent of the Commissioners of Customs and Excise, so far as they apply to the officers of customs and excise, that is to say:—

Part I.

1. These Regulations may be cited as the Public Health (Condensed Milk) Regulations, 1923, and shall come into operation on the 1st day of October, 1923 (*b*).

2.—(1) In these Regulations, unless the context otherwise requires—

"The Minister" means the Minister of Health;

"Local authority" means any local authority authorised to appoint an analyst for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907 (*c*), and "public analyst" means an analyst so appointed;

"Officer of Customs and Excise" includes any person acting under the authority of the Commissioners of His Majesty's Customs and Excise;

"Condensed milk" means milk or skimmed milk which has been concentrated by the removal of part of its water, whether with or without the addition of sugar, and includes the article commonly known as "evaporated milk," but does not include the article commonly known as "dried milk" or "milk powders";

"Skimmed milk" includes separated or machine-skimmed milk;

"Gross weight" of a tin or other receptacle means the weight of the tin or other receptacle and of its contents;

"Importer" includes any person who, whether as owner, consignor, or consignee, agent or broker, is in possession of or in anywise entitled to the custody or control of any condensed milk brought from a place situate outside the United Kingdom, the Channel Islands, and the Isle of Man; and "import" shall be construed accordingly

Percentages shall be calculated by weight.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

Part II.

3. The local authority shall enforce and execute this Part of these Regulations, and for this purpose shall make such inquiries and take such other steps as may seem to them to be necessary for securing the due observance of this Part of the Regulations in their district.

4. No person shall sell or expose for sale or deposit in any place for the purposes of sale, or dispatch or deliver to any purchaser, broker or agent any condensed milk intended for human consumption unless the condensed milk—

(1) is contained in a tin or other receptacle which is labelled in the manner prescribed in the First Schedule to these Regulations; and

2) contains not less than the appropriate percentages of milk fat and milk solids as specified in the Second Schedule to these Regulations:

Provided that—

(*a*) The provisions of this Article shall not apply in any case where the

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(*a*) These regulations have been amended by the P. H. (Condensed Milk) Amendment Regulations, 1927, *post*, p. 3587.

(*b*) By a regulation of 24th September, 1923. the date for the coming into operation of these regulations was postponed to 1st November, 1923.

(*c*) See now the Food & Drugs (Adulteration) Act, 1928, *ante*, p. 2948.

condensed milk is intended to be exported or is contained in a tin or other receptacle whose gross weight exceeds five pounds ; and

(b) Where in any public refreshment room, restaurant, shop, or other public premises condensed milk is delivered to a purchaser or other person for consumption on the premises, the receptacle containing the condensed milk shall not be required to be labelled in the manner prescribed by these Regulations (a).

5.—(1) The medical officer of health, and any person authorised by him or by the local authority in writing, may procure any sample of condensed milk, and where an analysis is required for the purposes of these Regulations shall submit the sample to the public analyst and shall forthwith notify to the seller or his agent selling the condensed milk his intention to have the same analysed by the public analyst.

(2) Except where the sample is procured for the purpose of testing the quantity of milk or skimmed milk of which the contents of a tin or other receptacle are the equivalent, the provisions of section 14 of the Sale of Food and Drugs Act, 1875, as amended by section 13 of the Sale of Food and Drugs Act, 1899 (b), relating to the division of the sample into three parts and the separation, marking and disposal of such parts, shall apply.

6. Any officer authorised by the Minister and any officer of the local authority duly authorised by the authority in writing shall have power to enter at all reasonable times any premises where condensed milk is prepared, packed, labelled, or stored, and to inspect any process carried on therein and to take samples of any article used or capable of being used in the preparation of condensed milk and of any labels designed to be used for affixing to tins or other receptacles of condensed milk.

7. Where the local authority on a report to them from the public analyst or otherwise are of opinion that a consignment of condensed milk deposited within their district and intended for sale for human consumption does not comply with the requirements of these Regulations they shall endeavour to ascertain where it was manufactured and labelled. If it is ascertained that such condensed milk was manufactured or labelled at a place in England or Wales, the local authority shall communicate the facts which they have ascertained to the local authority for the district in which such place is situated. If it is ascertained that such condensed milk was manufactured or labelled at a place not in England or Wales, the local authority shall communicate the facts to the Minister.

Part III.

8.—(1) Subject to any directions given by the Commissioners of Customs and Excise after consultation with the Minister, the officers of customs and excise shall enforce and execute this Part of these Regulations and may take such samples of consignments of imported condensed milk as may be necessary for that purpose.

(2) Where an officer of customs and excise takes a sample for the purpose of analysis he shall send the sample to the Government Chemist, and the Government Chemist shall send a portion thereof to the importer.

(3) If in any case the Commissioners of Customs and Excise are of opinion that an offence against this Part of these Regulations has been committed, they shall communicate to the Minister for his information the name of the importer and such other facts as they may possess or may obtain as to the destination of the consignment.

9. No condensed milk intended for sale for human consumption shall be imported into England and Wales unless the same—

(1) is contained in a tin or other receptacle which is labelled in the manner prescribed in the First Schedule to these Regulations ; and

(2) contains not less than the appropriate percentages of milk fat and milk solids as specified in the Second Schedule to these Regulations :

Provided that the provisions of this article shall not apply in any case where the condensed milk is intended to be re-exported or is contained in a tin or other receptacle whose gross weight exceeds five pounds.

(a) See the new Article 4a in the Amending Regulations, 1927, Art. 3, at p. 3588, *post.*

(b) See now s. 18 of the Food & Drugs (Adulteration) Act, 1928, *ante*, p. 2972.

Part IV.

10. In any proceedings under these Regulations the certificate of the Government Chemist or the public analyst, as the case may be, of the result of the chemical examination of a sample shall be sufficient evidence of the facts therein stated unless the defendant requires that the person who made the examination be called as a witness.

11. A person, in relation to anything within his knowledge, shall truly answer all such questions put to him by the authorities authorised to enforce and execute these Regulations or their officers or by an officer authorised by the Minister as may be necessary for the purposes of these Regulations, and shall produce for inspection all such books as the authority or officer may reasonably require for the purposes of ascertaining the persons or places from which condensed milk has been obtained and to whom and where it has been consigned or otherwise.

12. In any proceedings under these Regulations, where the fact that any condensed milk has been dealt with contrary to these Regulations has been proved, if the defendant shall desire to rely upon any exception or provision contained in these Regulations with reference to condensed milk intended for export or re-export, it shall be incumbent upon him to prove that the condensed milk was so intended.

SCHEDULES.

FIRST SCHEDULE.

RULES WITH RESPECT TO THE LABELLING OF CONDENSED MILK.

1. . . . (*a*).

2. The declaration shall in each case be completed by inserting at (*a*) the appropriate number in words and figures, *e.g.* " one and a half ($1\frac{1}{2}$)," any fraction being expressed as eighths, quarters, or a half.

For the purposes of these Rules milk means milk which contains not less than 12·4 per cent. of milk solids (including not less than 3·6 per cent. of milk fat), and skimmed milk means milk which contains not less than 9 per cent. of milk solids other than milk fat.

3. . . . (*a*).

4. The label shall in addition bear the name and address of the manufacturer of the condensed milk or of the dealer or merchant in the United Kingdom for whom it is manufactured (*b*).

5. The label shall be securely affixed to the tin or other receptacle so as to be clearly visible. If there is attached to the tin or other receptacle a label bearing the name, trade mark, or design representing the brand of the condensed milk, the prescribed declaration shall be printed as part of such label.

6. There shall not be placed on any tin or other receptacle containing condensed milk—

(*a*) any comment on, explanation of, or reference to either the statement of equivalence contained in the prescribed declaration or the words " machine skimmed," " skimmed," or " unfit for babies " ; or

(*b*) any instructions as to dilution, unless either—

  (i) the fluid produced in accordance with such instructions would contain not less milk fat and not less milk solids than milk or skimmed milk as defined in Rule 2 of this Schedule as the case may require ; or

  (ii) such instructions clearly specify that the fluid so produced is not of equivalent composition to milk or skimmed milk as the case may be.

(*a*) See the substituted paragraph in Art. 4 of the Amending Regulations of 1927, at p. 3588, *post*, and Art. 2, *ibid.*

(*b*) In the case of imported dried milk, the provisions of section 16 of the Merchandise Marks Act, 1887 (50 & 51 Vict. c. 28), must also be complied with if the label bears the name or trade mark of a dealer or merchant in the United Kingdom.

7. Wherever the word "Milk" appears on the label of a tin or other receptacle of condensed skimmed milk as the description or part of the description of the contents, it shall be immediately preceded or followed by the word "Machine-Skimmed" or "Skimmed" as the case may require.

SECOND SCHEDULE.

All condensed milk shall contain not less than the appropriate percentages of milk fat and milk solids as specified in the following Table :—

Description of Condensed Milk.	Percentage of milk fat.	Percentage of all milk solids, including fat.
1. Full cream, unsweetened . . .	9·0	31·0
2. Full cream, sweetened . . .	9·0	31·0
3. Skimmed, unsweetened . . .	—	20·0
4. Skimmed, sweetened	—	26·0

S. R. & O., 1923, No. 601.

THE MILK (SPECIAL DESIGNATIONS) ORDER, 1923, DATED 25TH MAY, 1923, MADE BY THE MINISTER OF HEALTH UNDER SECTION 3 OF THE MILK AND DAIRIES (AMENDMENT) ACT, 1922.

The Minister of Health, in exercise of the powers conferred on him by section 3 of the Milk and Dairies (Amendment) Act, 1922, and of any other powers enabling him in that behalf, hereby orders as follows :—

1. This Order may be cited as the Milk (Special Designations) Order, 1923, and shall come into operation on the 1st day of July, 1923.

2.—(1) In this Order, unless the context otherwise requires—

"The Minister" means the Minister of Health ;

"Licensing Authority" means, in relation to any application for the grant of a licence, the authority which has power under section 3 (1) of the Milk and Dairies (Amendment) Act, 1922, or this Order to grant the licence, and in relation to any licence which has been granted means the authority by which the licence was granted ;

"District Council" means the council of a borough or of an urban or rural district, and in relation to London means a metropolitan borough council and the Common Council of the City of London ;

"Milch cow" means a cow kept for milking purposes ;

"Herd" means the milch cows in respect of which any licence is applied for or granted, as the case may be, and includes any other bovine animal for the time being kept in contact with such cows while they are in milk ;

"Sell" includes offer or expose for sale, and "sale" shall be construed accordingly ;

"Dealer" means any person who sells milk either by wholesale or retail under any of the special designations referred to in this Order ;

"Producer" means a dealer owning or having the control of a herd from which milk sold under any of the special designations is obtained ;

"Examination" of an animal means a clinical examination carried out in such manner as the Minister may direct by a veterinary surgeon nominated by the licensing authority with the concurrence of the Minister, and "veterinary surgeon's certificate" means a certificate, in a form approved by the Minister, signed by the person who has made such examination and certifying the result thereof ;

"Prescribed tuberculin test" of an animal means a test made with tuberculin in such manner as the Minister may direct, by a veterinary surgeon approved by the Minister, and "Certificate of a prescribed tuberculin test" means a certificate, in a form approved by the Minister, signed by the person making the test and certifying the result thereof;

"Sample" means a sample taken by a person duly authorised in that behalf by the licensing authority.

(2) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The special designations under which milk may be sold or offered or exposed for sale in pursuance of this Order are the following, namely: "Certified," "Grade A (Tuberculin tested)," "Grade A," and "Pasteurised."

4. Subject to the provisions of this Order, and without any prejudice to the power to grant licences conferred on the Minister by section 3 (1) of the Milk and Dairies (Amendment) Act, 1922, every county council and county borough council is hereby authorised to grant licences to producers to sell milk as "Grade A," and every district council is hereby authorised to grant licences to any person to sell milk as "Pasteurised" and to any person to sell milk as "Certified," "Grade A (Tuberculin tested)," or "Grade A," otherwise than from the establishment at which the milk is produced: Provided that in any case in which the Minister is satisfied that a county council are unwilling or do not propose to exercise in any district the power of granting licences hereby conferred on them, the Minister may authorise the district council to grant such licences in place of the county council.

5.—(1) Every licence granted under this Order shall be in the form contained in the First Schedule hereto with such modifications, if any, as the circumstances may require.

(2) Subject as hereinafter provided, every licence shall be valid for a period ending on the 31st day of December in the year in respect of which it is granted.

(3) A licence granted by a local authority shall not entitle the holder to sell milk under the terms of the licence outside the area of the authority except by wholesale.

(4) Where the holder of a licence desires to sell milk under the designation specified in the licence by retail outside the area of the licensing authority from a shop or other premises within that area, the district council of the area in which he proposes to sell the milk, may grant him a supplementary licence entitling him to sell milk under that designation in their area from such shop or other premises, but in that event nothing in this Order shall authorise the said council, either before the grant or during the currency of the supplementary licence, to exercise any powers under this Order outside their area.

6.—(1) Application for a licence shall be made in writing to the licensing authority.

(2) Before granting a licence to a producer the licensing authority shall require him in the case of "Certified" milk or "Grade A (Tuberculin tested)" milk to produce a veterinary surgeon's certificate showing the results of an examination of the herd carried out not more than three months before the date of the application and a certificate of a prescribed tuberculin test of the herd carried out within a similar period, and in the case of "Grade A" milk to produce a veterinary surgeon's certificate showing the results of an examination of the milch cows belonging to the herd carried out not more than one month before the date of the application.

(3) Subject to the provisions of this Order, the licensing authority shall require every applicant to satisfy them that his arrangements for the production, storage, treatment, and distribution of the milk, as the case may be, are such as to comply with the conditions upon which the licence may be granted.

7.—(1) Every licence granted under this Order shall be subject to the general conditions set out in the Second Schedule to this Order.

(2) In addition to the general conditions every licence for the sale of milk as "Certified," "Grade A (Tuberculin tested)," "Grade A," and "Pasteurised" shall be subject to the conditions set out in Parts I., II., III., and IV. of the Third Schedule to this Order respectively.

8. The fees payable for licences shall be those set out in the Fourth Schedule to this Order, but where a licence is granted for a period of less than a year, the licensing authority may grant the licence upon payment of such sum being less than the full fee as they think fit, having regard to the period for which the licence will operate.

9.—(1) A licensing authority may, if they are satisfied that any of the conditions upon which the licence is granted are not being complied with, suspend or revoke the licence, but the licence shall not be suspended or revoked before the licensing authority have served on the holder a notice stating the grounds on which it is proposed to suspend or revoke the licence, and the holder shall be afforded a reasonable opportunity of making such representations to the authority in regard thereto as he thinks fit;

Provided that a producer's licence shall not be suspended or revoked by reason only of his milk being found not to comply with the conditions of the licence after it has left his custody and control if he proves that such non-compliance was not due to any act or default of himself or of his sevants or agents.

(2) Where application for a licence has been made to or a licence has been granted by any licensing authority other than the Minister, a person aggrieved by a decision of the licensing authority to refuse or to suspend or revoke a licence may within seven days after receiving notice of such decision appeal to the Minister, whose decision shall be final, and the licensing authority shall comply with the decision of the Minister. In any appeal any reference in this Order to anything being to the satisfaction of the licensing authority or subject to their approval shall be treated as if the reference were to the satisfaction or approval of the Minister. Pending the final determination of any appeal from a decision to suspend or revoke a licence, the licence shall continue to have effect.

10. A licensing authority may delegate to a committee of the authority, with or without restrictions or conditions as they think fit, all or any of their powers under this Order.

11. Two or more licensing authorities may concur in appointing out of their respective bodies a joint committee for carrying out their duties under this Order and in conferring with or without restrictions on any such committee any powers which the appointing authorities might exercise for the purpose, and the provisions of sections 57 and 58 of the Local Government Act, 1894, in regard to joint committees shall, with the necessary modifications, apply to any joint committee so appointed.

12. Notwithstanding anything contained in this Order, a licence permitting a producer to sell milk produced by him as "Certified" shall entitle him to sell such milk as "Grade A (Tuberculin tested)" or as "Grade A," and a licence permitting the producer to sell milk produced by him as "Grade A (Tuberculin tested)" shall entitle him to sell such milk as "Grade A."

13. Where milk has been sold by a dealer who is licensed in Scotland to sell milk under any special designation, this Order shall apply to the subsequent sale of that milk in England or Wales in the same manner as if such dealer had sold by virtue of a licence granted under the provisions of this Order.

14. The Milk (Special Designations) Order, 1922, and the Milk (Special Designations) Amendment Order, 1922, are hereby revoked, but any licence granted or other act or thing done under the first-mentioned Order, shall have effect as if it had been granted or done under this Order.

SCHEDULES.

FIRST SCHEDULE.

FORM A.

MILK (SPECIAL DESIGNATIONS) ORDER, 1923.

PRODUCER'S LICENCE TO SELL MILK AS "GRADE A." *

The , with the authority of the Minister of Health, hereby license of , to sell under the designation "Grade A" milk produced in accordance with the terms and conditions prescribed in the Milk (Special Designations) Order, 1923, at

This licence is not transferable and is subject to the terms and conditions prescribed in the above-named Order, and unless previously revoked will operate until the 31st day of December, 192 .

This licence does not authorise the holder to sell milk under the above-named designation outside the area of the licensing authority except by wholesale.

Dated this day of , 192 .

Clerk to the Council.

FORM B.

MILK (SPECIAL DESIGNATIONS) ORDER, 1923.

DEALER'S LICENCE TO SELL MILK AS "GRADE A." *

The , with the authority of the Minister of Health, hereby license of (referred to herein as the Dealer) to sell at or from under the designation "Grade A" milk purchased by the Dealer [1] [in bottles] as "Grade A" from a person duly licensed to sell it under that designation [1][and bottled by the Dealer at].

This licence is not transferable and is subject to the terms and conditions prescribed in the Milk (Special Designations) Order, 1923, and unless previously revoked will operate until the 31st day of December, 192 .

This licence does not authorise the holder to sell milk under the above-named designation outside the area of the licensing authority except by wholesale.

Dated this day of , 192 .

Clerk to the Council.

[1] Strike out whichever words are inapplicable.

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* Similar forms with appropriate modifications are to be used for licences for the sale of "Certified," "Grade A (Tuberculin tested)" and "Pasteurised" milk.

FORM C.

MILK (SPECIAL DESIGNATIONS) ORDER, 1923.

PASTEURISER'S LICENCE TO SELL MILK AS "PASTEURISED."

The , with the authority of the Minister of Health, hereby license of to sell under the designation "Pasteurised" milk which has been treated by the pasteurising process in accordance with the conditions upon which this licence is granted at .

This licence is not transferable and is subject to the terms and conditions prescribed in the Milk (Special Designations) Order, 1923, and unless previously revoked will operate until the 31st day of December, 192 .

This licence does not authorise the holder to sell milk under the above-named designation outside the area of the licensing authority except by wholesale.

Dated this day of , 192 .

Clerk to the Council.

FORM D.

SUPPLEMENTARY LICENCE TO SELL MILK AS "GRADE A." *

The , with the authority of the Minister of Health, hereby license of (referred to herein as the Dealer), being the holder of the licence (referred to herein as the principal licence) dated and granted by , to which this supplementary licence is [1] appended, to sell by retail from the premises specified in the said licence under the designation "Grade A" milk purchased by the Dealer [in bottles] [2] [and bottled by the Dealer] in accordance with the terms of the principal licence.

This supplementary licence is subject to the terms and conditions prescribed in the Milk (Special Designations) Order, 1923, and unless previously revoked will operate during the currency of the principal licence.

Appendix II.

It does not authorise the holder to sell milk under the above-named designation outside the area of the licensing authority.

Dated this day of , 192 .

Clerk to the Council.

[1] If preferred the licence may be endorsed on the principal licence.
[2] Strike out whichever words are inapplicable.

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* Similar forms with appropriate modifications are to be used for licences for the sale of "Certified," "Grade A (Tuberculin tested)" and "Pasteurised" milk.

SECOND SCHEDULE.

GENERAL CONDITIONS SUBJECT TO WHICH LICENCES MAY BE GRANTED.

(1) The arrangements and processes under and by which the milk is produced, stored, treated, and distributed, as the case may be, shall be such as to satisfy the licensing authority that the conditions subject to which the licence is granted are being and will be complied with.

(2) The holder of the licence shall—

- (*a*) take such measures as the licensing authority may require to ensure that the milk in respect of which the use of a special designation is authorised shall be kept separate at all stages from all other milk;
- (*b*) keep accurate records of the quantities of milk produced, purchased, and sold, as the case may be, and of the names and addresses of the persons from whom the milk was purchased and to whom it was sold otherwise than by retail;
- (*c*) permit any person duly authorised by the licensing authority—
  - (i) to inspect the processes of production, storage, and treatment,
  - (ii) to take samples of the milk free of charge, and
  - (iii) to inspect any records which the holder is required by the conditions of the licence to keep.

THIRD SCHEDULE.

PART I.

CONDITIONS SUBJECT TO WHICH LICENCES FOR SELLING MILK AS "CERTIFIED" MAY BE GRANTED.

A.—*The following conditions apply to producers only*:—

(1)—(*a*) The producer shall cause every animal of the herd to be submitted to an examination and to a prescribed tuberculin test at intervals of six months, and shall produce to the licensing authority the veterinary surgeon's certificate and the certificate of the prescribed tuberculin test within seven days after the respective dates of those certificates. He shall not permit any animal to be injected with tuberculin except on the occasions of the prescribed tuberculin tests;

(*b*) No animal, other than an animal taken directly from a herd in respect of which a licence for the sale of "Certified" or "Grade A (Tuberculin tested)" milk is in operation, shall be added to the herd unless it has passed a prescribed tuberculin test immediately before it is so added;

(*c*) Where any animal is certified as re-acting to a prescribed tuberculin test it shall forthwith be removed from the herd, and where any animal is certified as showing evidence of any disease which is likely to affect the milk injuriously it shall be isolated or removed from the herd, as the case may require. The milk from an animal so isolated shall not be sold as milk from the herd. The producer shall inform the licensing authority of the reasons for the isolation or removal of an animal and, in the case of removal, of the manner in which it has been disposed of;

(*d*) A suitable system shall be adopted for the marking for purposes of identification of the animals in the herd, and a complete register of such animals shall be kept; and

(*e*) The herd shall be completely isolated from all other cattle.

(2) The milk shall be bottled on the farm immediately after production.

(3) Every bottle containing the milk shall be closed with a suitable tightly fitting disc and covered with a suitable outer cap overlapping the lip of the bottle and so fastened as to form a complete seal. The cap shall bear the name and address of the producer or of the dairy where the milk is produced, the day of production, and the words "certified milk." The words "produced from cows which have passed the tuberculin test" may be added, but, except with the consent of the licensing authority, the cap shall bear no other words.

B.—*The following conditions apply to all holders of licences to sell milk as " Certified " :—*

(1) The milk shall not be removed from the bottles or the seals broken before delivery to the purchaser.

(2) On a sample being taken at any time before delivery to the consumer the milk shall be found to contain :

(*a*) not more than 30,000 bacteria per cubic centimetre ; and

(*b*) no coliform bacillus in one-tenth of a cubic centimetre.

(3) The milk shall not at any stage be treated by heat.

PART II.

CONDITIONS SUBJECT TO WHICH LICENCES FOR SELLING MILK AS " GRADE A (TUBERCULIN TESTED) " MAY BE GRANTED.

(1) The conditions set out in paragraph (1) of sub-division A. of Part I., in paragraph (7) of sub-division A. of Part III., in sub-division B. of Part III., and in paragraph (2) of sub-division C. of Part III , of this schedule shall apply with the substitution in Part III. of the designation " Grade A (Tuberculin tested) " for the designation " Grade A."

(2) The milk shall not at any stage be treated by heat.

PART III.

CONDITIONS SUBJECT TO WHICH LICENCES FOR SELLING MILK AS " GRADE A " MAY BE GRANTED.

A.—*The following conditions apply to producers only :—*

(1) No animal which to the knowledge of the owner of the herd has at any time been tested with tuberculin and has re-acted to the test shall form part of or be added to the herd.

(2) The producer shall cause every milch cow belonging to the herd to be examined once in every three months, and shall produce to the licensing authority the veterinary surgeon's certificate within seven days after the date of the certificate.

(3) Where any animal is certified as showing evidence of any disease which is likely to affect the milk injuriously it shall be isolated or removed from the herd, as the case may require. The milk from an animal so isolated shall not be sold as milk from the herd. The producer shall inform the licensing authority of the reasons for the isolation or removal of an animal and, in the case of removal, of the manner in which it has been disposed of.

(4) If at any time it is shown to the satisfaction of the licensing authority that tubercle bacillus is contained in the milk, the producer shall take all necessary steps to ascertain which animals are diseased and to remove them from the herd and shall inform the licensing authority how such animals have been disposed of.

(5) A suitable system shall be adopted for the marking for the purposes of identification of the milch cows belonging to the herd, and a complete register of such cows shall be kept.

(6) The cows in milk belonging to the herd shall be kept separate from all other cows in milk.

(7) Except where the milk is bottled by the producer in accordance with the procedure for bottling hereinafter specified, the milk shall be consigned from the dairy where it is produced in an unventilated sealed container which shall be labelled or marked in a suitable manner with the address of the dairy, the day of production (with the word " morning " or " evening " according to the time of milking), and the words " Grade A Milk."

B.—*The following conditions apply to persons other than producers :—*

(1) Except where the milk is delivered to the consumer in the containers in which it is received, the seals being unbroken, it shall be delivered either in bottles or in other suitable containers of not less capacity than two gallons.

(2) Every bottle containing the milk shall be closed with a suitable tightly fitting disc and covered with a suitable outer cap overlapping the lip of the bottle and so fastened as to form a complete seal. The cap shall bear the name of the dealer by whom the milk was bottled, and the address of the licensed bottling establishment, the words " Grade A Milk " and the day of production, and shall, except with the consent of the licensing authority, bear no other words. Where containers other than bottles are used, every container shall be closed with a tightly fitting cover and shall be suitably sealed and labelled.

Appendix II.

C.—*The following conditions apply to all holders of licences to sell milk as " Grade A " :—*

(1) The milk shall not at any stage be treated by heat unless a licence to sell such milk as " Pasteurised " has been granted under this Order, and where such a licence has been granted the term " Pasteurised " shall be added after the designation " Grade A Milk " wherever such designation is used in connection with the sale of such milk or the labelling or marking of receptacles containing such milk.

(2) Milk sold as " Grade A Milk " shall be produced and treated under such conditions that on a sample being taken at any time before delivery to the consumer the milk shall be found to contain :—

(*a*) not more than 200,000 bacteria per cubic centimetre ; and
(*b*) no coliform bacillus in one-hundredth of a cubic centimetre.

(3) Milk sold as " Grade A Milk Pasteurised " shall be produced and treated under such conditions that on a sample being taken before delivery to the consumer the milk shall be found to contain :—

(*a*) in the case of a sample taken at any time before the 1st day of January, 1924, not more than 50,000 bacteria per cubic centimetre, and no coliform bacillus in one-hundredth of a cubic centimetre ; and
(*b*) in the case of a sample taken at any time after the year 1923 not more than 30,000 bacteria per cubic centimetre, and no coliform bacillus in one-tenth of a cubic centimetre.

PART IV.

CONDITIONS SUBJECT TO WHICH LICENCES FOR SELLING MILK AS " PASTEURISED " MAY BE GRANTED.

(1) The milk shall be pasteurised, that is to say, retained at a temperature of not less than 145° and not more than 150° Fahrenheit for at least half an hour, and be immediately cooled to a temperature of not more than 55° Fahrenheit.

(2) The milk shall not be so heated more than once and shall not be otherwise treated by heat.

(3) The type of apparatus used for pasteurising and the methods employed shall be such as are satisfactory to the licensing authority.

(4) Every vessel containing the milk shall bear a suitable label with the words " Pasteurised Milk."

(5) On a sample of the milk being taken after pasteurisation and before delivery to the consumer, the milk shall be found to contain :—

(*a*) in the case of a sample taken at any time before the 1st day of January, 1924, not more than 200,000 bacteria per cubic centimetre ; and
(*b*) in the case of a sample taken at any time after the year 1923, not more than 100,000 bacteria per cubic centimetre.

(6) Until the 1st day of January, 1924, the requirements contained in paragraphs (1) and (2) of these conditions shall be deemed to be satisfied if the milk is treated not more than once by a suitable heating process and immediately cooled to a temperature of not more than 55° Fahrenheit.

FOURTH SCHEDULE.

FEES PAYABLE FOR LICENCES.

	£	*s.*	*d.*
For a Licence to sell Milk as " Certified."			
Licence in respect of the establishment at which the milk is produced	5	0	0
Licence in respect of the shop or other premises (not being such establishment as aforesaid) at or from which the milk is sold		5	0
Supplementary Licence to sell milk from premises which are outside the area of the licensing authority		2	0
For a Licence to sell Milk as " Grade A (Tuberculin tested) " or " Grade A."			
Licence in respect of the establishment at which the milk is produced	1	1	0
Licence in respect of the establishment (whether the establishment at which the milk is produced or not) at which the milk is bottled	2	2	0
Licence in respect of the shop or other premises (not being the establishment at which the milk is produced or bottled) at or from which the milk is sold		5	0
Supplementary Licence to sell milk from premises which are outside the area of the licensing authority		2	0

For a Licence to sell Milk as "Pasteurised."

Licence in respect of the establishment in which the process of pasteurising is carried on and of any shop or other premises in the area of the same licensing authority from which the milk is sold	1	1	0
Licence in respect of any other shop or other premises at or from which the milk is sold		5	0
Supplementary Licence to sell milk from premises which are outside the area of the licensing authority.		2	0

S. R. & O., 1923, No. 1,323.

THE PUBLIC HEALTH (DRIED MILK) REGULATIONS, 1923, DATED 5TH NOVEMBER, 1923, MADE BY THE MINISTER OF HEALTH (*a*).

The Minister of Health in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, the Public Health (Regulations as to Food) Act, 1907, and by section 8 of the Milk and Dairies (Amendment) Act, 1922, and of every other power enabling him in that behalf, hereby makes the following Regulations, that is to say :—

1. These Regulations may be cited as the Public Health (Dried Milk) Regulations, 1923, and shall come into operation on the 1st day of May, 1924.

2.—(1) In these Regulations unless the context otherwise requires :—

"The Minister" means the Minister of Health ;

"Local Authority" means any local authority authorised to appoint an analyst for the purposes of the Sale of Food and Drugs Acts, 1875 to 1907 (*b*), and "public analyst" means an analyst so appointed ;

"Dried Milk" means milk, partly skimmed milk, or skimmed milk, which has been concentrated to the form of powder or solid by the removal of water ;

"Skimmed milk" includes separated or machine-skimmed milk ;

"Gross weight" of a tin or other receptacle means the weight of the tin or other receptacle and of its contents ;

"Label" includes a mark.

Percentages shall be calculated by weight.

(2) These Regulations apply to dried milk to which no other substance has been added, and to the dried milk contained in any powder or solid of which not less than 70 per cent. consists of dried milk.

(3) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. The local authority shall enforce and execute these Regulations, and for this purpose shall make such inquiries and take such other steps as may seem to them to be necessary for securing the due observance of the Regulations in their district.

4. No person shall sell or expose for sale or deposit in any place for the purposes of sale, or dispatch or deliver to any purchaser, broker, or agent any dried milk intended for human consumption unless the dried milk—

(1) is contained in a tin or other receptacle which is labelled in the manner prescribed in the Schedule to these Regulations ; and

(2) contains not less than the following percentages of milk fat, namely—

In the case of milk described as dried full cream milk, not less than 26 per cent. ;

In the case of milk described as dried three-quarter cream milk, not less than 20 per cent. ;

In the case of milk described as dried half cream milk, not less than 14 per cent. ; and

In the case of milk described as dried quarter-cream milk, not less than 8 per cent. :

(*a*) These Regulations are amended by the P. H. (Dried Milk) Amendment Regulations, 1927, at p. 3589, *post.*

(*b*) See now the Food & Drugs (Adulteration) Act, 1928, *ante*, p. 2948.

Provided that—

(*a*) The provisions of this Article shall not apply in any case where the dried milk is contained in a tin or other receptacle whose gross weight exceeds ten pounds ; and

(*b*) Where dried milk is sold by weight and is not placed in the tin or other receptacle in which it is delivered to the purchaser until immediately before such delivery, the provisions of Rules 1 to 4 of the Schedule shall be deemed to be satisfied if the matter therein required to appear on a label affixed to the tin or other receptacle is printed on a separate label or notice delivered to the purchaser, and the last sentence of the declaration required by Rule 1 of the Schedule may be varied so as to relate to one pound or to any other specified weight of the article sold instead of the contents of the actual tin or other receptacle (*a*).

5.—(1) The Medical Officer of Health, and any person authorised by him or by the local authority in writing, may procure any sample of dried milk, and where an analysis is required for the purposes of these Regulations shall submit the sample to the public analyst and shall forthwith notify to the seller or his agent selling the dried milk his intention to have the same analysed by the public analyst.

(2) Except where the sample is procured for the purpose of testing the quantity of milk, partly skimmed milk, or skimmed milk of which the contents of a tin or other receptacle are the equivalent, the provisions of section 14 of the Sale of Food and Drugs Act, 1875, as amended by section 13 of the Sale of Food and Drugs Act, 1899 (*b*), relating to the division of the sample into three parts and the separation, marking and disposal of such parts shall apply.

(3) Where the sample is procured for the purpose of testing the quantity of milk, partly skimmed milk or skimmed milk of which the contents of a tin or other receptacle are the equivalent, the person by whom the sample is procured shall as soon as may be after the net weight of the contents has been ascertained deliver a part of the sample to the seller or his agent.

6. Any officer authorised by the Minister and any officer of the local authority duly authorised by the authority in writing shall have power to enter at all reasonable times any premises where dried milk is prepared, packed, labelled, or stored, and to inspect any process carried on therein, and to take samples of any article used or capable of being used in the preparation of dried milk and of any labels designed to be used for affixing to tins or other receptacles of dried milk.

7. Where the local authority on a report to them from the public analyst or otherwise are of opinion that a consignment of dried milk deposited within their district and intended for sale for human consumption does not comply with the requirements of these Regulations they shall endeavour to ascertain where it was manufactured and labelled. If it is ascertained that such dried milk was manufactured or labelled at a place in England or Wales, the local authority shall communicate the facts which they have ascertained to the local authority for the district in which such place is situated. If it is ascertained that such dried milk was manufactured or labelled at a place not in England or Wales, the local authority shall communicate the facts to the Minister.

8. In any proceedings under these Regulations the certificate of the public analyst of the result of the chemical examination of a sample shall be sufficient evidence of the facts therein stated unless the defendant requires that the analyst be called as a witness.

9. A person, in relation to anything within his knowledge, shall truly answer all such questions put to him by the authorities authorised to enforce and execute these Regulations or their officers, or by an officer authorised by the Minister, as may be necessary for the purposes of these Regulations, and shall produce for inspection all such books as the authority or officer may reasonably require for the purposes of ascertaining the persons or places from which dried milk has been obtained and to whom and where it has been consigned or otherwise.

(*a*) See the new Art. 4*a* in Art. 3 of the Amending Regulations, 1927, *post*, p. 3589.

(*b*) See now s. 18 of the Food and Drugs (Adulteration) Act, 1928, *ante*, p. 2972.

THE SCHEDULE.

RULES WITH RESPECT TO THE LABELLING OF DRIED MILK.

1.—(1) . . . (a).

(2) The label on any tin or other receptacle containing dried milk to which sugar or some other substance has been added shall be in the appropriate form prescribed in sub-division (1) hereof, with the following modifications:—

(i) There shall be added to the heading the word "Sweetened" if the only substance added to the milk is sugar, the word "Modified" if the only substance added is a constituent of milk, and the word "Compounded" in every other case; and

(ii) The words "with (c) added" shall be added to the last sentence in each case, words being inserted at (c) to specify the substance or substances added.

(3) The declaration shall be completed as follows:—

(i) There shall be inserted at (a) the appropriate number in words and figures, *e.g.* "one and a half ($1\frac{1}{2}$)," any fraction being expressed as eighths, quarters, or a half.

(ii) There shall be inserted at (b) the word "Three-quarter" if the percentage of milk fat is not less than 20; "Half" if such percentage is less than 20 but not less than 14; and "Quarter" if such percentage is less than 14 but not less than 8.

(4) For the purposes of this Rule the terms "Milk," "Three-quarter cream milk," "Half cream milk," and "Quarter cream milk" mean milk containing not less than the following percentages of milk fat and milk soldis, that is to say:—

	Milk Fat.	Milk Solids (including fat).
Milk	3·6	12·4
Three-quarter cream milk	2·7	11·6
Half cream milk	1·8	10·8
Quarter cream milk	0·9	9·9

and "Skimmed milk" means milk which contains not less than 9 per cent. of milk solids other than milk fat.

2. . . . (a).

3. The label shall in addition bear the name and address of the manufacturer of the dried milk or of the dealer or merchant in the United Kingdom for whom it is manufactured (b).

4. The label shall be securely affixed to the tin or other receptacle so as to be clearly visible. If there is attached to the tin or other receptacle a label bearing the name, trade mark, or design representing the brand of the dried milk, the prescribed declaration shall be printed as part of such label.

5. There shall not be placed on any tin or other receptacle containing dried milk—

(a) any comment on, explanation of, or reference to either the statement of equivalence contained in the prescribed declaration or the words "partly skimmed," "machine-skimmed," "skimmed," or "unfit for babies" or

(b) any instructions as to dilution, unless either—

(i) the fluid produced in accordance with such instructions would contain not less milk fat and not less milk solids than milk, partly skimmed milk, or skimmed milk as defined in Rule 1 of this schedule, as the case may require; or

(ii) such instructions clearly specify that the fluid so produced is not of equivalent composition to milk, partly skimmed milk, or skimmed milk, as the case may be.

6. Wherever the word "Milk" appears on the label of a tin or other receptacle of dried partly skimmed or skimmed milk as the description or part of the description of the contents, it shall be immediately preceded or followed by the words "Partly skimmed," "Machine-skimmed," or "Skimmed," as the case may require.

(a) See the substituted paragraph in the Amending Regulations, 1927, Art. 4, *post*, p. 3590.

(b) In the case of imported dried milk, the provisions of section 16 of the Merchandise Marks Act, 1887 (50 & 51 Vict. c. 28), must also be complied with if the label bears the name or trade mark of a dealer or merchant in the United Kingdom.

Appendix II.

S. R. & O., 1926, No. 821.

MILK AND DAIRIES, ENGLAND.

THE MILK AND DAIRIES ORDER, 1926, DATED 6TH JULY, 1926, MADE UNDER THE MILK AND DAIRIES (CONSOLIDATION) ACT, 1915 (*a*).

The Minister of Health, in pursuance of his powers under the Milk and Dairies (Consolidation) Act, 1915, and with the concurrence of the Minister of Agriculture and Fisheries, hereby orders as follows :—

PART I.—*Short Title, Operation, Interpretation, etc.*

1. This Order may be cited as the Milk and Dairies Order, 1926, and shall come into operation on the 1st day of October, 1926 :—

Provided that—

(i) Articles 12 (1), 13 (1) and 25 shall not apply to any building in use as a cowshed or dairy on the 1st October, 1926, until a period of eighteen months has elapsed after the service of a notice by the sanitary authority drawing the attention of the occupier thereto, and in the case of Article 25 no such notice shall be given before the 1st day of April, 1928 ;

(ii) Article 24 shall not come into operation until the 1st day of April, 1927 ; and

(iii) Articles 27 and 19, shall not come into operation until the 1st October, 1928.

2.—(1) In this Order, unless the contrary intention appears :—

" Infectious disease " means dysentery and any infectious disease to which the Infectious Disease (Notification) Act, 1889, applies ;

" The Act " means the Milk and Dairies (Consolidation) Act, 1915 ;

" Cowkeeper " means any person who keeps one or more cows for the purpose of the supply of milk (*b*) ;

" Milk " means milk intended for sale for human consumption or for use in the manufacture of products for sale for human consumption, and includes cream, skimmed milk and separated milk ;

" Dairy " includes any farm, cowshed, milk store, milk shop or other place from which milk is supplied on or for sale, or in which milk is kept or used for purposes of sale or manufacture into butter, cheese, dried milk or condensed milk for sale, and, in the case of a purveyor of milk (*c*) who does not occupy any premises for the sale of milk, includes the place where he keeps the vessels used by him for the sale of milk, but does not include a shop from which milk is not supplied otherwise than in properly closed and unopened receptacles in which it was delivered to the shop or a shop or other place in which milk is sold for consumption on the premises only.

" Registered premises " means any building or other premises required to be registered under the provisions of this Order.

(2) The Intepretation Act, 1889, applies to the interpretation of this Order or in relation to the revocation of any Order or Regulation by this Order, as it applies to the interpretation of an Act of Parliament.

3. Part IV. of this Order shall be enforced and executed by the council of the county or county borough and the remainder of the Order by the sanitary authority :

(*a*) See a circular letter of the Ministry of Health dated 20th January, 1927, *post*, p. 3585, as to the construction and administration of this Order.

(*b*) See the definition of " milk." A farmer who keeps cows but sells no milk is not a cowkeeper within this definition. Cf. *Umfreville* v. *L.C.C.* (1896), 66 L. J. Q. B. 177 ; 61 J. P. 84.

(*c*) Keepers of a railway refreshment room sold glasses of milk occasionally (3 or 4 glasses a week) to any one asking for it ; it was held that they did not carry on the trade of " purveyors of milk " (*Spiers and Pond, Ltd.* v. *Green*, [1912] 3 K. B. 576 ; 77 J. P. 11). It was held, in a Scotch case, that an ice cream manufacturer, though he used milk in the manufacture of his ice creams, was not a purveyor of milk (*Lang* v. *Pianta* (1894), 21 Ct. of Sess. Cas. (4th ser.) J. C. 20).

Provided that, where the Minister of Health has made an Order under subsection (4) of section 3 of the Act with repect to a non-county borough, Part IV. of this Order shall be enforced and executed by the council of such borough as if the borough were a county borough.

4. Every cowkeeper and dairyman shall take all practicable steps to make the provisions of this Order known to every person in or about any registered premises in his occupation so far as such provisions impose any duties or restrictions on such person and so far as they relate to the processes carried out by such person.

PART II.—*Revocation of Orders and Regulations.*

5. The Dairies, Cowsheds and Milk-shops Order of 1885, the Dairies, Cowsheds and Milk-shops Amending Order of 1886, and the Dairies, Cowsheds and Milk-shops Order of 1899, so far as they relate to England and Wales, and any regulations made by local authorities in England and Wales under the said Orders are hereby revoked.

PART III.—*Registration and Notices.*

6 (*a*).—(1) Every sanitary authority shall keep registers of all persons carrying on in their district the trade of cowkeeper or dairyman and of all farms and other premises within their district which are used as dairies.

(2) Subject to the provisions of section 2 of the Milk and Dairies (Amendment) Act, 1922, or of any other statutory enactment, the sanitary authority, on the application of any person proposing to carry on in their district the trade of cowkeeper or dairyman or to use any farm or other premises in the district as a dairy, shall register such person or such premises.

(3) Subject as aforesaid, no person shall carry on the trade of cowkeeper or dairyman or use any premises as a dairy unless he and any such premises are registered in pursuance of this article.

(4) The sanitary authority shall immediately after the commencement of this Order inform the county council of the particulars of registration then in force of cowkeepers and their premises, and they shall as soon as may be inform the county council of all alterations made in the registers.

7. Before commencing to use as a cowshed or as a place for the keeping of milk a building not previously used for that purpose the occupier shall give one month's notice in writing to the sanitary authority of his intention so to do.

PART IV.—*Health and Inspection of Cattle.*

8. Every county council and county borough council shall cause to be made such inspections of cattle as may be necessary and proper for the purposes of the Act and of this Order.

9. Where a veterinary inspector gives notice to a cowkeeper of his intention to make an inspection of cattle for the purposes of the Act or of this Order the cowkeeper shall not allow any cow to be removed from the registered premises without the consent of the inspector until the inspection has been made or a period of forty-eight hours has elapsed from the receipt of the notice.

10. A veterinary inspector making the inspection of cattle in pursuance of the Act or of this Order may require any cow to be milked in his presence and may take samples of the milk and may require that the milk from any particular teat shall be kept separate, and he may take separate samples thereof.

11. The following diseases affecting cows, in addition to the diseases specified in section 5 of the Act, shall be diseases for the purposes of that section, namely :—

Any comatose condition ;
Any septic condition of the uterus ;
Any infection of the udder or teats. which is likely to convey disease ;

(*a*) Registration is necessary in every district where the trade is carried on (*Easington R.D.C.* v. *Gilson* (1929), 93 J. P. News. 780 ; 28 L. G. R. 49) ; though a single isolated sale would not, it seems, constitute a carrying on of the trade (*Emerton* v. *Hall* (1910), 74 J. P. 301 ; 102 L. T. 889).

Appendix II.

Provided that, where an officer of a local authority gives a notice under the section with regard to any of the diseases set out in this Article :—

(1) The notice shall forthwith be withdrawn as soon as the officer or the authority is satisfied that the cow is no longer in an infective condition ; and it shall in any case cease to operate at the expiration of such period not exceeding five days as may be specified therein, but without prejudice to the right of the officer to give a further notice or notices with a like limitation of duration ; and

(2) The local authority shall, if required so to do by the person receiving such notice, afford him an opportunity to appear before them for the purpose of applying for the withdrawal of the notice and shall consider any written representations made by him for the same purpose.

PART V.—*General Provisions for Securing the Cleanliness of Dairies, etc., and for Protecting Milk against Infection and Contamination.*

12.—(1) Every cowshed and every building used for keeping milk, other than a cold store, shall be provided with a sufficient number of windows or other openings suitably placed and communicating directly with the external air. The windows or permanent openings shall be such as to secure that the building is sufficiently lighted during the hours of daylight and the openings provided for ventilation shall be kept in proper order and so used as to secure that the air in the building is kept in a fresh and wholesome condition.

(2) Every such building in which milking or any other process is carried on during the hours of darkness shall also be provided with such lamps or other means of artificial lighting as will enable any such process to be conducted in a good and proper light.

13.—(1) All registered premises shall be provided with a supply of water suitable and sufficient for the requirements of this Order.

(2) Every receptacle used for the storage or conveyance of water shall be emptied and cleansed from time to time as often as may be necessary to prevent the pollution of the water and to maintain it in a suitable condition for the purpose for which it is required.

(3) The water supply used for the watering of cows shall, as far as reasonably possible, be protected against contamination caused by the drainage of foul water.

14. The following provisions shall apply for the purpose of preventing contamination or infection of milk :—

(1) Milk shall not be deposited or kept in any place where it is liable to become contaminated or infected. In particular it shall not be deposited or kept—

(i) in any room used as a kitchen, scullery, living-room or sleeping-room ; or

(ii) in any room or part of a building which communicates directly by door, window or otherwise with,—

(*a*) any water-closet, earth-closet, privy, cesspool or receptacle for ashes or other refuse ; or

(*b*) any room which is used as a sleeping-room or any room which is occupied by a person suffering from an infectious disease, or which, having been so occupied, has not been subsequently properly disinfected ; or

(iii) in any room or part of a building in which there is any direct inlet to a drain which is not efficiently trapped :

Provided that the foregoing provisions shall not be deemed to prohibit the deposit or keeping of milk intended for use in the manufacture of butter, cream or cheese in a room used as a kitchen.

(2) Vessels containing milk shall be properly covered or the milk shall be otherwise effectively protected from dust, dirt, flies or other sources of contamination ;

(3) No foul or noxious matter or soiled bed or body clothing shall be conveyed through any part of a building used for the keeping or storage of milk.

15. Every person engaged in the milking of cows or the distribution or measuring

of milk or otherwise having access to the milk or to the churns or other milk receptacles shall keep his clothing and person in a cleanly condition.

16. A person shall not carry out any process of cooling, bottling, sterilising or pasteurising milk or any other process connected with milk, or keep any appliances connected with any such process, in a cowshed or in any place where the milk or appliances would be liable to contamination arising from any cowshed, stable or manure-heap, or otherwise.

17 (*a*).—(1) Every person having access to the milk or to the churns or other milk receptacles in or about any registered premises, as soon as he becomes aware that any member of his household is suffering from any infectious disease, shall immediately notify the occupier of such premises of the fact and the occupier shall immediately notify the medical officer of health of the district in which the premises are situate unless notification has already been given to that officer.

(2) Where the medical officer of health of any sanitary district becomes aware that any such person is suffering from an infectious disease or has recently been in contact with a person so suffering he shall forthwith notify the occupier of such premises of the fact, and where the council of such sanitary district are not the registering authority for the locality in which the premises are situate he shall also notify the medical officer of health of the registering authority.

18.—(1) Where the medical officer of health of a sanitary district is in possession of evidence that any person is suffering from infectious disease caused by the consumption of milk supplied within the district from any registered premises or that the milk at any registered premises within the district has been infected with such disease, he may by a notice in writing to the occupier of such premises specifying such evidence require, if the premises are within the district, that no milk from such premises (or, if the notice so provides, no milk received at such premises from any specified source) shall be sold for human consumption or used in the manufacture of products for human consumption, or, if the premises are without the district, that no such milk shall be sold for human consumption within the district.

(2) Any such notice shall operate for such period not exceeding twenty-four hours as may be specified therein from the time of the receipt of the notice but may be renewed for a further period or periods of twenty-four hours. The notice shall forthwith be withdrawn as soon as the medical officer of health is satisfied that the milk is no longer likely to cause infectious disease.

(3) Where the medical officer of health serves such a notice he shall forthwith report the matter to the sanitary authority, and if the premises are within the district he shall forthwith endeavour to ascertain the causes of the infectious condition of the milk.

(4) Where the milk in respect of which a notice is given under this Article is obtained from any registered premises without the district, the medical officer of health shall forthwith send a copy of the notice to the medical officer of health of the sanitary district from which the milk is obtained.

(5) No person shall sell milk for human consumption or use milk or sell milk for use in the manufacture of products for human consumption contrary to the terms of a notice given by the medical officer of health under this Article.

(6) Where any person sustains any damage or loss by reason of a notice issued under this Article he shall be entitled to full compensation from the sanitary authority in case it shall appear that no infectious disease was in fact caused by the consumption of milk from the premises to whose occupier the notice was addressed or as the case may be that no milk at such premises had been infected with such disease. Any dispute as to the right to or the amount of such compensation shall be settled by arbitration in the same manner as provided by the Public Health Act, 1875, and any sum awarded as compensation shall be recoverable as a civil debt: Provided that if the compensation claimed does not exceed twenty pounds it may at the option of either party instead of being settled as hereinbefore provided be settled by and recoverable before a Court of Summary Jurisdiction.

19.—(1) Where the medical officer of health of the registering authority by reason of such notification or otherwise suspects that any of the persons in or about

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(*a*) See also the P. H. (Prevention of Tuberculosis) Regulations, 1925, Arts. 4 & 5, *ante*, p. 3170.

any registered premises who have access to the milk or to the churns or other milk receptacles is suffering from an infectious disease or has recently been in contact with any person so suffering or in such a condition that there is a danger of his transmitting an infectious disease he may give notice to the occupier of such premises that he considers it necessary to make an examination of any or all of such persons; and where he gives such notice, the said occupier and every person concerned shall give to the medical officer of health all reasonable facilities for making such examination.

(2) Where from the result of any such examination or otherwise the medical officer of health is of opinion that the employment of any such person is likely to lead to the spread of infectious disease, the medical officer of health may give notice in writing to that effect to the occupier of the registered premises and to the person concerned requiring that, during a period to be specified in such notice, the person to whom the notice relates shall not milk cows or handle vessels used for containing milk or in any way take part in the production, distribution or storage of milk.

(3) A person to whom any such notice relates and any other person who is suffering from an infectious disease or has recently been in contact with a person so suffering shall not milk cows or handle vessels used for containing milk or in any way take part in the production, distribution or storage of milk until the expiry of the period mentioned in the notice or, as the case may be, until all danger of the communication of infectious disease by means of the milk has ceased.

(4) No cowkeeper or dairyman shall allow any person to whom any such notice relates, or any other person who is so suffering or has recently been in contact as aforesaid, to milk cows or handle vessels used for containing milk or in any way to take part in the production, distribution or storage of milk, until the expiry of the period mentioned in the notice or, as the case may be, until all danger of the communication of infectious disease by means of the milk has ceased.

20. No person shall keep any swine or poultry in any cowshed or room in which cows in milk are kept or milked or in which milk or milk utensils are kept or in any room or shed communicating directly therewith.

21. Every cowkeeper or dairyman shall cause all vessels (including the lids of such vessels) and appliances used or intended to be used by him for containing, measuring or stirring milk, or for any other purpose for which they may be brought into contact with milk, to be kept at all times in a state of thorough cleanliness.

For this purpose—

(i) Every such vessel, lid and appliance shall be thoroughly washed as soon as may be after use, and shall be cleansed and scalded with boiling water or steam before it is used again.

(ii) No oxidising or preservative agent shall be used in the cleansing of any such vessel or appliance.

(iii) Every such vessel, lid and appliance, when not in use shall be stored in a clean place and shall be protected from dust and dirt.

(iv) No such vessel or appliance shall be used for containing, measuring or applying any process or treatment to any article other than milk or milk products:

Provided that the requirements set out in paragraphs (i) and (ii) shall not apply to mechanical milkers and similar appliances used in milking which are efficiently cleansed so that all trace of any substance used in the cleansing is removed before they are brought into contact with milk.

PART VI.—*Special Provisions Applicable to Cowkeepers.*

22.—(1) Every cowkeeper shall cause every part of the interior of every cowshed in his occupation to be thoroughly cleansed from time to time, as often as may be necessary to secure that such cowshed shall be at all times reasonably clean and sweet.

(2) He shall cause the ceiling or interior of the roof and the walls of every such cowshed to be properly lime-washed or sprayed with lime or otherwise disinfected twice at least in every year, that is to say, once during April or May, and once during September or October, and at such other times as may be necessary:

Provided that this requirement shall be deemed to be satisfied as regards any part of such ceiling or walls which is properly painted or varnished or constructed or covered with tiles or other smooth washable material if that part is properly washed from time to time as often as may be necessary to keep it clean.

(3) He shall cause all dung and other offensive matter to be removed from any cowshed in his occupation in which cows are milked at least once in every day.

(4) He shall not cause any dung or offensive matter to be so placed as to render uncleanly the access to any cowshed or milk room.

23. Every cowkeeper shall cause the following precautions to be taken in connection with the milking of cows, viz. :—

(i) The milking shall be carried out in a good and proper light whether in the daytime or in the hours of darkness.
(ii) Before milking is begun, all dirt in or around the flanks, udder and teats of each cow shall be removed, and the udder and teats shall be cleansed by being thoroughly rubbed with a clean damp cloth.
(iii) The hands of the milker shall be thoroughly washed and dried before milking and shall throughout the milking be kept clean, free from contamination and, as far as practicable, dry.
(iv) All milking stools shall be kept thoroughly clean.
(v) As soon as possible after milking, the milk of each cow shall be removed from the cowshed to a suitable milk room or shall be placed in a covered receptacle.
(vi) No dry bedding or other dusty matter shall be moved in the cowshed during the milking or within half an hour before the milking commences, except so far as may be necessary for the removal of dung.

24.—(1) Every cowkeeper shall, without any delay other than that caused by any process of straining or centrifugalisation to which it may be subjected, cause the milk to be cooled to a temperature not more than five degrees Fahrenheit higher than the temperature of the water supply available for cooling: Provided that this requirement shall not apply—

(i) where the milk is delivered by road without delay to a collecting station provided with adequate facilities for cooling milk to a temperature not exceeding fifty-five degrees Fahrenheit; or
(ii) where the milk is used for the manufacture of butter, cream, cheese or other milk products at the premises where it is produced or is supplied to some other person for this purpose; or
(iii) where the cowkeeper sells the milk to the consumer and either delivers it at the premises where it is produced or despatches it at least twice a day on the day of production; or
(iv) where the cowkeeper sells the milk to some other purveyor at the premises where it is produced for delivery to the consumer immediately after milking.

(2) Every person who receives at a collecting station milk which has not previously been cooled shall forthwith cause it to be cooled to a temperature not exceeding fifty-five degrees Fahrenheit unless he uses it in the preparation or manufacture of butter, cream, cheese or other milk products and every person who purchases for re-sale milk which has not previously been cooled shall cause it to be cooled forthwith to a temperature not exceeding fifty-five degrees Fahrenheit unless he uses it as aforesaid or delivers it to the consumer immediately after milking.

25. Every cowkeeper shall cause the floor of every cowshed in his occupation to be constructed of such material and in such manner as to render it practicable to remove all liquid matter which may fall thereon, and he shall cause such cowshed to be provided with channels of rendered concrete or other durable and impervious material so constructed as to prevent as far as reasonably practicable the soiling of the cows and so as to receive all such liquid matter and to convey it to a suitable drain or other place of disposal outside such cowshed.

PART VII.—*Special Provisions Applicable to Buildings used for the Sale, etc., of Milk.*

26. The following provisions shall apply to any building or part of a building which is used for the sale of milk or in which milk is kept or used for the purpose of sale or manufacture into butter, cheese, dried milk or condensed milk for sale :—

(1) The occupier shall cause the interior and the furniture and fittings therein to be thoroughly cleansed from time to time as often as may be necessary to secure the maintenance of reasonable cleanliness, and in particular the floors shall be thoroughly cleansed with water at least once in every day.

(2) Except in the case of a building or part of a building which is used for the sale of milk by retail the occupier shall cause the floor to be constructed of rendered concrete or other durable and impervious material and to be so sloped as to ensure the removal of all liquid matter which may fall thereon, and to be provided with channels so constructed, sloped and placed as to receive all such liquid matter and to convey it to a suitable drain or other place of disposal outside the building.

PART VIII.—*Conveyance and Distribution of Milk, Churns, etc.*

27. A person shall not use, or cause to be used, for the reception, measurement, storage or delivery of milk any churn, vessel or other receptacle, the interior surface of which is incapable of being readily cleansed.

28. Every person who purchases milk for the purposes of his trade or business, and empties and returns the churns or other receptacles in which the milk is delivered to him, shall cause all such churns and receptacles, other than bottles, to be thoroughly cleansed and securely closed before they leave his custody or control.

29. Every person shall cause every churn, vessel or other receptacle, other than bottles, in which he despatches milk by rail or road to comply with the following requirements, viz. :—

(1) The name and address of the owner shall be permanently marked on the churn, vessel or other receptacle or on a plate or plates of metal properly soldered or otherwise securely affixed thereto.

(2) The churn, vessel or other receptacle shall be provided with a lid without openings, which shall be so constructed and fitted as effectively to prevent the access to the milk of dirt, dust or rain water or the return to the interior of the receptacle of any milk which may have been splashed above the lid.

30. Every person shall cause every churn, vessel or other receptacle used by him for the conveyance of skimmed or separated milk or for containing such milk at any time when it is exposed for sale to be marked with the words "Skimmed Milk" or "Separated Milk," as the case may require, in large and legible type.

31.—(1) Except in pursuance of any statutory authority in that behalf, no person shall open any churn, vessel or other receptacle containing milk or transfer milk from one receptacle to another in any railway van or on any railway station :

Provided that this Article shall not be deemed to prohibit the purchaser or his agent when taking delivery of the milk from opening a churn, vessel or other receptacle containing milk or transferring the milk to another receptacle so far as such opening or transfer may be necessary for the purpose of checking and sampling the milk.

(2) Where a person delivers milk in bottles he shall cause every such bottle to be filled and closed on registered premises : and no person shall remove or tamper with the disc or other device used for closing the bottle at any time after he has left such premises and before it is delivered to the consumer.

32. Every person engaged in the conveyance or distribution of milk shall use all practicable precautions for preventing the milk from being unnecessarily exposed to heat and from being contaminated by dirt, dust, rain water or otherwise.

33. The interior of every vehicle used for the conveyance of milk shall be at all times kept clean. No live animal or any article likely to contaminate the milk shall be conveyed in the vehicle at the same time as milk and no vehicle which has been

used for the conveyance of offensive matter shall be used for the conveyance of milk until the vehicle has been thoroughly cleansed and purified.

Given under the Official Seal of the Minister of Health this Sixth day of July, in the year One thousand nine hundred and twenty-six.

L.S.

R. B. CROSS,
Assistant Secretary,
Ministry of Health.

The Minister of Agriculture and Fisheries hereby concurs in the making of the above Order.

H. E. DALE,
Assistant Secretary, Ministry of
Agriculture and Fisheries.

NOTE.—The Milk and Dairies (Consolidation) Act, 1915, provides by subsection (3) of section 1 that if any person is guilty of a contravention of, or non-compliance with the provisions of any Milk and Dairies Order, he shall be guilty of an offence against the Act.
Subsection (1) of section 18 of that Act provides that if any person commits an offence against the Act he shall be liable on summary conviction to a fine not exceeding in the case of a first offence five pounds and in the case of a second or subsequent offence fifty pounds, and if the offence is a continuing offence to a further fine not exceeding forty shillings for each day during which the offence continues.

S. R. & O., 1926, No. 820.

PUBLIC HEALTH, ENGLAND.

THE PUBLIC HEALTH (IMPORTED MILK) REGULATIONS, 1926, DATED 6TH JULY, 1926, MADE BY THE MINISTER OF HEALTH.

The Minister of Health, in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, the Public Health (Regulations as to Food) Act, 1907, and section 8 of the Milk and Dairies (Amendment) Act, 1922, and of every other power enabling him in that behalf, hereby makes the following Regulations, that is to say:—

1. These Regulations may be cited as the Public Health (Imported Milk) Regulations, 1926, and shall come into operation on the 1st day of January, 1927.

2.—(1) In these Regulations, unless the context otherwise requires—

"The Minister" means the Minister of Health.

"Sanitary Authority" means a port sanitary authority, and the council of a borough or urban or rural district which includes or abuts on any part of a Customs port which part is not within the jurisdiction of a port sanitary authority.

"District" means the district of a sanitary authority, and in the case of a sanitary authority other than a port sanitary authority, includes the waters of any Customs port abutting on any part of their district so far as such waters are not within the district of a port sanitary authority.

"Milk" means milk (including skimmed milk and separated milk but not including condensed or dried milk) which is intended for sale for human consumption or for use in the manufacture of products for human consumption.

"British Islands" means Great Britain and Ireland, the Channel Islands, and the Isle of Man.

"Imported Milk" means milk imported into England or Wales from any place situated outside the British Islands.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3.—(1) Every sanitary authority shall enforce and execute these Regulations and shall keep a register of persons to whom milk imported into their district may be consigned.

(2) Any officer of the sanitary authority duly authorised in that behalf, may take a sample of any milk imported into the district.

4. No person shall receive any milk consigned to him from any place outside the British Islands unless he is registered under these Regulations by the sanitary authority into whose district the milk is imported.

5. All imported milk shall be in such condition that, on a sample being taken within the district of a sanitary authority, the milk shall be found to contain not more than 100,000 bacteria per cubic centimetre and to be free from tubercle bacilli.

6.—(1) If the sanitary authority are satisfied that any milk imported into their district does not comply with the provisions of these Regulations, they may serve upon the person to whom the milk was consigned a notice to appear before them not less than seven days after the date of the notice, to show cause why they should not, for reasons to be specified in the notice, remove him from the register, either absolutely or in respect of any specified source of supply, and if he fails to show cause to their satisfaction accordingly they may remove him from the register.

(2) Any person aggrieved by any such decision of the sanitary authority as aforesaid may, within twenty-one days, appeal to a court of summary jurisdiction and that court may require the sanitary authority not to remove him from the register.

(3) The sanitary authority, or such person as aforesaid, may appeal from the decision of the court of summary jurisdiction to the next practicable court of quarter sessions, and that court may confirm, vary or reverse the Order of the court of summary jurisdiction.

(4) The decision of a sanitary authority to remove any person from the register shall not have effect until the expiration of the time for appeal to a court of summary jurisdiction, nor if any such appeal is brought until the expiration of seven days after the determination thereof, nor if notice of appeal to Quarter Sessions is given within such seven days until such appeal is finally determined unless such appeal ceases to be prosecuted.

(5) Where, in pursuance of the foregoing provisions of this Article, a person is removed from the register of a sanitary authority, the sanitary authority shall report the facts to the Minister, and if the Minister on consideration of such facts is of opinion that that person should be removed from the register of any other sanitary authority or should not be included in such register either absolutely or in respect of any specified source of supply he may direct such sanitary authority so to remove such person from their register or to refuse so to register him as the case may be and such sanitary authority shall forthwith comply with the Minister's direction.

7. A person shall, if so required, give to any officer of a sanitary authority acting in the execution of these Regulations all reasonable assistance in his power and shall in relation to anything within his knowledge furnish any such officer with all information he may reasonably require for the purposes of these Regulations.

* * * * * *

NOTE.—The Public Health Act, 1896, provides by subsection (3) of section 1 that if any person wilfully neglects or refuses to obey or carry out, or obstructs the execution of any regulations made under any of the enactments mentioned in that Act he shall be liable to a penalty not exceeding £100, and, in the case of a continuing offence, to a further penalty not exceeding £50 for every day during which the offence continues.

The power of making regulations under the Public Health Act, 1896, and the enactments mentioned in that Act, is enlarged by the Public Health (Regulations as to Food) Act, 1907, as amended by the Milk and Dairies (Amendment) Act, 1922.

CIRCULAR 757.

COUNTY COUNCILS AND SANITARY AUTHORITIES (ENGLAND AND WALES).

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
20th January, 1927.

THE MILK AND DAIRIES ORDER, 1926.

SIR,—1. I am directed by the Minister of Health to say that he has received a number of inquiries as to the construction and administration of the Milk and Dairies Order, 1926, especially in relation to farmers who sell only a small quantity of milk, mainly to their employees and their neighbours. He thinks it desirable, therefore, to indicate his views on these questions for the guidance of local authorities.

Registration under the Order.

2. A number of the questions which have been raised relate in terms to the liability of the farmer himself to registration. The provisions of the Order in this respect differ somewhat from those of the Dairies, Cowsheds and Milkshops Order of 1885. The exemptions contained in the earlier Order for persons who carry on the trade of cowkeeper or dairyman for the purpose only of making and selling butter or cheese and for persons who sell milk of their own cows in small quantities to their workmen or neighbours for their accommodation, have been omitted, and the new Order, following the terms of s. 1 (1) (*a*) of the Milk and Dairies (Consolidation) Act, 1915, provides for the registration of *all* persons *carrying on the trade* of cowkeeper or dairyman. Provision is also made for the registration of *all dairies.* Under the Act a " dairy " includes, *inter alia*, all farms from which milk is supplied on or for sale, whether or not the extent of such sale amounts to the carrying on of a trade.

3. The sale of milk which renders the *dairy premises* subject to registration would not necessarily constitute the carrying on of a trade involving the registration of the *dairyman*, and the question whether any particular person is carrying on a trade is one of fact which can only be settled on a consideration of the circumstances. In reply, however, to a request from a local authority for some general ruling, the Minister, while pointing out that he has no jurisdiction which would enable him to give a decision, has suggested that in ordinary cases, where a person keeps a number of cows, *not exceeding the number required for the purposes of his own household* and sells any milk, butter, etc., which may from time to time be produced surplus to those requirements, he might properly be regarded as not carrying on the trade of dairyman and, therefore, as not being subject to registration under the Order.

4. A somewhat wider interpretation than they were intended to bear appears to have been placed in some quarters upon the terms of the Minister's letter. The relevant consideration appears to the Minister to be whether the farmer in fact keeps more cows than would normally be required for the needs of his household. If so, there appears to be *primâ facie* ground for assuming that he is " carrying on the trade of a dairyman."

Application of the Order.

5. The question of the registration of the farmer is, however, in itself a matter of minor importance, since the Order, following the terms of section 1 (1) (*b*) of the Act of 1915, requires also the registration of *all* dairies, including all farms from which milk is supplied on or for sale. Further, the general requirements of the Order which impose obligations on cowkeepers and prescribe the conditions of cowsheds and other registered premises, apply to *all places at which milk is produced for sale* whether in large or in small quantities.

Administration.

6. The general object of the Order is the protection of the community by the application of the principles of sanitation and cleanliness which it incorporates. In

many respects the standard to be attained in these matters is not, and could not with advantage be, precisely defined in the Order, but is left to a large extent to the discretion of the local authority, subject, in any case of dispute, to the ruling of the Courts. The Minister has no doubt that local authorities will use their discretion reasonably in administering the Order, both in relation to farms on which milk is being produced on a commercial scale and in other cases, regard being had particularly to the importance of the use of cleanly methods. For example, the terms of Article 13 should not in the Minister's view be construed as involving the laying of a piped supply of water from any public source where this is not readily available and should ordinarily be satisfied by arrangements of the same character as would be made in the particular case for domestic purposes.

7. In cases where a few cows only are kept primarily to meet the needs of the household, but a small quantity of the milk produced is sold to employees and neighbours, the general principles of sanitation and cleanliness of method which the Order incorporates must be observed if the consumers are to enjoy the same measure of protection as the Order affords to other sections of the community. But it will no doubt often be found in such cases that the objects of the Act and Order can in practice be secured and that the general requirements of the Order as to condition of premises can be satisfied by inexpensive arrangements of a simpler character than might be regarded as reasonably necessary in the case of larger establishments. In any case of doubt as to the adequacy of premises the hygenic quality of the milk produced as disclosed by the examination of samples should give some guidance as to the action necessary.

8. In many areas the sanitary authority may find that the task of administering the Order will be sensibly lightened by co-operation with the agricultural education authority for the county, whose educational work, so far as it deals with the production of clean milk, is designed to secure substantially the same objects as the Order. Although the responsibility for the administration of the Order must rest entirely with the sanitary authority, it would be to the general advantage that the officers of the two authorities should work in consultation with each other.

9. The Minister is informed that notices have been served by some local authorities requiring alterations to cowsheds to be made forthwith. I am, therefore, to call the attention of the council to Article 1 of the Order, which provides that eighteen months' notice must be given of any alterations required for the purposes of Articles 12 (1), 13 (1) and 25, and that in the case of Article 25 no such notice shall be given before the 1st April, 1928.

Clean Milk Courses for Sanitary Inspectors.

10. Course of instruction in the essentials of clean milk production are held from time to time at agricultural colleges and other centres under the auspices of the Ministry of Agriculture and Fisheries. The duration of a course is usually about four or five days, but sometimes a course is arranged for one day or half a day each week for a number of weeks. The fee for a course is usually from one to two guineas.

11. In view of the progress which has been made during the past few years in the knowledge of the conditions governing the production and handling of clean milk, the Minister thinks that courses of this character may often be useful in enabling sanitary inspectors to appreciate the relative importance of the various provisions of the Order, and he is of opinion that a sanitary authority may legally incur the reasonable expenditure involved by the attendance of an inspector at such a course.

12. The arrangement of these courses at any particular centre is dependent on the requirements of the surrounding area. If a sanitary inspector desires to attend such a course, and there is apparently none readily available to him, he should communicate with the Ministry of Agriculture and Fisheries, who will endeavour to make suitable arrangements.

Registration Procedure.

13. The exact form of register or registers to be kept is left to the decision of local authorities, except so far as the matter is governed by the provisions of section 2 (3) of the Milk and Dairies (Amendment) Act, 1922, which require separate registration of persons carrying on the trade of retail purveyors. It may, however, be observed that there is no necessity to use separate registers for the registration of persons and of premises.

14. It will probably be found convenient to enter in a separate division of the register, or otherwise specially to distinguish, premises in which cows are kept, in order that the information to be supplied to county councils in pursuance of Article 6 (4) for the purpose of facilitating the inspection of cattle, may be readily extracted.

15. The following particulars at least should be recorded: (1) Situation or postal address of the premises; (2) (*a*) name of cowkeeper or dairyman; and (*b*) his address, if elsewhere than at (1).

16. In addition to these particulars, some local authorities may find it useful to record further information as to the scope of the business carried on (*e.g.* the approximate number of cows kept or gallons of milk purchased or sold daily, or the possession of a licence to sell graded milk).

17. It may be added that it is not necessary that new registers should be compiled for the purposes of the new Order if the old registers contained all the requisite particulars, or could easily be adapted and brought up to date. Even where it is found to be convenient to prepare new registers, the old ones could in most cases be used as a basis, any further information required being obtained by means of specific inquiry from the persons already registered. The entry of known particulars in the register should not be delayed pending the receipt of a formal application for registration.

Inspection of Cattle.

18. The Minister's view is that the minimum which could be regarded as satisfying the requirements of Article 8 of the Order would be such inspections as are necessary for the purposes of sections 3 and 4 of the Act, and for investigating cases where some definite cause of suspicion exists, such as the discovery of tubercle bacilli in a sample of milk.

19. It is for each county council to decide, according to the experience available in their area, what amount of further inspection is desirable. It was not considered practicable, in view of the varying circumstances of different counties, to require in the Order that county councils should undertake the regular periodical inspection of all dairy cattle. Inspection conducted on purely routine lines may not, in all cases, be the best means of attaining the objects of the Act. The Minister is, however, aware that some local authorities have, in the past, carried out periodical inspections, and have been satisfied that the results were beneficial. Where these conditions exist it is suggested that the county council should consider the advisability of continuing the established practice.

I am, etc.

S. R. & O., 1927, No. 1092.

THE PUBLIC HEALTH (CONDENSED MILK) AMENDMENT REGULATIONS, 1927, DATED 14TH NOVEMBER, 1927, MADE BY THE MINISTER OF HEALTH.

The Minister of Health in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, the Public Health (Regulations as to Food) Act, 1907, and by s. 8 of the Milk and Dairies (Amendment) Act, 1922, and of every other power enabling him in that behalf, hereby makes the following Regulations, with the consent of the

Appendix II.

Commissioners of Customs and Excise, so far as they apply to the officers of customs and excise, that is to say :—

1. These Regulations may be cited as the Public Health (Condensed Milk) Amendment Regulations, 1927, and these Regulations and the Public Health (Condensed Milk) Regulations, 1923 (hereinafter called "the principal Regulations") shall be construed together and may be cited together as the Public Health (Condensed Milk) Regulations, 1923 and 1927.

2. These Regulations shall come into operation on the 1st day of May, 1928, so far as they amend Part III. of the principal Regulations (relating to importation) and in other respects on the 1st day of September, 1928 :

Provided that the provisions of paras. 1 and 3 of the First Schedule to the principal Regulations shall not at any time after the date of these Regulations apply to a tin or other receptacle of condensed milk which is labelled in the manner prescribed in that Schedule as amended by these Regulations.

3. The following provision shall be added to and form part of the principal Regulations immediately after Article 4 thereof, that is to say :—

"4*a*. Where a tin or other receptacle containing condensed skimmed milk is required by Article 4 of these Regulations to be labelled, no person shall expose or offer for sale such a tin or receptacle in a paper or other wrapper unless such wrapper has printed on the outside thereof the words 'unfit for babies,' such words being contained within a surrounding line. The type used for the words shall be not less than a quarter of an inch in height and the printing shall otherwise conform with the rules prescribed for the printing of the same matter on the label affixed to the tin or other receptacle."

4. The following paragraphs shall be substituted for paras. 1 and 3 of the First Schedule to the principal Regulations :—

"1. Every tin or other receptacle containing condensed milk shall bear a label upon which is printed such one of the following declarations as may be applicable or such other declaration substantially to the like effect as may be allowed by the Minister (*a*):—

"(i) In the case of full cream milk (unsweetened) :—

CONDENSED FULL CREAM MILK, UNSWEETENED.

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF MILK.

"(ii) In the case of full cream milk (sweetened) :—

CONDENSED FULL CREAM MILK, SWEETENED.

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF MILK, WITH SUGAR ADDED.

"(iii) In the case of skimmed milk (unsweetened) :—

CONDENSED MACHINE-SKIMMED MILK [or CONDENSED
SKIMMED MILK], UNSWEETENED.

UNFIT FOR BABIES

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF SKIMMED MILK.

(*a*) As to variations which have been allowed, see circular letter of Ministry dated 19th November, 1927, *post*, p. 3591.

"(iv) In the case of skimmed milk (sweetened) :—

CONDENSED MACHINE-SKIMMED MILK [or CONDENSED
SKIMMED MILK], SWEETENED.

UNFIT FOR BABIES.

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF SKIMMED MILK WITH SUGAR ADDED.

" 3.—(*a*) The prescribed declaration shall be printed in dark block type upon a light coloured ground.

" (*b*) There shall be a surrounding line enclosing the declaration and in the cases in which the words ' unfit for babies ' are required to be used there shall be another such line enclosing those words.

" (*c*) The distance between any part of the words ' unfit for babies ' and the surrounding line enclosing those words shall be not less than one-sixteenth of an inch.

" (*d*) No matter other than that hereinbefore prescribed shall be printed within either surrounding line.

" (*e*) The type used for the declaration shall not in any part be less than one-eighth of an inch in height (or if the gross weight of the tin or other receptacle does not exceed twelve ounces, one-sixteenth of an inch in height) and the type used for the words ' unfit for babies ' shall not be less than twice the height of any other part of the declaration."

5. Copies of the Public Health (Condensed Milk) Regulations, 1923, printed under the authority of His Majesty's Stationery Office may be printed with any additions, omissions or substitutions directed to be made by these or any other amending Regulations but with a footnote in each instance referring to such amending Regulations; and the principal Regulations so printed may be cited as the Public Health (Condensed Milk) Regulations.

S. R. & O., 1927, No. 1093.

THE PUBLIC HEALTH (DRIED MILK) AMENDMENT REGULATIONS, 1927, DATED 14TH NOVEMBER, 1927, MADE BY THE MINISTER OF HEALTH.

The Minister of Health in the exercise of the powers conferred upon him by the Public Health Act, 1875, the Public Health (London) Act, 1891, the Public Health Act, 1896, the Public Health (Regulations as to Food) Act, 1907, and by section 8 of the Milk and Dairies (Amendment) Act, 1922, and of every other power enabling him in that behalf, hereby makes the following Regulations, that is to say :—

1. These Regulations may be cited as the Public Health (Dried Milk) Amendment Regulations, 1927, and these Regulations and the Public Health (Dried Milk) Regulations, 1923 (hereinafter called " the principal Regulations ") shall be construed together and may be cited together as the Public Health (Dried Milk) Regulations, 1923 and 1927.

2. These Regulations shall come into operation on the 1st day of September, 1928 : Provided that the provisions of paras. 1 and 2 of the First Schedule to the principal Regulations shall not at any time after the date of these Regulations apply to a tin or other receptacle of dried milk which is labelled in the manner prescribed in that Schedule as amended by these Regulations.

3. The following provision shall be added to and form part of the principal Regulations immediately after Article 4 thereof, that is to say,—

" 4*a*.—Where a tin or other receptacle containing dried skimmed milk is required by Article 4 of these Regulations to be labelled, no person shall export or offer for sale such a tin or receptacle in a paper or other wrapper unless such wrapper has printed on the outside thereof the words 'unfit for babies,' such words being contained within a surrounding line. The type used for the words shall be not less than a quarter of an inch in height and the printing shall otherwise conform with the rules prescribed for the printing of the same matter on the label affixed to the tin or other receptacle."

4. The following paragraphs shall be substituted for subdivision (1) of paras. 1 and 2 of the Schedule to the principal Regulations :—

"(1) Every tin or other receptacle containing dried milk (other than dried milk to which sugar or some other substance has been added) shall bear a label upon which is printed such one of the following declarations as may be applicable or such other declaration substantially to the like effect as may be allowed by the Minister (*a*):—

"(i) In the case of full cream milk, that is to say, dried milk containing not less than 26 per cent. of milk fat :—

DRIED FULL CREAM MILK.

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF MILK.

"(ii) In the case of partly skimmed milk, that is to say, dried milk containing not less than 8 per cent. but less than 26 per cent. of milk fat :—

DRIED PARTLY SKIMMED MILK
((*b*) CREAM).

SHOULD NOT BE USED FOR BABIES EXCEPT
UNDER MEDICAL ADVICE.

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF (*b*) CREAM MILK.

"(iii) In the case of skimmed milk, that is to say, dried milk containing less than 8 per cent. of milk fat :—

DRIED MACHINE-SKIMMED MILK
[or DRIED SKIMMED MILK].

UNFIT FOR BABIES.

THIS TIN CONTAINS THE EQUIVALENT OF
(*a*) PINTS OF SKIMMED MILK.

"2.—(*a*) The prescribed declaration shall be printed in dark block type upon a light coloured ground.

"(*b*) There shall be a surrounding line enclosing the declaration and in the case in which the words 'unfit for babies' are required to be used there shall be another such line enclosing those words.

"(*c*) The distance between any part of the words 'unfit for babies' and the surrounding line enclosing those words shall be not less than one-sixteenth of an inch.

"(*d*) No matter other than that hereinbefore prescribed shall be printed within either surrounding line.

(*a*) As to variations which have been allowed, see circular letter of Ministry dated 19th November, 1927, *post*, p. 3591.

"(*e*) The type used for the declaration shall not in any part be less than one-eighth of an inch in height (or if the gross weight of the tin or other receptacle does not exceed twelve ounces, one-sixteenth of an inch in height) and the type used for the words 'unfit for babies' shall not be less than twice the height of any other part of the declaration."

5. Copies of the Public Health (Dried Milk) Regulations, 1923, printed under the authority of His Majesty's Stationery Office may be printed with any additions, omissions or substitutions directed to be made by these or any other amending Regulations but with a footnote in each instance referring to such amending Regulations; and the principal Regulations so printed may be cited as the Public Health (Dried Milk) Regulations.

CIRCULAR 827.

SALE OF FOOD AND DRUGS ACTS AUTHORITIES (ENGLAND AND WALES).

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
19*th November*, 1927.

CONDENSED AND DRIED MILKS.

* * * * * *

4. In pursuance of the power reserved to the Minister under Rule 1 (1) of the First Schedule to the Public Health (Condensed Milk) Regulations, 1923, and Rule 1 (1) of the Schedule to the Public Health (Dried Milk) Regulations, 1923, he has at various dates allowed the following variations in the declarations prescribed by those Regulations, namely:—

(1) In the case of any variety of condensed milk, the order of the words contained in the descriptive part of the declaration may be varied so that the word "Sweetened" or "Unsweetened," as the case may be, is placed after the word "Condensed," instead of being placed after the word "Milk."

(2) In the case of any variety of dried milk, the word "package," "packet," or "receptacle" may be substituted for the word "tin" in the statement of equivalence.

(3) In the case of the proprietary preparation known as "Virol and Milk" the words "Dried Full Cream Milk and Virol" may be substituted for the words "Dried Full Cream Milk Compounded."

I am, etc.

TUBERCULOUS COWS.

ORDER OF THE MINISTER OF AGRICULTURE AND FISHERIES.

(Dated 13th July, 1925.)

TUBERCULOSIS ORDER OF 1925 (*a*).

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1925, and of every other power enabling him in this behalf, hereby orders as follows:—

Interpretation.

1. In this Order—

"The Act of 1894" means the Diseases of Animals Act, 1894:

"The Minister" and "The Ministry" mean respectively the Minister and the Ministry of Agriculture and Fisheries:

(*a*) This Order is amended by the Tuberculosis Order (No. 2), 1925, *post*, p. 3598.

"Bovine animal" means a bull, cow, ox, heifer, or calf:

"Cow" includes a heifer that has calved:

"Inspector" includes veterinary inspector:

"Local Authority" means a local authority for the purposes of the Act of 1894:

"Milk" includes cream and separated or skimmed milk.

"Tuberculous emaciation" means emaciation due to tuberculosis.

Other terms have, where the context so permits, the same meaning and scope as in the Act of 1894.

Notice of Disease.

2.—(1) Every person having in his possession or under his charge
- (i) any cow which is, or appears to be, suffering from tuberculosis of the udder, indurated udder, or other chronic disease of the udder; or
- (ii) any bovine animal which is, or appears to be, suffering from tuberculous emaciation; or
- (iii) any bovine animal which is suffering from a chronic cough and showing definite clinical signs of tuberculosis,

shall without avoidable delay give information of the fact to a constable of the police force for the area wherein the animal is, or to an inspector of the local authority, and the constable or inspector shall forthwith transmit the information to the local authority.

(2) The person in possession or having charge of the animal shall forthwith take such steps as are necessary to secure compliance with Article 10 (*Precautions to be adopted with respect to Milk, etc.*) and Article 11 (*Detention and Isolation of Suspected Animals*) of this Order.

Notification of Disease by Veterinary Surgeons.

3.—(1) A veterinary surgeon or veterinary practitioner who in his private practice is employed to examine any bovine animal, and is of opinion that the animal is suffering from tuberculosis of the udder or tuberculous emaciation, or suffering from a chronic cough and showing definite clinical signs of tuberculosis, shall with all practicable speed give notice of the existence or suspected existence of such disease to an inspector of the local authority.

(2) A veterinary surgeon or veterinary practitioner who under and in accordance with this Article gives notice of the existence or suspected existence of such disease to an inspector of the local authority shall be entitled to receive from the local authority a fee of two shillings and sixpence for each such notification.

(3) Where two or more animals are examined by a veterinary surgeon or veterinary practitioner on the same premises and at the same time, one fee only shall be payable to him under this article in respect of the notification of the existence or suspected existence of the disease in such animals.

Examination of Animals, etc.

4.—(1) The local authority shall in every case where, by reason of information received under the preceding Articles or otherwise, there is reasonable ground for supposing that on any premises in their district there is a cow which is suffering from chronic disease of the udder or giving tuberculous milk, or a bovine animal which is suffering from tuberculous emaciation or suffering from a chronic cough and showing definite clinical signs of tuberculosis, direct a veterinary inspector with all practicable speed to examine the diseased or suspected animal and any other bovine animals on such premises which the veterinary inspector considers it is desirable to examine to ascertain whether any cow on the premises is suffering from tuberculosis of the udder or giving tuberculous milk, or whether any bovine animal thereon is suffering from tuberculous emaciation or suffering from a chronic cough and showing definite clinical signs of tuberculosis, and the inspector may, with the previous consent in writing of the owner of the animal or of his agent, but not otherwise, apply the tuberculin test to any cow which the inspector suspects of suffering from tuberculosis of the udder, or of giving tuberculous milk, or to any bovine animal which the inspector suspects of suffering from tuberculous emaciation.

(2) The veterinary inspector may at all reasonable hours enter on any part of the premises and examine any bovine animal thereon, and the veterinary inspector may require any cow on the premises to be milked in his presence, and may take samples of the milk, and the milk from any particular teat shall if he so require be kept separate, and separate samples thereof shall be furnished. The inspector may also take samples of the fæces or urine of any bovine animal on the premises, or of any abnormal discharge from any bovine animal thereon. The inspector may, if he thinks fit, submit any of such samples for examination to a pathological institute approved by the Ministry.

(3) The occupier of the premises and the persons in his employment shall render such reasonable assistance to the inspector as may be required for all or any of the purposes of this article, and any person refusing such assistance shall be deemed guilty of an offence against the Act of 1894.

(4) The veterinary inspector shall as soon as possible send to the local authority a report showing the result of his examination and investigation including a copy of any report from a pathological institute on the examination of a sample. If the report shows that any animal is suffering from tuberculosis of the udder or tuberculous emaciation, or giving tuberculous milk, or suffering from a chronic cough and showing definite clinical signs of tuberculosis, the local authority shall, if it is the council of a non-county borough in England and Wales, cause a copy of the report to be sent to the county council, or if in Scotland, it is not itself the local authority for the purposes of the Milk and Dairies (Scotland) Act, 1914, cause a copy of the report to be sent to that authority.

(5) If the report of the inspector as to any animal does not show that it is suffering from tuberculosis of the udder or tuberculous emaciation, or giving tuberculous milk, or suffering from a chronic cough and showing definite clinical signs of tuberculosis, notice in writing shall forthwith be given by the local authority or an inspector of the local authority, to the owner or person in charge of the animal that the provisions of this Order relating to precautions to be adopted with respect to milk and detention and isolation of suspected animals have ceased to apply to the animal. A notice to the like effect may be given at any time by an inspector or other officer of the Ministry acting under the direction of the Minister.

Slaughter of Diseased Animals.

5.—(1) Where the report of the inspector under the preceding Article shows that there is an animal which is suffering from tuberculosis of the udder or tuberculous emaciation, or giving tuberculous milk, or suffering from a chronic cough and showing definite clinical signs of tuberculosis, the local authority shall with all practicable speed cause notice in writing (in the Form set forth in the Schedule hereto or to the like effect) to be given to the owner or person in charge of the animal and also to the Ministry, and cause the animal to be slaughtered; provided that if, before the slaughter is carried out, the owner of the animal, or any person authorised to act on his behalf, gives notice in writing to the local authority, or to their inspector or other officer directed to carry out such slaughter, that the owner objects to the animal being slaughtered under the provisions of this Order, it shall not be lawful for the local authority to cause the animal to be slaughtered unless and until the special authority of the Minister has been obtained.

(2) If the value of an animal proposed to be slaughtered, as agreed or certified under this Order, exceeds fifty pounds, the local authority shall not proceed with its slaughter unless so directed by the Minister (*a*).

Restriction of Movement of Animals liable to Slaughter.

6.—(1) In any case where under the preceding Article a notice of objection to slaughter is given by or on behalf of the owner of an animal or where by reason of the value of the animal its slaughter is subject to the direction of the Minister, the inspector shall forthwith serve on the owner or person in charge of the animal a notice in writing prohibiting the movement of the animal from the premises on which the animal is without a licence of an inspector of the local authority which licence shall only be granted for movement of the animal to a slaughter house.

(*a*) See the new Article 5*a* in Art. 1 of the Tuberculosis Order (No. 2) ,1925, *post*, p. 3598.

(2) Where an animal is so moved it shall not be moved from the slaughter-house and shall be caused by the owner to be slaughtered within ninety-six hours after its arrival thereat.

Valuation of Compensation.

7.—(1) The market value of an animal shall before slaughter be determined for the purposes of this Order by agreement between the local authority and the owner of the animal, or if they shall fail so to agree, by a valuer appointed by the local authority and the owner, or, on the application of the local authority, appointed by the Minister, but in either case paid by the local authority, and such valuer shall give to the local authority and to the owner a certificate in writing of the said value.

(2) For the purposes of this Order the market value of an animal shall be the price which might reasonably have been obtained from a purchaser in the open market who had no knowledge of the existence or suspected existence in the animal of the symptoms of disease disclosed by the report of the inspector under this Order except such knowledge thereof as might reasonably have been obtained by inspection of the animal.

Post-mortem Examination of Slaughtered Animals.

8.—(1) In the case of every animal slaughtered by a local authority under this Order, the local authority shall cause the carcase, at the time of slaughter or as soon as practicable thereafter, to be examined by a veterinary inspector of the local authority, and the owner of the animal shall be entitled to be present at the examination in person or by a representative who, if the owner thinks fit, may be a veterinary surgeon. The veterinary inspector may, and if required by the owner or his veterinary surgeon, shall, for the purposes of the examination submit specimens of the lesions to a pathological institute approved by the Ministry.

(2) The veterinary inspector shall at the conclusion of his examination give to the local authority and to the owner or person in charge of the animal a certificate of the result of the examination in the Form set forth in the Schedule hereto or to the like effect together with a copy of any report by a pathological institute on the examination of specimens of lesions submitted to the institute.

Compensation.

9.—(1) If the local authority fail to carry out the examination required by the preceding Article, or if the certificate of such examination does not show that the animal was suffering from tuberculosis, the local authority shall, by way of compensation, pay to the owner thereof a sum equal to the market value of the animal, and a further sum of twenty shillings.

(2) If the certificate of the examination shows that the animal was suffering from tuberculosis (not being advanced tuberculosis), the local authority shall, by way of compensation, pay to the owner a sum equal to three-fourths of the market value of the animal, or the sum of forty-five shillings, whichever sum is the greater, after deducting from such sum one-half of their reasonable costs of any valuation of the animal by a valuer appointed by the Minister.

(3) If the certificate of the examination shows that the animal was suffering from advanced tuberculosis, the local authority shall, by way of compensation, pay to the owner a sum equal to one-fourth of the market value of the animal, or the sum of forty-five shillings, whichever sum is the greater, after deducting from such sum one-half of their costs of valuation as in the preceding case.

(4) For the purposes of this Order an animal slaughtered under this Order shall be deemed to have been suffering from advanced tuberculosis—

(*a*) when there is miliary tuberculosis of both lungs; or

(*b*) when tuberculous lesions are present on the pleura and peritoneum; or

(*c*) when tuberculous lesions are present in the muscular system, or in the lymphatic glands embedded in or between the muscles, or where the infection of lymphatic glands is sufficient to indicate that disease is widespread; or (*d*) where, in addition to the presence of tubercular lesions in the respiratory and digestive tracts, there are also lesions present in the substance or membranes of any two of the following: spleen, kidney, uterus, ovary, testicle, brain, and spinal cord.

(5) If in any case the sum received by the local authority on sale of a carcase of an animal slaughtered under this Order exceeds the amount paid for compensation to the owner of the animal, the local authority shall pay that excess to the owner, after deducting reasonable expenses.

Precautions to be adopted with respect to Milk, etc.

10.—(1) The milk produced by any cow which is, or appears to be, suffering from chronic disease of the udder or tuberculous emaciation or is suffering from a chronic cough and showing definite clinical signs of tuberculosis, shall not be mixed with other milk until the cow has been examined by a veterinary inspector in accordance with the provisions of this Order, and until either six weeks after the examination have expired to enable microscopical and biological tests to be carried out if necessary or the owner or person in charge thereof has been notified that this Article has ceased to apply to the cow; and all milk affected by this Article shall forthwith be boiled or otherwise sterilised and any utensil in which such milk is placed before being so treated shall be thoroughly cleansed with boiling water before any other milk is placed therein. These provisions shall also apply to the milk of a cow in relation to which a notice of intended slaughter has been served from the date of the service of the notice until the slaughter of the animal.

(2) A local authority, or a veterinary inspector on their behalf, shall by written notice to the owner or person in charge of the animal apply the provisions of this Article to the milk produced by every cow specified in the notice which is suspected by him to be giving tuberculous milk and is examined under this Order, and such provisions shall apply accordingly.

Detention and Isolation of Suspected Animals.

11.—(1) Every person having in his possession or under his charge any cow which is, or appears to be, suffering from chronic disease of the udder, or any bovine animal which is, or appears to be, suffering from tuberculous emaciation, or is suffering from a chronic cough and showing definite clinical signs of tuberculosis, shall keep the animal isolated as far as practicable from other bovine animals, and also keep the animal in his possession or under his charge, until the animal has been examined by a veterinary inspector in accordance with the provisions of this Order and the owner or person in charge thereof has been notified that this Article has ceased to apply to the animal.

(2) A local authority, or a veterinary inspector on their behalf, shall by written notice to the owner or person in charge of the animal apply this Article to every bovine animal, examined under this Order, and such article shall apply accordingly.

Suspected Animals in Markets, Fairs, and Sales.

12.—(1) Where

(i) any cow which is, or is suspected by a veterinary inspector to be, suffering from tuberculosis of the udder; or

(ii) any bovine animal which is, or is suspected by a veterinary inspector to be, suffering from tuberculous emaciation, or which in his opinion is suffering from a chronic cough and showing definite clinical signs of tuberculosis,

is exposed in a market, fairground, or saleyard, or other public or private place where animals are commonly exposed for sale the veterinary inspector may, by notice served on the owner or person in charge of the animal, require it to be removed from the market, fairground, saleyard, or other place as aforesaid, to the premises from which it was brought thereto, or at the option of the owner or person in charge to a slaughter-house or other suitable premises specified in the notice, and thereupon the animal shall forthwith be moved by the owner or person in charge to those

Appendix II. premises for the purpose of examination under the foregoing provisions of this Order, or slaughter by the owner in the slaughter-house.

(2) Where the premises to which the animal is required under this Article to be moved are not in the same district as the market, fairground, saleyard, or other place as aforesaid, the inspector serving the notice shall forthwith send a copy of the notice to the local authority of the district in which the first-mentioned premises are situate, and also to the Ministry.

Cleansing and Disinfection.

13. The occupier of any premises on which there has been a cow suffering from tuberculosis of the udder or giving tuberculous milk, or a bovine animal suffering from tuberculous emaciation, or suffering from a chronic cough and showing definite clinical signs of tuberculosis, shall if so required in writing by an inspector of the local authority cleanse and disinfect at his own expense, and to the satisfaction of the inspector, that part of any shed or other erection in which the animal has recently been placed or kept.

Prohibition of Importation of Diseased Animals.

14. The landing in Great Britain of an imported animal which is or appears to be suffering from tuberculosis of the udder, indurated udder, or other chronic disease of the udder, or tuberculous emaciation or giving tuberculous milk or suffering from a chronic cough and showing definite clinical signs of tuberculosis is hereby prohibited.

Reports to the Ministry.

15. Every local authority and their inspectors and officers shall send and give to the Ministry such reports, returns, and information as to their proceedings under this Order as the Minister may require.

Extension of certain Sections of Diseases of Animals Act, 1894.

16. Tuberculosis shall be a disease for the purposes of section 5 of the Importation of Animals Act, 1922 (Session 2) and for the purposes of the following sections of the Act of 1894 (namely):

Sections 19 and 20 (*Slaughter in Disease and Compensation Generally*);
Section 43 (*Police*);
Section 44 (*General Administrative Provisions*);

and also for the purposes of all other sections of that Act containing provisions relative to or consequent on the provisions of those sections or this Order, including such sections as relate to offences and legal proceedings.

Information to be given as to certain Animals or Animals in contact therewith.

17. Article 36 of the Animals (Transit and General) Order of 1912 (*Information to be given as to Diseased or Suspected Animals or Animals in contact therewith*) shall apply to

(i) any cow which is, or is suspected of, suffering from tuberculosis of the udder or giving tuberculous milk; and

(ii) any bovine animal which is, or is suspected of, suffering from tuberculous emaciation, or which is suffering from a chronic cough and showing definite clinical signs of tuberculosis.

Offences.

18.—(1) Every person who—

(i) fails to give the notice required by Article 2 or Article 3 of this Order; or

(ii) fails to comply with any provision of this Order or any notice served thereunder relating to precautions to be adopted with respect to milk or relating to detention, isolation or slaughter of animals; or

(iii) fails to comply with any notice directing removal of an animal from a market, fair-ground, sale-yard; or other public or private place where animals are commonly exposed for sale; or

(iv) fails to cleanse or disinfect any erection which under this Order he is required to cleanse or disinfect; or

(v) fails to slaughter an animal as required by the conditions of a licence granted under this Order;

shall, according to and in respect of his own acts and defaults, be deemed guilty of an offence against the Act of 1894.

(2) If any animal is landed in contravention of this Order, the owner thereof, and the occupier of the place of landing, the person causing, directing or permitting the landing, and the owner and the charterer and the master of the vessel from which the same is landed, shall, each according to and in respect of his own acts or defaults, be deemed guilty of an offence against the Act of 1894.

Extent.

19. This Order extends to England and Wales and Scotland.

Local Authority to enforce Order.

20. The provisions of this Order, except where it is otherwise provided, shall be executed and enforced by the local authority.

Revocation.

21. The Tuberculosis Order of 1914 is hereby revoked.

Commencement.

22. This Order shall come into operation on the 1st September, 1925.

* * * * * *

SCHEDULE.

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CIRCULAR 616.

CIRCULAR OF MINISTRY OF HEALTH TO SANITARY AUTHORITIES.

(Dated August, 1925.)

TUBERCULOSIS ORDER OF 1925 (No. 2).

MEAT INSPECTION.

SIR,—I am directed by the Minister of Health to transmit for the information of the council a copy of the Tuberculosis Order of 1925 (No. 2), made by the Minister of Agriculture and Fisheries, together with the circular letter issued by him to all local authorities for the purposes of the Diseases of Animals Acts.

It will be within the knowledge of the council that the principal order (the Tuberculosis Order of 1925), which will come into operation on the 1st September next, provides for the slaughter of animals affected with certain specified forms of tuberculosis. By reason of Article 7 of the Public Health (Meat) Regulations, 1924, the provisions of those Regulations as to notice of slaughter, etc., would not apply in the case of an animal slaughtered in pursuance of the Order, but the amending Tuberculosis Order now issued provides that notice of intention to slaughter shall be given to the Sanitary authority as well as to the owner of the animal in cases where it is intended that the carcase, or any part thereof, should be disposed of for human consumption, and that no part of the carcase shall be removed from the premises for that purpose except with the permission in writing of the medical officer of health or other competent officer.

It will be seen that the Ministry of Agriculture and Fisheries recommend that sufficient time should be allowed to elapse before the animal is slaughtered to enable

Appendix II. the medical officer of health or other competent officer to be present at the post-mortem examination and the Minister hopes therefore that arrangements will be made for the attendance of such an officer in every case. He wishes further to remind local authorities that the animals to be slaughtered under the Tuberculosis Order are animals which are known or believed to be diseased, and consequently that special attention should be paid to their inspection before any parts of the carcase or organs are passed for human consumption. The criteria which should guide the inspecting officer are set out in Part D, section 4 (pp. 5, 6, and 7) of Memorandum 62/Foods issued by this department in March, 1922.

I am, etc.

ORDER OF THE MINISTER OF AGRICULTURE AND FISHERIES.

(Dated 5th August, 1925.)

TUBERCULOSIS ORDER OF 1925 (No. 2).

The Minister of Agriculture and Fisheries, by virtue and in exercise of the powers vested in him under the Diseases of Animals Acts, 1894 to 1925, and of every other power enabling him in this behalf, hereby orders as follows :—

1. The Tuberculosis Order of 1925 shall be read and have effect as if the following Article were therein inserted after Article 5 :—

Procedure in respect of slaughter of animals where the carcases are proposed to be used for human consumption.

5A. (i) Where a local authority propose to slaughter an animal under this Order and to dispose of its carcase or any part thereof for human consumption a copy of the notice of intended slaughter served under the preceding Article together with a statement of the address of the premises on which and the time at which the animal is intended to be slaughtered shall be sent by the local authority with all practicable speed to the officer of the sanitary authority (or in Scotland of the public health local authority) to whom notices of intention to slaughter are required to be sent by any regulations made by the Minister of Health (or in Scotland by the Scottish Board of Health) under the Public Health (Regulations as to Food) Act, 1907, and in any such case the carcase of the animal or any part thereof shall not be removed for human consumption from the premises on which the slaughter takes place except with permission in writing of the medical officer of health or other competent officer of the authority having under the Acts relating to public health or any local Act power to inspect and examine meat intended for human consumption : Provided that where a meat inspector has been appointed by a public health local authority in Scotland in terms of the foresaid Regulations the permission to be obtained under this Article shall be the permission of the meat inspector.

(ii) If any carcase is removed in contravention of this Article the person removing or causing the removal of the carcase shall be deemed guilty of an offence against the Act of 1894.

MINISTRY OF HEALTH.

S. R. & O., 1919, No. 850.

THE MINISTRY OF HEALTH ACT, 1919 (DATE OF COMMENCEMENT) ORDER, 1919.

(DATED JUNE 25TH, 1919.)

Whereas by sub-section (1) of section 11 of the Ministry of Health Act, 1919, it is enacted that the Act shall come into operation upon such day or days as may be appointed by Order in Council and that different days may be appointed for different purposes and provisions of the Act.

Now, therefore, His Majesty, by and with the advice of his Privy Council, in pursuance of the Ministry of Health Act, 1919, and of all other powers enabling him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1. For such of the provisions of the said Act as are hereinafter mentioned the appointed day shall be—

(1) in the case of section 1, the 25th day of June, 1919;

(2) in the case of section 2; paragraphs (*a*), (*b*) and (*e*) and proviso (ii) of sub-section (1) and sub-sections (2), (3), (4) and (5) of section 3; sections 4, 5, 6, 7, 8, 9, and 10 and sub-sections (3) and (4) of section 11, the 1st day of July, 1919, except so far as paragraph (*a*) of sub-section (1) of section 3 relates to powers and duties conferred or imposed upon the Local Government Board by any Act of Parliament passed, or Provisional Order confirmed, or other Instrument made, on or after the 1st day of July, 1919, but during the present session of Parliament, in respect of which powers and duties the appointed day shall be the day on which such Act, Order, or Instrument comes into operation.

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

MINISTRY OF HEALTH (CONSULTATIVE COUNCILS) ORDER, 1919.

(DATED AUGUST 18TH, 1919.)

* * * * * *

Now, therefore, His Majesty, by and with the advice of his Privy Council, in pursuance of the Ministry of Health Act, 1919, and of all other powers enabling him in that behalf, is pleased to order, and it is hereby ordered, as follows:—

1. Consultative councils shall be established in pursuance of the foregoing provisions for giving, in accordance with the provisions hereinafter contained, advice and assistance in connection with such matters as relate severally to:—

(1) Medical and allied services.
(2) National Health Insurance (approved societies' work).
(3) Local health administration.
(4) General health questions.

2. Each council shall consist of such numbers of members, not exceeding twenty, as the Minister may determine, being persons having, in the case of each council, practical experience of the matters for the purposes of which the council in question is established.

3.—(1) The members of a council shall be appointed by the Minister, and shall include women as well as men.

(2) At the expiration of one, two, and three years respectively from the first appointment of the members of the council one-third of the original members, to be selected by lot, shall go out of office, but for the purpose of this provision an original member who has been re-appointed shall not be deemed to be an original member.

(3) Subject as aforesaid the members of a council shall hold office for three years and shall then go out of office:

Provided that on a casual vacancy occurring in a council the person appointed to fill the vacancy shall hold office until the time when the person in whose place he is appointed would regularly go out of office, and shall then go out of office.

(4) A member of a council on the expiration of his term of office may be re-appointed, so, however, that no member shall remain in office continuously for more than six years.

4. The Minister of Health shall be the president, and the Parliamentary Secretary to the Ministry of Health shall be the vice-president of each council.

5. The Minister shall appoint a chairman and a vice-chairman of each council, who shall hold office until the next periodical expiration of the term of office of members of the council, but may be re-appointed so long as they remain members of the council.

6. The president or in his absence the vice-president, or in the absence of both the president and the vice-president, the chairman, shall preside at every meeting of a council at which he is present.

7. The Minister shall appoint a person to be the secretary of each council, and the person so appointed shall hold office during the pleasure of the Minister.

8.—(1) A council shall meet at such times, and notice of meetings shall be given to the members of the council in such manner as the council may, with the approval of the Minister, determine:

Provided that the council shall meet at least once in each quarter.

(2) At a meeting of a council ten shall be a quorum.

(3) No act or proceeding of a council shall be questioned on account of any vacancy in their body.

9. A council may for special purposes approved by the Minister appoint committees of their members, and any committee so appointed may, within the limits approved by the Minister, add to their numbers persons not being members of the council.

10. If a member of a council is absent from the meetings of the council for a period of six months, except for some reason approved by the Minister, his office shall become vacant.

11.—(1) A council shall consider and report upon the questions from time to time referred to them by the Minister, including—

(*a*) questions arising upon the draft of Orders in Council, and of Regulations, Orders, and Special Orders proposed to be made by the Minister;

(*b*) questions involving considerations of important principle and scientific difficulty affecting or incidental to the health of the people:

(*c*) any other questions in connection with such of the powers and duties of the Minister as relate to matters affecting or incidental to the health of the people;

and the Minister shall place at the disposal of the council the information required to enable them to consider the matters thus referred to them.

(2) A council may propose to the Minister from time to time that any question in connection with such of his powers and duties as relate to matters affecting or incidental to the health of the people, if pertaining to the functions of the council, shall form the subject of a reference to the council, and the Minister shall receive and consider any such proposal.

(3) A council may also present to the Minister from time to time a report on any matter affecting or incidental to the health of the people, if pertaining to the functions of the council, which has not been made a subject of reference to the council under the foregoing provisions of this Order, and the Minister shall receive and consider such report.

12. Subject to the provisions contained in this Order a council may regulate their own procedure.

13. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

14. This Order may be cited as the Ministry of Health (Consultative Councils) Order, 1919.

ALMERIC FITZROY.

Ministry of Health (Consultative Council) Order, 1919.—An Order in Council of the same date and in similar terms set up a Consultative Council for Wales. The council was to consist of thirty members.

S. R. & O., 1919, No. 1443.

THE MINISTRY OF HEALTH ACT, 1919 (DATE OF COMMENCEMENT) ORDER (No. 2), 1919. (DATED SEPTEMBER 22ND, 1919.)

* * * * * *

Now, therefore, His Majesty, by and with the advice of his Privy Council, in pursuance of the Ministry of Health Act, 1919, and of all other powers enabling him in that behalf, is pleased to order, and it is hereby ordered, as follows:—

1. The appointed day shall be the first day of October, 1919, in the case of the following paragraphs of the said Act, namely:—

(*a*) Paragraph (*c*) of sub-section (1) of section 3 of the Act, which relates to the powers of the Board of Education with respect to attending to the health of expectant mothers and nursing mothers, and of children who have not attained the age of 5 years, and are not in attendance at schools recognised by the Board of Education ; and

(*b*) Paragraph (*f*) of the same sub-section, which relates to powers of supervising the administration of Part I. of the Children Act, 1908, heretofore exercised by the Secretary of State.

2. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

S. R. & O., 1919, No. 1894.

THE MINISTRY OF HEALTH ACT, 1919 (DATE OF COMMENCEMENT) ORDER (NO. 3), 1919. (DATED NOVEMBER 25TH, 1919.)

* * * * * *

Now, therefore, His Majesty, by and with the advice of his Privy Council, in pursuance of the Ministry of Health Act, 1919, and of all other powers enabling him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Ministry of Health Act, 1919 (Date of Commencement) Order (No. 3), 1919.

(2) The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

2. For the purpose of the transfer to the Minister of Health of the powers and duties of the Board of Education mentioned in paragraph (*d*) of sub-section (1) of section 3 of the Ministry of Health Act, 1919, the appointed day shall be the first day of December, 1919.

THE MINISTRY OF HEALTH ACT, 1919 (DATE OF COMMENCEMENT) ORDER, 1920. (DATED FEBRUARY 9TH, 1920.)

* * * * * *

Now, therefore, His Majesty, by and with the advice of his Privy Council, in pursuance of sub-section (1) of section 11 of the Ministry of Health Act, 1919, and of all other powers enabling him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1. This Order may be cited as the Ministry of Health Act, 1919 (Date of Commencement) Order, 1920.

2. For the purpose of the provisions in the Act specified in the schedule hereto, the date of the commencement of the Act shall be the 1st day of April, 1920.

SCHEDULE.

Proviso (i) to sub-section (1) of section 3.

So much of sub-section (2) of section 11 and of the second schedule as repeals paragraph (*b*) of and the proviso to sub-section (2) of section 16 of the National Insurance Act, 1911.

TRANSFER OF FUNCTIONS TO WELSH BOARD OF HEALTH.

CIRCULAR OF MINISTRY OF HEALTH, DATED SEPTEMBER 30TH, 1920, TO LOCAL AUTHORITIES.

I am directed by the Minister of Health to state that in pursuance of the intention expressed in the announcement issued to the Press in October, 1919, he has now arranged for the transfer to the Welsh Board of Health as from 1st October, 1920, of the functions of the Ministry in relation to the following matters in so far as concerns Wales and Monmouthshire :—

(1) Sanction to the appointments of medical officers of health, sanitary inspectors and inspectors of nuisances.

Appendix II.

(2) Venereal diseases.
(3) Isolation hospitals.
(4) Infectious diseases ; except that notifications and returns should continue to be forwarded to Whitehall.
(5) Maternity and child welfare.
(6) (i) The Sale of Food and Drugs Act.
  (ii) Milk supply.
  (iii) Food inspection.
  (iv) Slaughter houses.
  (v) Markets, etc.

Excepting matters directly affecting consumers and public authorities in England, or involving relations with the colonies or with foreign countries, *i.e.*—
  (*a*) Imported foodstuffs.
  (*b*) Shell fish.
  (*c*) Statistics from public analysts' reports.

(7) Appointment of public analysts and officers under Food Acts and Regulations.

Local authorities should, as from the date appointed, address all correspondence relating to these functions of the Ministry to "The Secretary, Welsh Board of Health, Ministry of Health, City Hall, Cardiff."

The annual reports of medical officers of health should be sent to the Welsh Board and requests for these will be issued from time to time by the Board.

In case of doubt as to the office to which communications should be sent, it is desired that they should be addressed to the Welsh Board, which office will see that the papers reach the department concerned.

MINISTRY OF TRANSPORT.

THE MINISTRY OF TRANSPORT (MINISTRY OF HEALTH EXCEPTION OF POWERS) ORDER, 1919.

WHEREAS it is provided by the Ministry of Transport Act, 1919, that as from such date or dates as His Majesty in Council may by Order determine there shall be transferred to the Minister of Transport all powers and duties of any Government department in relation to :—

(*a*) Railways.
(*b*) Light railways.
(*c*) Tramways.
(*d*) Canals, waterways and inland navigations.
(*e*) Roads, bridges and ferries, and vehicles and traffic thereon.
(*f*) Harbours, docks and piers.

And whereas it is further provided by the said Act that His Majesty in Council may by Order except from such transfer any particular powers or duties or provide for the exercise or performance of any power or duty so excepted by the Minister of Transport concurrently or in consultation with or at the instance of the Government department concerned or by the Government department concerned concurrently or in consultation with the Minister of Transport :

And whereas it is further provided that His Majesty may by Order make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to any transfer of powers or duties as aforesaid :

Now, therefore, His Majesty is pleased, by and with the advice of his Privy Council, to order and it is hereby ordered as follows :—

1. This Order may be cited as the Ministry of Transport (Ministry of Health Exception of Powers) Order, 1919.
2. The date on which the powers as aforesaid of the Minister of Health are transferred to the Minister of Transport shall be the twenty-third day of September, 1919.
3. There shall be excepted from such transfer
   (i) the powers and duties of the Minister of Health in regard to the matters aforesaid of giving sanction to the borrowing of money by local authorities ;

(ii) the powers and duties of the Minister of Health under the Housing Acts, 1890 to 1919;

(iii) the powers and duties of the Minister of Health with respect to the confirmation of byelaws made by local authorities other than byelaws made under section 26 of the Highways and Locomotives (Amendment) Act, 1878, and byelaws made under section 6 of the Locomotives Act, 1898.

Provided that in the exercise of the powers so excepted so far as they relate to roads, bridges, vehicles and traffic thereon, the Minister of Health shall act in consultation with the Minister of Transport.

NATIONAL INSURANCE.

See EMPLOYMENT OF WORKMEN, *ante*, p. 3294.

NURSING HOMES.

CIRCULAR 862.

MINISTRY OF HEALTH,
Whitehall, S.W. 1,
22nd March, 1928.

NURSING HOMES REGISTRATION ACT, 1927.

SIR,—I am directed by the Minister of Health to draw the attention of the Council to the above Act; and to append the following observations for their information:—

1. *Date of Commencement.*—This Act, which provides for the registration of nursing homes (including maternity homes), comes into operation on July 1st, 1928.

2. *Repeals.*—As from the commencement of the Act, Part II. of the Midwives and Maternity Homes Act, 1926, and so much of any Local Act as provides for the registration of maternity homes are repealed. But any person who before the commencement of the Act was registered under any repealed enactment in respect of a maternity home shall be deemed to be duly registered under the present Act in respect of that home, if the authority with which he was previously registered is for the purposes of this Act the Local Supervising Authority of the area in which the home is situated. (Section 12 (3)).

3. *Supervising Authority.*—(i) The Local Supervising Authority is the county council or county borough council. But a county council may, on the application of the council of any district within the county, delegate with or without restrictions or conditions any of the powers or duties of the county council under this Act. A district council, if aggrieved by the refusal of a county council to delegate or to delegate otherwise than subject to conditions or restrictions, may appeal to the Minister of Health who, after consultation with the county council, may give a direction with which the county council must comply (section 9).

(ii) In the case of the administrative County of London, the Act is applied with certain modifications which are specified in section 11 of the Act.

4. *Application for Registration.*—Application must be made to the Local Supervising Authority in the form scheduled below, which has been prescribed by the Minister in pursuance of section 1 (2) of the Act. Every application must be accompanied by a fee of 5*s*.

It will be desirable for the Local Supervising Authority to give notice as soon as possible in their area of the requirements of the Act by inserting advertisements in newspapers circulating in the area or in such other way as is most likely to bring these requirements to the notice of persons concerned. The advertisement should state where forms of application can be obtained.

5. *Refusal of Registration.*—(i) *Grounds of Refusal.*—The Local Supervising Authority is required by section 1 (3) to register the applicant and to issue a certificate of registration, unless the authority is satisfied that registration should be refused on one or other of the grounds specified in the proviso to the sub-section. These may be briefly summarised as follows :—

(a) That the applicant or any person employed by him at the home is not a fit person to carry on or be employed at the home.

(b) That the premises are not fit to be used as a home for reasons connected with situation, construction, accommodation, staffing or equipment; or that the premises are used or to be used for purposes which are in any way improper or undesirable.

(c) In the case of a nursing home (other than a maternity home) *not in existence at the commencement of the Act,* (i) that it is not under the charge of a doctor or a qualified nurse resident in the home, or (ii) that there is not a proper proportion of qualified nurses superintending or employed in the nursing of patients.

(d) In the case of a nursing home (other than a maternity home) *in existence at the commencement of the Act,* that the nursing of the patients is not under the superintendence of a qualified nurse resident in the home.

(e) In the case of a maternity home *not in existence at the commencement of the Act,* (i) that the superintendence of the nursing is not in charge either of a qualified nurse or a certified midwife, or (ii) that any person employed in attending any woman in childbirth or in nursing any patient in the home is not either a doctor, a certified midwife, a pupil midwife or a qualified nurse.

(ii) *Notice of Refusal.*—If the Local Supervising Authority propose to refuse registration they must give the notice and observe the other requirements prescribed in detail in section 3 (1) and (2).

(iii) *Appeal.*—Any person aggrieved by refusal of the Local Supervising Authority to register a home may appeal to a Court of Summary Jurisdiction; and an appeal to Quarter Sessions from the decision of the Court of Summary Jurisdiction may be made either by the original appellant or by the Local Supervising Authority. An order of the authority refusing registration shall not come into force until 14 days from the date on which it was made, or if notice of appeal is given until the appeal has been disposed of. (Section 3 (3) and (4).)

[*N.B. Mixed Homes.*

The Local Supervising Authority will be called upon to deal with homes which are partly nursing homes and partly maternity homes within the meaning of the Act.

(1) Under section 12 (3) certain homes already registered as maternity homes under Local Acts or the Midwives and Maternity Homes Act, 1926, will be deemed to be registered under the new Act, and some of these may be found to provide for non-maternity cases as well as maternity cases. The registration authority will presumably have satisfied themselves previously in regard to the maternity provision. But under the new Act it will be necessary for them to satisfy themselves that the requirements of the Act in regard to the provision for non-maternity patients are also observed.

(2) Under section 1 (2) of the Act the Local Supervising Authority will probably receive applications for registration in respect of mixed homes of three kinds :—

(a) The home which is avowedly partly for maternity cases and partly for general cases :—

In this case the accommodation for maternity and non-maternity cases may form separate units, and in practice the Local Supervising Authority may be able to ascertain without difficulty whether the requirements of the Act in regard to both classes of patients are satisfied.

(b) The maternity home which occasionally takes non-maternity cases :—

The Local Supervising Authority will, of course, in the first instance satisfy themselves that the requirements of the Act in regard to maternity patients are complied with. But they must also consider in this instance whether in the provision made for non-maternity cases the safeguards indicated in paragraph (c) or (d) of the proviso to section 1 (3) are secured.

(c) The nursing home which occasionally takes maternity cases :—

In this case the authority must in the first instance satisfy themselves that the requirements of the Act in regard to non-maternity patients are complied with. But they must also consider whether in the case of maternity patients the safeguards indicated in paragraph (e) of the above-mentioned proviso are secured, if the home was not in existence at the commencement of Act.

In any case it is to be borne in mind that nothing in this Act modifies the requirements of the Midwives Acts regarding attendance on women in childbirth.]

6. *Cancellation of Registration.*—The Local Supervising Authority may cancel registration on any ground which would entitle them to refuse an application for registration, or on the ground that any person has been convicted of an offence against the Act in respect of the home. The same requirements as to notices and the same rights of appeal apply as in the case of refusal to register. (Sections 2 and 3.)

7. *Exemptions.*—(i) The following are excluded from the operation of the Act by the definition of nursing home in section 10 (1).

(a) Any hospital or premises maintained or controlled by a Government Department or local authority or by any other body of persons constituted by special Act of Parliament or incorporated by Royal Charter.

(b) Any institution for lunatics within the meaning of the Lunacy Act, 1890.

(c) Any certified institution, certified house or approved home within the meaning of the Mental Deficiency Act, 1913.

(ii) The Local Supervising Authority have power under section 6 to grant exemption, renewable annually, in respect of any hospital or institution not carried on for profit. Any person aggrieved by the refusal of the authority to grant such exemption or by the withdrawal of such exemption may appeal to the Minister of Health.

(iii) The Minister of Health is empowered by section 7 to grant exemption in respect of Christian Science Nursing Homes ; and notification of any such exemption will be sent to the appropriate Local Supervising Authority.

8. *Inspection.*—By section 5 the Medical Officer of Health or some qualified nurse or other officer duly authorized by the Local Supervising Authority may, subject to such regulations as may be made by the authority, enter and inspect premises which are used or which the officer has reasonable cause to believe to be used for the purposes of a nursing home. Any person obstructing such officer will be guilty of an offence under the Act.

Local Supervising Authorities are requested to note the proviso to section 5 (1) which forbids the inspection of medical records relating to individual patients and is designed to ensure privacy of treatment.

9. *Byelaws.*—As Part II. of the Midwives and Maternity Homes Act, 1926, is repealed as from the 1st July, 1928, any byelaws made under section 8 of that Act will accordingly lapse on that date. Local authorities desiring to make byelaws under section 4 of the new Act should apply to the Secretary, Ministry of Health, for model forms, which it is hoped to have ready shortly.

10. *Expenses.*—Section 9 (4) and (5) provides that expenses under the Act shall be defrayed—

(a) in the case of a county council as expenses for general county purposes ;

(b) in the case of a county borough council as part of the general expenses of the council in the execution of the Public Health Acts.

Special provision is made that any expenses incurred by a district council to whom powers and duties have been delegated shall be repaid by the county council up to such amount as may be fixed by the county council. Any expenses in excess of the amount so repaid must be defrayed as part of the general expenses of the district council in the execution of the Public Health Acts.

11. *Offences.*—

(i) Failure to register under section 1 (1) is an offence for which the person will be liable on summary conviction to a fine not exceeding £50, or in the case of a second or subsequent offence to imprisonment for a term not exceeding 3 months or to a fine not exceeding £50 or to both.

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(ii) Failure to exhibit in a conspicuous place in the home the certificate of registration is an offence under section 1 (4).

(iii) Refusal to admit an inspecting officer or obstruction of such officer is an offence under section 5 (2). Penalties are prescribed in section 8.

12. *Definitions.*—Reference should be made to section 10 of the Act for definitions of nursing home, maternity home, qualified nurse, and pupil midwife.

I am, Sir,
Your obedient Servant,
W. A. ROBINSON,
Secretary.

The Clerk to the Council
or
The Town Clerk.

Form of application for registration in respect of a Nursing Home prescribed by the Minister of Health under Section 1 (2) *of the Nursing Homes Registration Act,* 1927.

This application must be forwarded to the Clerk of the Council.
The requisite fee of 5*s.* must accompany this application.

NURSING HOME.

APPLICATION FOR REGISTRATION.

I (or We) apply to the Council in pursuance of the provisions of the Nursing Homes Registration Act, 1927, for registration in respect of a Nursing Home, and furnish below particulars in regard to the Home.

N.B.—Before filling up this form the applicant should carefully read the notes at the end of the form.

1. (*a*) Full name of the applicant or applicants. (*See* Note A below.) (*b*) Private address of applicant. (*c*) Technical qualifications (if any). (*d*) Nationality of applicant.	(*a*) .... (*b*) .... (*c*) .... (*d*) ....
2. If the application is made by a company, society, association or body, state :— (*a*) Full name of individual responsible for the management of the Home. (*See* Note E.) (*b*) Private address of person named under (*a*). (*c*) Registered or principal office of company, society, association or body.	 (*a*) .... (*b*) .... (*c*) ....
3. (*a*) Name, style or title under which the home is carried on. (*See* Note B.) (*b*) Address of the home. (*See* Note C.) (*c*) Brief description of situation, construction, accommodation and equipment of the premises. (*d*) What other business (if any) is transacted on the same premises as the home ? (*See* Note D.)	(*a*) .... (*b*) .... (*c*) .... (*d*) ....
4. Number of patients provided for :— (*a*) Maternity patients. (*b*) Other patients.	 (*a*) .... (*b*) ....

5. (*a*) Names and qualifications of nursing staff. (*b*) Where are the nursing staff accommodated?	(*a*) .... (*b*) ....
6. Names and qualifications of resident or visiting physicians or surgeons.	
7. If the Home is not a Maternity Home and was not in existence on July 1st, 1928, state :— (*a*) Whether it is under the charge of a duly qualified medical practitioner or a qualified nurse, resident in the Home (giving name and qualifications). (*b*) What proportion of qualified nurses are there among the persons superintending or employed in the nursing of the patients? NOTE.—*If the Home is a mixed Home* (i.e., *makes provision for maternity and non-maternity patients*) *this question should be answered with reference to the provision made for non-maternity patients, if such provision was made subsequently to July* 1*st*, 1928.	(*a*) .... (*b*) ....
8. If the home is not a Maternity Home, and was in existence before July 1st, 1928, state whether the nursing of the patients is under the superintendence of a qualified nurse who is resident in the home (giving name and qualifications). NOTE.—*If the Home is a mixed Home this question should be answered with reference to the provision made for non-maternity patients, if such provision was in existence before July* 1*st*, 1928.	
9. If the Home is a Maternity Home and was not in existence on July 1st, 1928, state :— (*a*) Whether the person superintending the nursing of the patients is a qualified nurse or a certified midwife (give name and qualifications). (*b*) Whether there is any person employed in attending any women in the Home in childbirth or in nursing any patient in the Home, who is not either a duly qualified medical practitioner, a certified midwife, a pupil midwife or a qualified nurse. NOTE.—*If the Home is a mixed Home this question should be answered with reference to the provision made for maternity patients if such provision was made subsequently to July* 1*st*, 1928.	(*a*) .... (*b*) ....
10. Does the applicant employ in connection with the Home any persons of alien nationality? If so, give number and particulars.	

11. What fees are charged to patients ?	
12. Address of any other Nursing Home or business in which applicant is interested, and the nature and extent of applicant's interest therein.	

I (or We) declare that the above particulars are true in every respect.

Date..................19 . *Signature or Signatures*..

NOTES.

A.—The application must be signed by the responsible person or persons carrying on the Home. *In the case of a limited company, it must be signed by the Managing Director or Secretary.*

Applications from non-incorporated Societies, etc.—An application from a non-incorporated society, association or body must be accompanied by a certified copy of the resolution authorising a matron, superintendent or other responsible person to act on its behalf.

B.—The name, style or title specified in this application must not be changed without the previous consent in writing of the Council.

C.—In the event of a change of address, application for registration in respect of the new premises must at once be made to the Council on the official form, accompanied by a fee of 5*s*.

D.—In the event of any other business being transacted at some future date on the same premises as the Home, the Council should at once be notified of the fact.

E.—In the case of any Home carried on by a company, association or body corporate, the Council should be at once notified of any change in regard to the individual responsible for the management of the Home.

Cases in which Fresh Registration is required.

Fresh registration is necessary in cases in which (1) a Home is transferred from one person, society, etc., to another ; (2) any change occurs in the constitution of the body carrying on a Home ; or (3) a Home is removed to other premises. In each case the fee of 5*s*. must accompany the application.

Definitions.

Section 10 of the Nursing Homes Registration Act contains the following definitions :—

" Nursing Home " means any premises used or intended to be used for the reception of and the providing of nursing for persons suffering from any sickness, injury, or infirmity, and includes a maternity home, but does not include any hospital or other premises maintained or controlled by a Government Department or by any body of persons constituted by special Act or incorporated by Royal Charter or institutions under the Lunacy or Mental Deficiency Acts.

" Maternity Home " means any premises used or intended to be used for the reception of pregnant women or of women immediately after childbirth.

" Qualified Nurse " means a person registered in the general part of the register of nurses required to be kept under the Nurses Registration Act, 1919, or a person who had before July 1st, 1928, completed a three years' course of training in a hospital which was during the period of her training, or subsequently became, a training school approved by the General Nursing Council for England and Wales, or the General Nursing Council for Scotland, or the General Nursing Council for Northern Ireland, for the purpose of admission to the general part of the said register.

In relation to any premises used or intended to be used solely for the reception of, and the provision of nursing for, a class of patients in whose case the requisite nursing can be suitably and adequately provided by nurses of a class whose names are contained in some part of the register of nurses required to be kept under the Nurses' Registration Act, 1919, other than the general part 5 of that register, references in the above definition of " qualified nurse " to the general part of the register shall be construed as including references to that other part of the register.

" Pupil Midwife " means a person who is undergoing training with a view to becoming a certified midwife, and for that purpose attending women in childbirth as part of a course of practical instruction in midwifery recognised by the Central Midwives Board.

Exemptions.

The Local Supervising Authority may grant exemption from the operation of the Act in respect of any hospital or institution not carried on for profit.

Appeals.

(1) Any person aggrieved by an order of the Local Supervising Authority refusing an application for registration or cancelling any registration may, within 14 days after the date on which the copy of the order was sent to him, appeal against it to a Court of Summary Jurisdiction.

(2) Any person aggrieved by the refusal of a Local Supervising Authority to grant an exemption, or by the withdrawal of such exemption, may appeal to the Minister of Health.

OFFENSIVE TRADES.

CIRCULAR, OCTOBER 11TH, 1910.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.

SIR,—I am directed by the Local Government Board to advert to the Order made by them putting in force in the district of the council section 51 of the Public Health Acts Amendment Act, 1907. In drawing the attention of the council to the terms of sub-section (1) of the section, I am to point out that an offensive trade which is not referred to by name in section 112 of the Public Health Act, 1875, and which would, under that Act, have required the consent of the council for its establishment may, now that section 51 of the Act of 1907 is in force, be established without such consent, unless it is specifically declared to be an offensive trade by an Order confirmed by the Board under sub-section (1) of the section.

The Board suggest that the council should consider whether in respect of their district there are any trades, other than those specifically named in section 112 of the Act of 1875, which it is desirable to deal with by a Declaratory Order issued under section 51 of the Act of 1907. The Board will be prepared to entertain an application for the confirmation of such an Order, but they would, of course, have to consider any representations which might be made to them on behalf of the trades affected. They suggest that the Order should take the form of a declaration under the seal of the council such as is printed overleaf, and the Board would be glad to see the Order in draft before it is formally made. At the same time they would wish to be furnished as regards any trade included in the Order but not dealt with in the model byelaws with respect to offensive trades with a copy of any representation by the medical officer of health as to the carrying on of the trade in the district, or with a report from that officer giving particulars of the trade and showing the need for greater control over it.

The Board are also of opinion that where byelaws are in force with respect to offensive trades there might be some advantage, if after the Declaratory Order has been made, the council were to re-enact the byelaws under the somewhat wider powers of section 51 (2) of the Act of 1907. Copies of the model byelaws can be obtained on application to the Board, together with a memorandum containing instructions for submitting byelaws to the Board. If the council decide to remake the byelaws the draft could be submitted for consideration without waiting for the Declaratory Order to take effect.

I am, etc.

The Town Clerk, or
The Clerk to the Urban or Rural District Council.

OFFICERS.

See also p. 3917, *post.*

APPOINTMENT OF MEMBERS AND EX-MEMBERS TO PAID OFFICES—CIRCULAR.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
5th May, 1911.

SIR,—I am directed by the Local Government Board to state that they have had under consideration the question of the appointment to paid offices under town councils, and urban and rural district councils, of persons who are or have been members of those councils.

Representations on this subject have been addressed to the Board from time to time, and they have been reminded of the rule made by the Registrar-General with regard to the office of registrar. The Royal Commission on the Poor Laws and Relief of Distress referred to that rule with approval, and have recommended that "a local authority should not be allowed to appoint an ex-member as a paid officer unless he or she has ceased to be a member of the local authority for a period of, say, twelve months before appointment."

The Board are in agreement with this view, and they feel assured that councils generally recognise the impropriety of appointing to paid offices persons who are or have been recently members of their own body.

The Board, therefore, think it necessary to intimate generally that in future, unless very special grounds are shown, they will not be prepared to sanction the appointment to any office, in respect of which their sanction may be requested, of any person who is or has been within twelve months a member of the council making the appointment.

I am, etc.

The Town Clerk, or
The Clerk to the District Council.

PUBLIC ANALYSTS—GENERAL ORDER.

(March 7th, 1900.)

SALE OF FOOD AND DRUGS ACTS, 1875 TO 1899—APPOINTMENT OF PUBLIC ANALYST: REGULATION AS TO COMPETENCY.

WHEREAS by the Sale of Food and Drugs Acts provision is made for the appointment by certain local authorities of persons to act as analysts of all articles of food and drugs, and every such appointment is made subject to the approval of the Local Government Board;

And whereas by sub-sections (1) and (5) of section 3 of the Sale of Food and Drugs Act, 1899 (hereinafter referred to as "the Act"), it is enacted as follows:

"(1) It shall be the duty of every local authority entrusted with the execution of the laws relating to the sale of food and drugs to appoint a public analyst . . ."

"(2) Any public analyst appointed under the Sale of Food and Drugs Act shall furnish such proof of competency as may from time to time be required by regulation framed by the Local Government Board."

And whereas by section 25 of the Act it is enacted as follows:

"In this Act unless the context otherwise requires—

* * * * * *

"The expression 'local authority' means any local authority authorised to appoint an analyst for the purposes of the Sale of Food and Drugs Act, and the expression 'public analyst' means an analyst so appointed."

Now, therefore, we, the Local Government Board, in pursuance of the powers given to us by sub-section (5) of section 3 of the Act do hereby order that the following regulation shall have effect; that is to say—

Every person appointed on or after the 1st of January, 1900, to the office of public analyst shall furnish such proof as we may deem sufficient of his competent skill in and knowledge of (a) analytical chemistry, (b) therapeutics, and (c) microscopy.

Such proof shall in every case comprise documentary evidence that such person holds the requisite certificate, diploma, licence, or document conferring the qualification or attesting his possession of the skill or knowledge to which the same applies, and granted or issued by any person or body of persons for the time being recognised by us as competent to confer such qualification or to test such skill or knowledge. Such proof also shall comprise such further evidence as we may in any particular case require.

All such documentary evidence as is hereinbefore mentioned shall be furnished by such person to the local authority by whom he is appointed and shall be transmitted to us by the local authority when applying for our approval of the appointment:

Provided that nothing in this regulation contained shall, in the case of any person who was appointed to the office of public analyst with our approval between the 1st of January, 1891, and the date hereof, or of any person who is so appointed for the first time after such last-mentioned date, apply upon any subsequent appointment of such person to the said office.

CIRCULAR No. 162 (ROADS).

MINISTRY OF TRANSPORT, ROADS DEPARTMENT,
7, WHITEHALL GARDENS, S.W.1.
August 15*th*, 1922.

GRANTS TOWARDS SALARY OF ENGINEER OR SURVEYOR FROM THE ROAD FUND UNDER SECTION 17 (2) OF THE MINISTRY OF TRANSPORT ACT, 1919 (*a*).

SIR.—I am directed to refer to paragraph 8 of Circular Letter No. 150 (Roads), which was issued on the 22nd May, 1922, and to inform you that, in approved cases, the Minister of Transport is now in a position to defray, by agreement with the local authority, a proportion of the salary of the surveyor or engineer to a local authority.

A draft of the agreement which local authorities will be required to enter into is set out overleaf and if your council desire to obtain a contribution towards the salary of their surveyor or engineer, I am to request that you will submit the enclosed Form 163 (Roads) duly completed, before the 15th September next, when copies of the proposed agreement will be forwarded for completion by the council.

I am to add that whilst it is open to all local authorities to apply for a grant towards the salary of their surveyor or engineer irrespective of the classification of the roads under their control, the Minister is not prepared at the present time to entertain any applications for contributions towards the travelling expenses and establishment charges of such officers.

I am, Sir,
Your obedient Servant,
H. H. PIGGOTT,
Assistant Secretary.

AN AGREEMENT made the day of 19 between the MINISTER OF TRANSPORT (hereinafter called "the Minister") of the one part and

The county council of the (*b*) administrative county of ;
The mayor, aldermen and burgesses of the (county) borough of acting by the council;
The urban district council of in the county of ;
The rural district council of in the county of ;
The mayor, aldermen, and councillors of the metropolitan borough of ;
The provost, magistrates, and councillors of the Burgh of ;

(hereinafter called "the council") of the other part.

(*a*) In connection with this Circular it should be observed that certain road grants are discontinued under Sched. II. of the L. G. A., 1929, and that under Part III. of that Act rural district councils cease to be highway authorities (s. 30), and that classified roads in urban districts become "county roads" vested in and maintainable by the county council (s. 31), subject to the right of the larger urban district councils to "claim" the county roads in their district (s. 32). See a letter of June 26th, 1929, at p. 3917, *post.*

(*b*) Omit for Scotland.

Appendix II.

Whereas by sub-section 2 of section 17 of the Ministry of Transport Act, 1919, it is enacted that for the purpose of advances for the construction, improvement, or maintenance of roads the Minister may *inter alia* by agreement with the local authority defray half the salary and establishment charges of the engineer or surveyor to a local authority responsible for the maintenance of such roads subject to the conditions that the appointment, retention, and dismissal of such engineer or surveyor and the amount of such establishment charges shall be subject to the approval of the Minister.

And whereas the council is a local authority responsible for the maintenance of roads.

And whereas in exercise of the powers conferred by the hereinbefore recited sub-section the Minister and the council have agreed to enter into the agreement hereinafter contained.

1. Subject to the conditions and stipulations hereinafter contained, the Minister will pay to the council in each year a contribution of £ towards (but in no case exceeding one-half of) so much of the salary of the surveyor/engineer of the council as is paid in respect of his duties in connection with the construction, improvement, or maintenance of roads and bridges and is chargeable to the highways and bridges account of the council.

2. For the purpose of this agreement the proportion of the salary of such surveyor/engineer so chargeable to the highways and bridges account shall be deemed to be £ per annum : provided that the said sum of £ may be increased or decreased from time to time with the prior approval in writing of the Minister, and that in the event of such approval being given the Minister may make a proportionate modification in the amount of the contribution payable under section 1 of this agreement.

3. The council shall not appoint, retain or dismiss any such surveyor/engineer without obtaining the previous approval of the Minister and the Minister shall not be bound to make any payment in relation to the salary of any surveyor/engineer who has been appointed or retained without such approval.

4. This agreement may be determined by either party giving to the other six calendar months' notice in writing under the hand of an assistant secretary of the Ministry of Transport or the clerk to the council as the case may be.

Original {Given under the seal of the Minister of Transport this day of , 19 .

Duplicate {Given under the seal of the this day of , 19 in the presence of .

S. R. & O., 1926, No. 552.

THE SANITARY OFFICERS ORDER, 1926, DATED 27TH MAY, 1926, MADE BY THE MINISTER OF HEALTH.

The Minister of Health, in exercise of all powers enabling him by any statute in that behalf, hereby orders as follows :—

PART I.

Interpretation, etc.

1. This Order may be cited as the Sanitary Officers Order, 1926, and shall come into operation on the 1st day of June, 1926.

2.—(1) In this Order, unless the context otherwise requires :—

"The Minister" means the Minister of Health ;

"Local authority" means a local authority, other than a county council, empowered or required to appoint a medical officer of health or sanitary inspector, and includes a port sanitary authority ;

"District" means the district subject to the jurisdiction of the local authority for the purposes of the Public Health (London) Act, 1891, or of the Public Health Act, 1875, as the case may be, and includes a part of a district ;

"London" means the administrative county of London.

(2) The provisions of this Order relating to appointment, tenure of office, and salary shall not apply to a person appointed to act temporarily in the place of a medical officer of health or sanitary inspector who is absent from duty.

(3) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. The Sanitary Officers Order, 1922, is hereby revoked, but without prejudice to any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

PART II.

Medical Officers of Health.

4.—(1) This Part of this Order shall apply in the case of every medical officer of health of a district or combination of districts outside London one-half of whose salary is intended to be repayable by a county council or county borough council in pursuance of the Local Government Act, 1888 (*a*).

(2) This Part of this Order shall apply, with the exception of Articles 9 and 10, and of paragraph (2) of Article 14, in the case of every medical officer of health appointed or reappointed by any local authority in London.

(3) Save as aforesaid in the case of London the provisions of this Part of this Order relating to qualifications and duties shall apply to all medical officers of health other than the medical officer of health of a county.

(4) Paragraphs (1), (3) and (4) of Article 14 shall apply to the medical officer of health of a county, other than London, with the substitution of " county council " for " local authority."

5. A person shall not be qualified to be hereafter appointed or reappointed as a medical officer of health of any district or combination of districts unless, in addition to the qualification prescribed by any statute, he is also either registered in the medical register as the holder of a diploma in sanitary science, public health, or state medicine, or has had not less than three years' previous experience of the duties of a medical officer of health.

6. The appointment of a medical officer of health shall be subject to the approval of the Minister.

7. When a vacancy in the office of medical officer of health of a local authority has occurred or is impending, the clerk to the authority shall forthwith report the fact to the Minister, stating the cause of the vacancy or impending vacancy.

8.—(1) A local authority shall, before appointing any medical officer of health under this Order, submit to the Minister a statement in such form and containing such particulars relating to the appointment as may from time to time be required or directed by the Minister.

(2) A local authority shall, as soon as the approval of the Minister has been given to the proposals contained in the statement so submitted, cause to be inserted in some newspaper or newspapers circulating in the district of the authority at least seven days before the date on which it is proposed that the appointment shall be considered by the authority, an advertisement specifying the district for which the appointment is to be made, together with the amount of the salary and of any travelling or other allowances proposed to be assigned.

9. The Minister may for the purposes of section 24 (2) (*c*) of the Local Government Act, 1888 (*a*), but not for any other purpose, at any time, if for any reason he thinks it desirable so to do, withdraw his approval to the appointment of the medical officer of health.

10.—(1) Every medical officer of health hereafter appointed or reappointed who by the terms of his appointment is not required to devote the whole of his time to the duties of his office, or to the duties of that office and of any other office or offices held by him under any local or public authority, shall be appointed for a specified term ending on the 31st day of March next following the date of his appointment.

(2) Subject to the provisions of this Order, every medical officer of health appointed for a specified term shall, on the expiration of that term, unless the local authority

(*a*) See now Sched. III. r. 3 of the L. G. A., 1929, *ante*, p. 2008.

not less than three months before the expiration of the term by resolution otherwise determine and give notice to him accordingly, continue to hold office from year to year, subject to the right of the local authority to give not less than three months' notice expiring on the 31st day of March in any year, until he dies or resigns, or is removed by the Minister or by the local authority with the consent of the Minister, or is proved to the satisfaction of the Minister to be incapable by reason of physical or mental infirmity from performing the duties of his office.

(3) A local authority may at any time, by resolution, with the consent of the Minister, appoint a medical officer of health, appointed as aforesaid, to be a whole-time medical officer of health.

11. A local authority may at their discretion suspend any medical officer of health from the discharge of his duties and shall in the case of every such suspension forthwith report the same, together with the cause thereof, to the Minister, and if the Minister directs that such suspension shall determine, the officer shall forthwith resume the performance of his duties.

12. A medical officer of health shall not be appointed by a local authority who does not, as one of the terms of his engagement, agree to give at least one month's notice before resigning his office or to forfeit such sum as may be agreed upon at the date of his appointment as liquidated damages.

13. A local authority shall pay to every medical officer of health such salary as may from time to time be approved by the Minister:

Provided that the local authority may, with the approval of the Minister, pay to any medical officer of health a reasonable gratuity on account of extraordinary services performed by him, or on account of other unforeseen or special circumstances connected with his duties or the necessities of the district or districts for which he is appointed.

14. A medical officer of health, in respect of the district for which he is appointed, or if he is appointed for more than one district, then in respect of each district shall—

(1) perform all the duties imposed on a medical officer of health by statute and by any Orders, Regulations or directions from time to time made or given by the Minister, and by any bye-laws or instructions of the local authority applicable to his office;

(2) forward to the Minister by post every week in time to ensure its delivery on Monday or the morning of Tuesday, at the latest, a return, in such form as the Minister may from time to time require, of the number of cases of infectious disease notified to him during the week ended on the preceding Saturday night; and shall also forward at the same time a duplicate of the return to the medical officer or officers of health of the county or counties in which the district is situated;

(3) as soon as practicable after the 31st day of December in each year make an annual report to the local authority up to the end of December on the sanitary circumstances, the sanitary administration and the vital statistics of the district, containing in addition to any other matters upon which he may consider it desirable to report, such information as may from time to time be required by the Minister, and furnish the Minister with as many copies of such report as the Minister may from time to time require;

(4) furnish the Minister with one copy of any special report which he may make to the local authority;

(5) forthwith report to the Minister any case of plague, cholera, or smallpox, or any serious outbreak of disease in the district which may be notified to him, or which may otherwise come or be brought to his knowledge, and, in the case of a county district, shall also notify the medical officer of health of the county.

PART III.

Sanitary Inspectors.

15. This Part of this Order shall apply in the case of every sanitary inspector appointed or reappointed by any local authority in London and of any other sanitary

inspector one-half of whose salary is intended to be repayable by a county council or county borough council in pursuance of any statute in that behalf.

16. A person shall not be qualified to be hereafter appointed or reappointed as a sanitary inspector of any district or combination of districts unless he is the holder of—

(*a*) a certificate of the Royal Sanitary Institute and Sanitary Inspectors Examination Joint Board; or

(*b*) a certificate of the late Sanitary Inspectors Examination Board; or

(*c*) a certificate issued before the 1st day of January, 1899, by the Sanitary Institute, now known as the Royal Sanitary Institute; or

(*d*) in the case of an appointment as sanitary inspector of a district or combination of districts outside London a certificate of the Royal Sanitary Institute issued before the 1st day of January, 1926:

Provided that if the local authority employ a qualified veterinary surgeon for purposes connected with the inspection of meat, they may, with the approval of the Minister, appoint him as a sanitary inspector for the purpose only of exercising the powers and duties of such an officer in relation to meat, notwithstanding that he does not possess one of the qualifications prescribed by this Article.

17. The provisions of Articles 6 to 13 inclusive of this Order, with the exception of Article 9 in the case of a sanitary inspector appointed or reappointed by any local authority in London, shall apply to a sanitary inspector, as they apply to a medical officer of health, with the necessary modifications:

Provided that the provisions of Article 10 of this Order shall apply in the case of a sanitary inspector (other than a sanitary inspector to whom section 2 (1) or section 7 (1) of the Public Health (Officers) Act, 1921, applies), notwithstanding that he is required by the terms of his appointment to devote the whole of his time to the duties of his office, or to the duties of that office and of any other office or offices held by him under any local or public authority.

18. Every sanitary inspector hereafter appointed or reappointed who by the terms of his appointment is not required to devote the whole of his time to the duties of his office or to the duties of that office and of any other office or offices held by him under any local or public authority shall as one of the terms of his engagement undertake to abstain wholly in his private business from any work arising out of or in any way connected with the discharge of his duties as sanitary inspector.

19. The sanitary inspector as regards the district or part of the district for which he is appointed shall, except as provided in Article 20 of this Order—

(1) perform under the general direction of the medical officer of health all the duties imposed on a sanitary inspector by statute and by any Orders, Regulations or directions from time to time made or given by the Minister, and by any bye-laws or instructions of the local authority applicable to his office;

(2) by inspection of his district both systematically and at intervals as occasion requires, keep himself informed of the sanitary circumstances of the district, and in respect of the nuisances therein that require abatement;

(3) report to the local authority any noxious or offensive businesses, trades, or manufactories established within his district, and the breach or non-observance of any bye-laws or Regulations made in respect thereof;

(4) report to the local authority any damage done to any works of water supply, or other works belonging to them, and also any case of wilful or negligent waste of water supplied by them, or any fouling by gas, filth, or otherwise, of water used or intended to be used for domestic purposes;

(5) from time to time, and forthwith upon complaint, visit and inspect the shops and places kept or used for the preparation or sale of any article of food to which the provisions of the statutes and Regulations in that behalf apply, and examine any article of food therein, and take such proceedings as may be necessary:

Provided that in any case of doubt arising under this paragraph, he shall report the matter to the medical officer of health, with the view of obtaining his advice thereon;

(6) when and as directed by the local authority, procure samples of food, drink,

Appendix II.

and drugs and submit such samples to be analysed by the analyst appointed, under the Sale of Food and Drugs Acts, 1875 to 1907 (*a*), and take such proceedings as may be necessary ;

(7) give immediate notice to the medical officer of health of the occurrence within his district of any infectious or epidemic disease or other serious outbreak of illness ; and whenever it appears to him that the intervention of such officer is necessary in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house or of any other conditions affecting the health of the district, forthwith inform the medical officer of health thereof ;

(8) if directed by the medical officer of health to do so, remove, or superintend the removal of, patients suffering from infectious disease to an infectious diseases hospital, and perform or superintend the work of disinfection after the occurrence of cases of infectious disease ;

(9) if so directed by the local authority, supervise the scavenging of his district or any part thereof ;

(10) if so directed by the local authority, act as officer of the local authority under the Diseases of Animals Acts, 1894 to 1909, the Canal Boats Acts, 1877 and 1884, the Rats and Mice (Destruction) Act, 1919, and under any Orders or Regulations made thereunder ;

(11) if so directed by the local authority, act as designated officer for the purposes of Part IV. of the Housing Consolidated Regulations, 1925 ;

(12) if so directed by the local authority, superintend and see to the due execution of all works which may be undertaken by their direction for the suppression or removal of nuisances ;

(13) enter from day to day, in a book or on separate sheets or cards provided by the local authority, particulars of his inspections and of the action taken by him in the execution of his duties ;

(14) at all reasonable times, when applied to by the medical officer of health, produce to him his books, or any of them, and render to him such information as he may be able to furnish with respect to any matter to which the duties of sanitary inspector relate ;

(15) as soon as practicable after the 31st day of December in each year, furnish the medical officer of health with a tabular statement containing the following particulars :—
  (*a*) the number and nature of inspections made by him during the year ;
  (*b*) the number of notices served during the year, distinguishing statutory from informal notices ;
  (*c*) the result of the service of such notices.

20. Where in any district there shall be two or more sanitary inspectors, nothing in this Order shall be deemed to prevent the local authority from distributing among them the duties directed by this Order to be performed by a sanitary inspector.

PART IV.

General.

21. The Minister may dispense with any of the requirements of this Order in any case in which it appears to him desirable so to do, on such terms and conditions as he thinks fit, and such dispensation may be given at any time, provided that the Minister is satisfied that the interests of any person will not be prejudiced thereby.

Given under the Official Seal of the Minister of Health this Twenty-seventh day of May, in the year One thousand nine hundred and twenty-six.

(L.S.) W. A. ROBINSON,
Secretary, Ministry of Health.

(*a*) Now the Food and Drugs (Adulteration) Act, 1928, *ante*, p. 2948.

CIRCULAR No. 701.

COUNTY COUNCILS, TOWN COUNCILS, ETC.

MINISTRY OF HEALTH,
29*th May*, 1926.

SANITARY OFFICERS ORDER, 1926.

SIR,—1. I am directed by the Minister of Health to transmit to the authority the accompanying copies of the Sanitary Officers Order, 1926, which relates to medical officers of health appointed by county councils, local sanitary authorities and port sanitary authorities, and to sanitary inspectors appointed by local sanitary authorities and port sanitary authorities. The Order comes into force on the 1st June, 1926, and revokes the Order of 1922. It does not, however, affect any rights or liabilities already acquired or incurred under that Order or previous Orders.

2. The main change effected by the present Order is in regard to the qualifications of sanitary inspectors (see Article 16), but the opportunity has been taken to introduce a number of minor alterations which experience has shown to be desirable. Generally the provisions of the Order of 1922 are reproduced in the new Order.

3. From the 1st June, 1926, appointments of medical officers of health and sanitary inspectors made by sanitary authorities in London must comply with the provisions of the present Order. This remark applies also to similar appointments made by sanitary authorities outside London where it is desired that repayment of one-half of the salary should be made under the Local Government Act, 1888, and charged to the Exchequer Contribution Account of the county council or county borough council, as the case may be. A resolution appointing such an officer should state that the appointment is subject to the provisions of the Order. In the case of sanitary officers outside London where the authority do not desire to receive repayment in respect of the salary, the only provisions of the Order which apply are those relating to qualifications and duties of medical officers of health. As regards county medical officers of health, the only provisions which apply are paragraphs (1), (3) and (4) of Article 14, which prescribe the duties of these officers.

As regards existing officers, their tenure of office is not affected by the new Order, but the duties now prescribed apply to sanitary inspectors whose appointment has been approved by the Minister, and to all medical officers of health.

Attention is drawn to the fact that although Articles 6 to 13 refer specifically to medical officers of health they are applied to sanitary inspectors by Article 17, with certain modifications.

4. Article 5 provides, like the Order of 1922, that a medical officer of health must possess (in addition to any other qualification prescribed by statute) a registered diploma in sanitary science, public health or State medicine, or have had not less than three years' previous experience of the duties of a medical officer of health. The Minister recognises, however, that in small districts it may not always be possible for the authority to obtain the services of an officer thus qualified, and in Article 21 of the Order he has reserved to himself the right to dispense with this requirement. He will, however, expect local authorities to make every endeavour to appoint as medical officers of health persons holding the prescribed qualifications, and he will be prepared to waive the requirement only in cases where it is clearly shown that the authority were not able to comply with it.

5. Article 8 (1) requires the submission to the Minister of a statement of particulars relating to the appointment before the appointment is made. Forms for the purpose may be obtained from this Office.

6. The requirement in Article 8 (2) will be deemed to be satisfied if the appointment is advertised in the medical or local government press, and such an advertisement will as a rule attract a wider selection of candidates.

7. The tenure of office of district medical officers of health outside London and of certain sanitary inspectors, in both London and the provinces, who give the whole of their time to public duties is governed by the Public Health (Officers) Act, 1921.

Appendix II. This Act, in so far as it relates to tenure of office, does not apply to every county borough, and, for the sake of convenience, the schedule to this Circular indicates the county boroughs and the sanitary officers thereof to whom these provisions do apply. The tenure of office of Metropolitan medical officers of health is governed by paragraphs (*b*) and (*c*) of section 108 (2) of the Public Health (London) Act, 1891; and that of county medical officers of health by sub-sections (5) and (6) of section 68 of the Housing, Town Planning, etc., Act, 1909.

Under Article 10, medical officers of health and sanitary inspectors who do not give the whole of their time to public duties and whole-time sanitary inspectors to whom neither section 2 (1) nor section 7 (1) of the Public Health (Officers) Act, 1921, applies, must be appointed in the first place for a specified term ending on the 31st March next following the date of appointment. On the expiration of that term the officer (unless the local authority, not less than three months before the expiration of the term, give notice to the contrary) will continue to hold office from year to year, subject to the provisions of the Order, without further appointment by the authority or approval by the Minister. Power is reserved, however, to the authority themselves to determine the appointment on the 31st March in any year by giving not less than three months' previous notice.

8. Article 14 prescribes briefly the duties of a medical officer of health. He is now required to furnish the department with such number of copies of his annual report as the Minister may direct (which is usually six) in addition to one copy of any special report. His duties are indicated in detail in a memorandum which was issued by the department in March, 1925.

9. It is provided in Article 16 that henceforth the certificate of The Royal Sanitary Institute and Sanitary Inspectors Examination Joint Board shall be the qualification for appointment to the position of sanitary inspector. The rights of holders of certificates granted by the late Sanitary Inspectors Examination Board or of certain certificates issued by the Royal Sanitary Institute are safeguarded by paragraphs (*b*), (*c*) and (*d*) of the Article.

Under the proviso to Article 16 a qualified veterinary surgeon may in certain circumstances be appointed as a sanitary inspector for the purpose of exercising powers and duties in relation to meat, notwithstanding that he is not the holder of one of the qualifications prescribed by the Article. This provision has been inserted to meet special cases where a local authority have found it desirable to employ a veterinary surgeon as meat inspector, and consider that it is necessary that he should for that purpose possess the powers and duties of a sanitary inspector. The Order enables the veterinary surgeon in such a case to be appointed, with the approval of the Minister, as a sanitary inspector, but only for purposes connected with the inspection, examination and seizure of meat. In the opinion of the Minister any veterinary surgeon so appointed should possess a diploma in veterinary State medicine or have had special experience in practical meat inspection.

In the past the Minister has been willing to recognise the certificate of sanitary knowledge granted by the Liverpool University School of Hygiene as a qualification for the appointment of sanitary inspector outside London, and, notwithstanding the provisions of Article 16 of the present Order, he will be prepared to continue the same course as regards such certificates granted by the school prior to May, 1926.

10. Article 19 prescribes the duties of sanitary inspectors, and reproduces the provisions of Article 19 of the Order of 1922 with three additions. The added provisions relate to the taking of samples under the Sale of Food and Drugs Acts, housing inspections and the superintendence of works for the removal of nuisances.

11. Except as regards qualifications and duties, the Order does not apply in the case of a person appointed to act temporarily in the place of a medical officer of health or sanitary inspector who is absent from duty; see Article 2 (2). In pursuance of section 109 of the Public Health (London) Act, 1891, and section 4 of the Public Health (Officers) Act, 1921, the sanction of the Minister should be obtained to a temporary arrangement for the performance of all or any of the duties of a medical officer of health or of a sanitary inspector. A similar provision in regard to a temporary arrangement made in respect of the office of county medical officer of health is to be found in section 68 (6) of the Housing, Town Planning, etc., Act,

1909. The approval of the Minister to the appointment of a deputy for a district medical officer of health is required by section 191 of the Public Health Act, 1875. The Minister is advised that a local authority may appoint a deputy medical officer of health under the last-mentioned section before the disability of the medical officer of health to act has arisen.

12. Certain local authorities enter into formal agreements with their sanitary officers on appointment, and this practice has decided advantages. While, however, the Minister would like to see this course generally adopted, he does not feel that he would be justified at present in making it compulsory. In these circumstances he would be glad if the authority in making any fresh appointment of a medical officer of health or sanitary inspector would take into consideration the question of entering into an agreement with the officer. A model form of agreement may be obtained from the department.

13. In accordance with Circular 136 of 30th September, 1920, correspondence relating to the appointments of sanitary officers in Wales and Monmouthshire should be addressed to "The Secretary, Welsh Board of Health, City Hall, Cardiff."

Further copies of the Order may be purchased through any bookseller or directly from His Majesty's Stationery Office.

I am, etc.

SCHEDULE.

COUNTY BOROUGHS TO WHICH SECTIONS 1 (*a*) AND 2 (1) (*a*) OF THE PUBLIC HEALTH (OFFICERS) ACT, 1921, APPLY.

Bath (*Medical Officer of Health only*), Birmingham, Blackpool, Bournemouth, Bristol (*Medical Officer of Health only*), Canterbury, Cardiff, Carlisle, Chester, Coventry (*Medical Officer of Health only*), Croydon (*Medical Officer of Health only*), Darlington, Dewsbury, Eastbourne, East Ham, Gateshead (*Medical Officer of Health only*), Gloucester (*Senior Sanitary Inspector only*), Great Yarmouth, Grimsby, Huddersfield, Liverpool, Merthyr Tydfil, Newport (*Medical Officer of Health only*), Northampton, Portsmouth, Preston (*Medical Officer of Health only*), Reading, Rotherham (*Senior Sanitary Inspector only*), St. Helens, Smethwick, Southampton, Southend-on-Sea, Southport, South Shields, Sunderland, Swansea, Tynemouth, Wakefield, Wallasey, Warrington (*Medical Officer of Health only*), West Bromwich, West Hartlepool.

Unless otherwise stated, the Act applies both to the Medical Officer of Health and to the Senior Sanitary Inspector of the County Borough.

STATUTORY RULES AND ORDERS,
1924, No. 628.

THE LOCAL GOVERNMENT OFFICERS' SUPERANNUATION (TEACHERS) ORDER, 1924, DATED 21ST JUNE, 1924, MADE BY THE MINISTER OF HEALTH UNDER SECTION 16 (3) OF THE LOCAL GOVERNMENT AND OTHER OFFICERS' SUPERANNUATION ACT, 1922.

* * * * * *

2. Where an officer or servant has served successively as a teacher and on an administrative staff and in the calculation or payment of any superannuation allowance under the Local Government and other Officers' Superannuation Act, 1922, account has to be taken of any capital sum paid or payable to him or her under any enactment for the time being relating to the superannuation of school teachers, account shall be taken of such capital sum in manner following, that is to say:—

> The amount of any annual superannuation allowance payable under any enactment relating to the superannuation of school teachers shall be deemed to be increased by an annual sum equal to the amount of such capital sum divided by the factor in the table set forth in the Schedule to this Order appropriate to the sex of the officer or servant and his or her age at the date on which the said capital sum became or becomes payable.

Appendix II.

SCHEDULE.

Age.	Factor.	
	Men.	Women.
Under 60 years	10·0	11·0
60 years but under 61 years . . .	10·5	11·5
61 „ „ 62 „ . . .	10·1	11·2
62 „ „ 63 „ . . .	9·8	10·8
63 „ „ 64 „ . . .	9·5	10·4
64 „ „ 65 „ . . .	9·2	10·0
65 „ „ 66 „ . . .	9·0	9·6

STATUTORY RULES AND ORDERS,
1924, No. 627.

THE LOCAL GOVERNMENT OFFICERS' SUPERANNUATION (TRANSFER VALUE) RULES, 1924, DATED 21ST JUNE, 1924, MADE BY THE MINISTER OF HEALTH UNDER SECTION 8 OF THE LOCAL GOVERNMENT AND OTHER OFFICERS' SUPERANNUATION ACT, 1922.

PART I.

General.

1. These Rules may be cited as the Local Government Officers' Superannuation (Transfer Value) Rules, 1924.

2.—(1) In these Rules unless the context otherwise requires—

"The Act" means the Local Government and other Officers' Superannuation Act, 1922;

"The Minister" means the Minister of Health;

"Officer" includes "servant," and "salary" includes "wages";

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3. In the case of an officer who at the date of transfer is employed in whole-time service a period of part-time service shall be treated for the purposes of these Rules as though it were whole-time service for a proportionately reduced period.

PART II.

Transfer Values under Section 8 (1) *of the Act.*

4. The transfer value payable under section 8 (1) of the Act by a local authority who have adopted the Act shall be the transfer value, if any, in respect of the officer's contributing service as ascertained under the First Schedule to these Rules added to the transfer value, if any, in respect of the officer's non-contributing service as ascertained under the Second Schedule thereto.

5. The foregoing Rules shall not apply to the case of an officer to whom a scheme made by any local authority under section 24 of the Act applies. The transfer values payable in respect of such officer and of any other officer for whose case no provision is otherwise made by these Rules shall be such as the Minister may in each case determine on the basis of the tables contained in the schedules to these Rules with such modifications, if any, as the circumstances of the case may in his opinion require.

PART III.

Sums in lieu of transfer values payable under section 8 (2) *of the Act.*

6. Subject to the provisions of section 8 (2) of the Act an officer who transfers from the service of a local authority who have not adopted the Act (hereinafter referred to as the "non-adopting authority") to a designated post in the service of a local authority who have adopted the Act (hereinafter referred to as the "adopting authority") shall be entitled to reckon service with the non-adopting authority if he pays, in lieu of transfer value, a sum equal to a transfer value calculated in respect of him in accordance with Part II. of these Rules, and the schedules thereto as modified in the following manner:—

(*a*) Any service in the employment of the non-adopting authority before the date on which the post to which the officer is transferring became an established post for the purposes of the Act shall be deemed to have been non-contributing service, and any service in the employment of that authority on or after that date shall be deemed to have been contributing service;

(*b*) The date of transfer means the date on which the officer's service in the employment of the adopting authority commences and the officer's salary is to be calculated at the annual rate payable to him by that authority at that date.

7.—(1) Subject as aforesaid the officer shall, if he so desires, be entitled to reckon a part only of his service with the non-adopting authority upon payment of a proportionate part of the sum which would be payable under the last preceding rule if the whole of such service were to be reckoned, but in that event the respective periods for which he is to be deemed to have been employed in non-contributing and contributing service shall be proportionately reduced, and the date on which he is to be deemed to have entered into contributing service shall be correspondingly deferred.

(2) Any period of six months or more which is obtained as a result of reducing the period of non-contributing service under this rule shall be reckoned as a year.

8.—(1) Any sum payable by an officer under either of the last two preceding rules may be paid in a lump sum or by such instalments as may be agreed between him and the authority: Provided that the first instalment shall be not less than one-tenth of the total sum payable and shall be payable within one year from the date of his entering the service of the adopting authority and that the whole of the instalments shall be payable within a period of ten years from that date. Interest at the rate of 4 per cent. per annum with half-yearly rests shall be payable upon the amount for the time being unpaid.

(2) If at the date on which the officer dies or ceases to hold employment under the authority any such instalment remains to be paid, the amount of such instalment with any interest which has accrued thereon shall be deducted from any sum to be paid to or in respect of the officer under sections 10, 11, 12 or 17 of the Act by way of return of contributions.

(3) If any such instalment remains to be paid at the date on which the officer becomes entitled to a superannuation allowance, the amount thereof (with accrued interest) shall be deducted from the payment or payments of superannuation allowance made next after the instalment has become due until the whole sum is recovered.

(4) If at the date on which the officer ceases to hold employment under the authority or dies, as the case may be, the amount of any instalments (with accrued interest) remaining to be paid exceeds the sums recoverable by deduction under paragraphs (2) and (3) of this Article, the balance of the debt shall be treated as cancelled.

9. For the purpose of calculating the amount which may be paid to or in respect of an officer under sections 9, 10, 11, 12 or 17 of the Act by way of return of contributions, one-half of the sum payable by him under section 8 (2) of the Act shall be treated as though it were contributions which had been paid by him to the Superannuation Fund of the adopting authority at the date on which he entered the service of the authority.

10. If an officer by whom a sum is payable under section 8 (2) of the Act transfers, before the whole of the instalments of the sum and interest thereon are paid, to the

service of another local authority who have adopted the Act and a transfer value is payable in respect of him, the right to receive the amount unpaid shall be deemed to be transferred to that other authority from the authority from whose service the officer has transferred, and notwithstanding anything contained in Part I. of these Rules the amount of the transfer value payable by the last mentioned authority shall be adjusted in such manner as may in the opinion of the Minister be required.

SCHEDULES.

FIRST SCHEDULE.

Transfer value in respect of contributing service.

To ascertain the transfer value in respect of contributing service multiply the amount shown in column (2) of the subjoined Table I. as appropriate to the officer's age at the date of transfer by the number of completed years of the officer's contributing service, and multiply the corresponding amount in column (3) of the Table by the number of completed months of contributing service additional to any completed years. The sum of these two products is the transfer value for each £100 of salary and the transfer value in respect of the officer will be calculated proportionately by reference to his actual salary. For the purpose of this calculation the date of transfer means the date on which the officer's service in the employment of the authority by whom the transfer value is payable terminated, and the officer's salary is to be calculated at the annual rate payable to the officer by that authority at that date.

TABLE I.

Age at date of transfer.	Amount for each £100 of salary in respect of each completed period of contributing service.	
	Year.	Month.
(1)	(2)	(3)
	£ s.	£ s.
Under age 25	8 5	14
25 and under 30	8 10	14
30 „ „ 35	8 15	15
35 „ „ 40	9 0	15
40 „ „ 41	9 5	15
41 „ „ 42	9 5	15
42 „ „ 43	9 10	16
43 „ „ 44	9 10	16
44 „ „ 45	9 15	16
45 „ „ 46	10 0	17
46 „ „ 47	10 5	17
47 „ „ 48	10 10	18
48 „ „ 49	10 15	18
49 „ „ 50	11 0	18
50 „ „ 51	11 5	19
51 „ „ 52	11 10	19
52 „ „ 53	11 15	1 0
53 „ „ 54	12 0	1 0
54 „ „ 55	12 5	1 0

SECOND SCHEDULE.

Transfer value in respect of non-contributing service

In cases where an officer is transferring from the service of an authority whose payment to the Superannuation Fund under Sect. 18 (1) (*e*) of the Act is calculated on the basis of a period of 40 years the transfer value in respect of non-contributing service is to be ascertained by multiplying the amount shown in the subjoined Table II. as appropriate to the officer's age at the date of transfer and years of contributing service by the number of completed years of the officer's non-contributing service, a portion of a year exceeding six months being reckoned as a year. The product is the transfer value for each £100 of salary, and the transfer value in respect of the officer will be calculated proportionately by reference to his actual salary. The date of transfer has the same meaning as in the First Schedule, and the salary is to be calculated in the same manner.

TABLE II.

Age at date of transfer.	Years of contributing service.																													
	Under 1 year.			1 year and under 2 years.			2 years and under 3 years.			3 years and under 4 years.			4 years and under 5 years.			5 years and under 6 years.			6 years and under 7 years.			7 years and under 8 years.			8 years and under 9 years.			9 years and under 10 years.		
	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.
Under age 25 .	0	2	0	0	6	0	0	10	0	0	14	0	0	18	0	1	1	0	1	4	0		—			—			—	
25 and under age 30	0	2	0	0	6	0	0	9	0	0	13	0	0	16	0	0	19	0	1	2	0	1	5	0	1	8	0	1	11	0
30 ,, ,, 35	0	2	0	0	5	0	0	9	0	0	12	0	0	15	0	0	18	0	1	1	0	1	4	0	1	7	0	1	9	0
35 ,, ,, 36	0	2	0	0	5	0	0	9	0	0	12	0	0	15	0	0	18	0	1	1	0	1	4	0	1	7	0	1	10	0
36 ,, ,, 37	0	2	0	0	5	0	0	9	0	0	12	0	0	15	0	0	19	0	1	2	0	1	4	0	1	7	0	1	10	0
37 ,, ,, 38	0	2	0	0	5	0	0	9	0	0	12	0	0	16	0	0	19	0	1	2	0	1	5	0	1	7	0	1	10	0
38 ,, ,, 39	0	2	0	0	6	0	0	9	0	0	12	0	0	16	0	0	19	0	1	2	0	1	5	0	1	8	0	1	10	0
39 ,, ,, 40	0	2	0	0	6	0	0	9	0	0	13	0	0	16	0	0	19	0	1	2	0	1	5	0	1	8	0	1	11	0
40 ,, ,, 41	0	2	0	0	6	0	0	9	0	0	13	0	0	16	0	0	19	0	1	3	0	1	6	0	1	8	0	1	11	0
41 ,, ,, 42	0	2	0	0	6	0	0	9	0	0	13	0	0	16	0	1	0	0	1	3	0	1	6	0	1	9	0	1	12	0
42 ,, ,, 43	0	2	0	0	6	0	0	10	0	0	13	0	0	17	0	1	0	0	1	3	0	1	6	0	1	9	0	1	12	0
43 ,, ,, 44	0	2	0	0	6	0	0	10	0	1	13	0	0	17	0	1	0	0	1	4	0	1	7	0	1	10	0	1	13	0
44 ,, ,, 45	0	2	0	0	6	0	0	10	0	0	14	0	0	17	0	1	1	0	1	4	0	1	7	0	1	10	0	1	13	0
45 ,, ,, 46	0	2	0	0	6	0	0	10	0	0	14	0	0	18	0	1	1	0	1	5	0	1	8	0	1	11	0	1	14	0
46 ,, ,, 47	0	2	0	0	6	0	0	10	0	0	14	0	0	18	0	1	2	0	1	5	0	1	8	0	1	12	0	1	15	0
47 ,, ,, 48	0	2	0	0	6	0	0	11	0	0	15	0	0	18	0	1	2	0	1	6	0	1	9	0	1	12	0	1	16	0
48 ,, ,, 49	0	2	0	0	7	0	0	11	0	0	15	0	0	19	0	1	3	0	1	6	0	1	10	0	1	13	0	1	17	0
49 ,, ,, 50	0	2	0	0	7	0	0	11	0	0	15	0	0	19	0	1	3	0	1	7	0	1	11	0	1	14	0	1	18	0
50 ,, ,, 51	0	2	0	0	7	0	0	12	0	0	16	0	1	0	0	1	4	0	1	8	0	1	12	0	1	15	0	1	19	0
51 ,, ,, 52	0	2	0	0	7	0	0	12	0	0	16	0	1	1	0	1	5	0	1	9	0	1	13	0	1	16	0	2	0	0
52 ,, ,, 53	0	3	0	0	7	0	0	12	0	0	17	0	1	1	0	1	6	0	1	10	0	1	14	0	1	17	0	2	1	0
53 ,, ,, 54	0	3	0	0	8	0	0	13	0	0	17	0	1	2	0	1	6	0	1	11	0	1	15	0	1	19	0	2	2	0
54 ,, ,, 55	0	3	0	0	8	0	0	13	0	0	18	0	1	3	0	1	7	0	1	12	0	1	16	0	2	0	0	2	4	0

Appendix II.

S. R. & O., 1930, No. 69.

THE LOCAL GOVERNMENT (QUALIFICATIONS OF MEDICAL OFFICERS AND HEALTH VISITORS) REGULATIONS, 1930, DATED FEBRUARY 6, 1930, MADE BY THE MINISTER OF HEALTH UNDER SECTION 59 OF THE LOCAL GOVERNMENT ACT, 1929 (19 & 20 GEO. 5, C. 17) (*a*).

The Minister of Health, in pursuance of his powers under section 59 of the Local Government Act, 1929, and of all other powers enabling him in that behalf, hereby makes the following regulations, that is to say :—

Interpretation and Commencement.

1.—(1) These regulations may be cited as the Local Government (Qualifications of Medical Officers and Health Visitors) Regulations, 1930, and shall come into operation on the first day of April, 1930.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

2. In these regulations, unless the context otherwise requires—

"Local authority" means, as the case may be, the mayor, aldermen and commons of the City of London, in common council assembled, the council of a metropolitan borough, the council of an administrative county or county borough, the council of a non-county borough or other urban district, or the council of a rural district ;

"Medical Officer of Health" means the medical officer of health of a local authority ;

"Minister" means the Minister of Health ;

"Tuberculosis officer" means a medical officer in clinical charge of a tuberculosis dispensary provided by a local authority under their arrangement for the treatment of tuberculosis ;

"Medical superintendent" means a medical officer in clinical charge of a residential institution for the treatment of patients suffering from tuberculosis in the early or curative stages of the disease, which contains not less than 75 beds ;

"Venereal diseases pathologist" means a medical officer in charge of a laboratory provided by a local authority for the purposes of Article I. of the Public Health (Venereal Diseases) Regulations, 1916 ;

"Venereal diseases officer" means a medical officer in clinical charge of a treatment centre provided by a local authority for the diagnosis and treatment of venereal diseases in pursuance of Article II. of the Public Health (Venereal Diseases) Regulations, 1916 ;

"Senior maternity and child welfare officer" means a medical officer (other than a medical officer of health) who is in charge of the work of a local authority under the Maternity and Child Welfare Act, 1918, subject to the administrative supervision of the medical officer of health, and who has responsibility for the work of other medical officers employed by the local authority under that Act ;

"Medical officer of an ante-natal clinic" means a medical officer in charge of a clinic provided by a local authority for the purpose of giving advice to, and supervising the health of, pregnant women ;

"Health visitor" means a woman appointed by a local authority as a whole-time officer whose duties include the visiting of women and children in their homes for the purpose of giving advice as to the nurture, care and management of young children, and as to the health of expectant and nursing mothers ;

"Tuberculosis visitor" means a woman appointed by a local authority being the council of a county, county borough or metropolitan borough as a whole-time officer whose duties include the visiting of the homes of persons suffering from tuberculosis for the purpose of giving advice as to the care and hygiene of such persons and as to the measures necessary to prevent the spread of infection.

(*a*) See as to this Order Circular 1072 of 12th February, 1930, *ante*, p. 3540.

Tuberculosis Officer or Medical Superintendent.

3. Any person appointed by the council of a county, county borough or metropolitan borough, or by a joint committee of any such councils, to be a tuberculosis officer or medical superintendent shall be a registered medical practitioner who, prior to the 1st April, 1930, has held the appointment of tuberculosis officer or medical superintendent with the approval of the Minister, or who, subsequent to qualification, (1) has had at least three years' experience in the practice of his profession, (2) has spent in general clinical work a period of not less than eighteen months of which not less than six months have been spent in a hospital as resident officer in charge of beds occupied by general medical or surgical cases, and (3) has received special training, for a period of not less than six months, in the diagnosis and treatment of tuberculosis.

Venereal Diseases Pathologist.

4. Any person appointed by the council of a county or county borough to be a venereal diseases pathologist shall be a registered medical practitioner who, prior to the 1st April, 1930, has held the appointment of venereal diseases pathologist with the approval of the Minister, or who (1) has had at least three years' experience in the practice of his profession subsequent to qualification, and (2) is in possession of a certificate, given by a pathologist in charge of a laboratory approved by the Minister under the Public Health (Venereal Diseases) Regulations, 1916, testifying that, under his supervision, the medical practitioner, within the preceding two years, (*a*) has personally carried out not less than 500 serum tests for syphilis by a method approved by the Minister, and is competent to perform such tests, and (*b*) has personally examined microscopically not less than 300 specimens from lesions suspected to be syphilitic, gonorrhœal or chancroidal, and is competent to conduct such examinations.

Venereal Diseases Officer.

5. Any person appointed by the council of a county or county borough to be a venereal diseases officer shall be a registered medical practitioner who, prior to the 1st April, 1930, has held the appointment of venereal diseases officer with the approval of the Minister, or who (1) has had at least three years' experience in the practice of his profession subsequent to qualification, and (2) is in possession of a certificate, given by the venereal diseases officer of a treatment centre at which not less than 500 patients attended for the first time during the 12 months preceding the issue of the certificate, testifying that he has attended at the treatment centre for a period of not less than three months and has received during that period not less than 130 hours' instruction in the modern methods of diagnosis and treatment of venereal diseases.

Senior Maternity and Child Welfare Officer.

6. Any person appointed by a local authority to be a senior maternity and child welfare officer shall be a registered medical practitioner who, prior to the 1st April, 1930, has held the appointment of senior maternity and child welfare officer with the approval of the Minister, or who, subsequent to qualification, (1) has had at least three years' experience in the practice of his profession, (2) has had special experience in midwifery and child welfare work, and (3) has been employed by a local authority under the Maternity and Child Welfare Act, 1918.

Medical Officer of an Ante-Natal Clinic.

7. Any person appointed by a local authority to be a medical officer of an ante-natal clinic shall be a registered medical practitioner who, prior to the 1st April, 1930, has held the appointment of medical officer of an ante-natal clinic with the approval of the Minister, or who, subsequent to qualification, has had at least three years' experience in the practice of his profession and special experience of practical midwifery and ante-natal work.

Health Visitor.

8. Any person appointed to be a health visitor shall be a woman who, prior to the 1st April, 1930, has held the appointment of health visitor with the approval of the

Minister, or who has obtained the health visitors' certificate issued by the Royal Sanitary Institute under conditions approved by the Minister or the diploma issued under the Board of Education (Health Visitors' Training) Regulations, 1919.

Tuberculosis Visitor.

9. Any person appointed to be a tuberculosis visitor shall be a woman who, prior to the 1st April, 1930, has held the appointment of tuberculosis visitor with the approval of the Minister, or who has obtained the health visitors' certificate issued by the Royal Sanitary Institute under conditions approved by the Minister, or the diploma issued under the Board of Education (Health Visitors' Training) Regulations, 1919, or who is a fully-trained nurse and has had at least three months' special experience at a sanatorium or hospital for the treatment of tuberculosis, or at a tuberculosis dispensary.

General.

10. The Minister may dispense with any of the requirements of these regulations in any case in which it appears to him desirable so to do, on such terms and conditions as he thinks fit, and such dispensation may be given at any time provided that the Minister is satisfied that the interests of any person will not be prejudiced thereby.

Given under the Official Seal of the Minister of Health this sixth day of February, in the year One thousand nine hundred and thirty.

(L.S.)

R. H. H. KEENLYSIDE,
Assistant Secretary,
Ministry of Health.

OFFICES AND BUILDINGS.

USE OF BUILDINGS OF LOCAL AUTHORITIES FOR MEETINGS OF TRADE UNIONS AND OTHER BODIES—CIRCULAR.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
March 23*rd*, 1908.

SIR,—I am directed by the Local Government Board to state that representations have been made to them as to the difficulty experienced by trade unions, friendly societies and other similar bodies in finding accommodation for their meetings in existing buildings, except in public-houses or other licensed premises. Inquiries have been made of the Board as to the power of the local authorities to render assistance in order to meet this difficulty, and the President lately received a deputation on the subject.

The Board direct me to state that, whilst a local authority would not be empowered under the general law to provide buildings for meetings of the bodies referred to, yet where the authority are in possession of a town hall or offices provided for their own meetings or for the transaction of their business, it is competent for them to place the accommodation thus provided, when not required for their own purposes, at the service of any of these bodies on terms which may enable them to have a temporary use of the premises without expense to the local authority (*a*).

The Board are desirous of bringing this matter under the notice of the local authorities. They cannot but feel that it is very undesirable that the bodies in question should be compelled to hold their meetings on licensed premises, especially when it is remembered that the business transacted at these meetings often necessitates the presence of women and children for a considerable time. The temptations and the evil results arising from this state of things are well known to local authorities and particularly to boards of guardians, and the Board trust that the local authorities will

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(*a*) Reference may be made to s. 70 of the P. H. A., 1925, *ante*, p. 1617.

be willing to allow the use of their buildings for the purposes of the meetings referred to where the circumstances admit of their so doing. It will be necessary that arrangements should be made to prevent any expense from falling on the local authority, but the Board do not apprehend that there will be any difficulty in this being done.

Usually no consent on the part of the Board will be requisite to the use of the buildings for the purposes mentioned. In the case of the letting of the room in a workhouse or in the office of a Poor Law union, such consent should be obtained, but the Board will be ready to give it, subject to the guardians reserving to themselves the power to determine the arrangement if at any time it is regarded as detrimental to the use of the buildings for Poor Law purposes.

Parish councils are authorised by section 8 (1) (*a*) of the Local Government Act, 1894, to provide or acquire buildings for public offices and for meetings and for any purposes connected with parish business or with the powers or duties of the parish council or parish meeting.

Section 33 of the Act empowers the Board, on the application of the council of a borough or urban district, to confer on them any of the powers of a parish council, and the Board have in exercise of this power, in many instances conferred on the councils of boroughs and urban districts the powers of a parish council under section 8 (1) (*a*) with regard to the provision or acquisition of buildings for public offices and for meetings.

They may also draw attention to the power given to the metropolitan borough councils under the London County Council (General Powers) Act, 1893, of providing halls and buildings partly for the purpose of transacting their own business and partly for the purpose of public meetings, and of adapting or altering their existing town halls and offices for these purposes.

I am directed to add that this circular will be placed on sale, so that copies may shortly be obtained from Messrs. Wyman and Sons, Limited, Fetter Lane, E.C., either directly or through any bookseller.

I am, etc.

The Town Clerk or
The Clerk to the Urban or Rural District Council, or
The Clerk to the Guardians, or
The Clerk to the Parish Council.

USE OF BUILDINGS OF LOCAL AUTHORITIES FOR THE AUDIT OF THE ACCOUNTS OF APPROVED SOCIETIES AND PURPOSES CONNECTED THEREWITH—CIRCULAR.

LOCAL GOVERNMENT BOARD, WHITEHALL, S.W.,
December 5th, 1912.

SIR,—I am directed by the Local Government Board to state that representations have been made to them by the Lords Commissioners of His Majesty's Treasury as to a difficulty which it is anticipated will arise in some cases in finding suitable office accommodation for conducting the audit of the accounts of approved societies under the National Insurance Act, 1911. The Board are informed that many societies have no office of their own, and that where instructions are being given to the officials of such societies by the auditors of the National Health Insurance Commission it has been found necessary to make use of private premises. Their lordships consider that it is undesirable that the proceedings of a formal audit should take place in private houses or that recourse should be had to the use of rooms on licensed premises, and the Board concur in this view.

Apart from the provisions contained in section 27 (2) of the Act, it appears to the Board to be competent to a local authority to place accommodation provided for their own meetings or for the transaction of their business at the disposal, when not otherwise required, of approved societies for the purpose of the audits referred to on terms which may enable the societies to have a temporary use of the premises without expense to the local authority.

The Board are desirous of bringing this matter under the notice of local authorities

Appendix II. and trust that they will be willing to allow the use of their buildings for the purposes in question where the circumstances admit of their doing so.

Usually no consent on the part of the Board will be requisite to the use of the buildings in the manner suggested. In the case of a room belonging to a board of guardians, however, such consent needs to be obtained, and the Board will be ready to give it subject to the guardians reserving to themselves the power to determine the arrangement if at any time it is regarded as inconvenient.

The Board hope that local authorities will give the suggested arrangement their favourable consideration.

I am directed to add that this circular will be placed on sale, so that copies may shortly be obtained from Messrs. Wyman and Sons, Limited, Fetter Lane, E.C. either directly or through any bookseller.

I am, etc.

The Town Clerk, or
The Clerk to the Urban or Rural District Council.
The Clerk to the Guardians.

OVERSEERS.

See "RATING AND VALUATION," *post*, p. 3680.

PETROLEUM (*a*).

S. R. & O., 1926, No. 1340.

PETROLEUM.

THE PETROLEUM SPIRIT (CONVEYANCE) REGULATIONS, 1926, DATED 18TH OCTOBER, 1926, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT IN PURSUANCE OF SECTION 9 AND THE THIRD SCHEDULE OF THE PETROLEUM ACT, 1926 (16 & 17 GEO. 5, C. 25).

In pursuance of section 9 and the Third Schedule of the Petroleum Act, 1926, I hereby make the following Regulations for the conveyance of petroleum spirit by road:—

A.—Provisions relating to Conveyance of Petroleum Spirit otherwise than in Tank Wagons.

1. Any vehicle on which petroleum spirit is conveyed shall be constructed strongly and with sides and back of adequate height, and shall be maintained in good condition. The load shall be protected from sparks, lighted matches or fire from without by a cover, whether fixed or loose, of fire-resisting material (*b*).

2. The petroleum spirit shall be conveyed in strong metal vessels in good condition and securely closed so as to prevent leakage. The vessels shall be packed so as not to project beyond the sides or back of the vehicle.

3. If the vehicle is mechanically driven, the engine and fuel tank shall be effectively screened from the body of the vehicle by a fire-resisting shield carried up above the height of the load and down to within twelve inches of the ground, and the exhaust shall be wholly in front of this shield. A quick action cut-off valve shall be fitted to the fuel feed pipe in an easily accessible position.

Provided that in the event of the breakdown of any vehicle conveying petroleum spirit, and of there not being any vehicle constructed in accordance with the require-

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(*a*) The Petroleum Acts have been consolidated by an Act of 1928 set out at p. 2990, *ante*. References in the text of the Orders, etc., to the consolidated Acts should therefore be read as references to the corresponding provision in the Act of 1928.

(*b*) See amendment of these requirements by later Regulations of May 31, 1927, *post*, p. 3633.

ments of this Regulation available within a reasonable time to replace it, it shall be permissible to use a vehicle not so constructed and fitted for the purpose of conveying the petroleum spirit to its destination.

Provided also that, except in the case of vehicles conveying petroleum spirit to or from any place within the county of London or county borough of West Ham, the requirement as to the provision of a fire-resisting shield shall not apply to a vehicle constructed without such a shield prior to the 1st of January, 1925, for a period of five years from that date.

4. Not more than one trailer shall be attached to any vehicle conveying petroleum spirit.

B.—Provisions relating to Conveyance of Petroleum Spirit in Tank Wagons.

5. A tank wagon used for the conveyance of petroleum spirit shall be constructed in accordance with the provisions contained in the Schedule, and together with its connections and fittings shall be maintained in good condition.

6. The capacity of a tank wagon shall not exceed 2,500 gallons, or if used for conveying petroleum spirit to or from any place within the county of London or county borough of West Ham, 2,000 gallons. If the capacity of the tank exceeds 1,500 gallons, the weight of the engine and load shall be distributed over the three axles of a six-wheeled combination vehicle (tractor and trailer) and when the vehicle is engaged in the conveyance and delivery of petroleum spirit it shall be constantly attended by not less than two competent persons (*a*).

Trailers shall not be employed with tank wagons except under the following conditions :—

(i) only four-wheeled tank trailers shall be employed and not more than one such trailer shall be attached ;

(ii) the capacity of the tank trailer shall not exceed 800 gallons ;

(iii) the tank wagon and trailer while in use shall be constantly attended by not less than two competent persons.

No trailer shall be employed within the county of London or the county borough of West Ham.

The foregoing limitation on the capacity of a tank wagon shall be constructed so as to permit of the tank containing the amount specified under varying degrees of temperature.

7. During the filling or emptying of a tank wagon the following precautions shall be observed :—

(i) If the wagon is mechanically driven the engine shall be stopped the whole time the filling or emptying is proceeding and shall not be run until all tanks have been securely closed.

(ii) If the wagon is horse drawn, the horses shall be removed and the wheels securely scotched before the filling or emptying is begun.

(iii) Adequate provision shall be made to prevent the accumulation of a dangerous static charge of electricity.

8. Petroleum spirit in cans or other packages shall not be conveyed on any tank wagon used for the conveyance of petroleum spirit unless it is so constructed (composite vehicle) as to comply with the conditions applicable to conveyance on wagons other than tank wagons as well as with the conditions applicable to conveyance on tank wagons, and unless, if intended to be used for conveying petroleum spirit to or from any place within the county of London or county borough of West Ham, it has been approved by a Government inspector.

C.—Provisions of General Application.

9. No fire or artificial light capable of igniting inflammable vapour shall be allowed on any vehicle conveying petroleum spirit, nor shall any explosive substance or substance or article capable of causing fire or explosion be carried on such vehicle.

10. If electric lighting is employed on any vehicle conveying petroleum spirit, the following conditions shall be complied with :—

(i) The pressure shall not exceed fourteen volts.

(*a*) See amendment of these requirements by later Regulations of May 31, 1927, *post*, p. 3633.

(ii) The circuit shall be heavily insulated from the chassis and the wiring shall be so fixed and protected as to reduce as far as possible risk of damage.

(iii) The generator, battery, switches and fuzes shall be carried in front of the fire-resisting screen when fitted and the battery shall be in an easily accessible position.

(iv) Means of cutting off the current close to the battery by a double pole switch or other suitable method shall be provided.

This Regulation shall not come into force until the 1st of January, 1929.

11. A supply of sand or other efficient means of extinguishing an outbreak of fire shall be carried in an easily accessible position on every vehicle conveyng petroleum spirit.

12. A person while on or attending to any vehicle conveying petroleum spirit shall not smoke.

13. Petroleum spirit shall not be conveyed on any public vehicle whilst carrying passengers.

14. All persons engaged in the loading, unloading or conveyance of petroleum spirit shall observe all precautions necessary for preventing fire or explosion.

15. It shall be illegal on a highway to fill or replenish with petroleum spirit the fuel tanks of mechanically driven vehicles direct from vehicles carrying petroleum spirit in bulk, except with the sanction of the local authority under the Petroleum Acts, 1871 to 1926, and then only at such places and under such conditions as the local authority may approve.

Provided that, during such filling or replenishment of the fuel tank of any public vehicle used for the conveyance of passengers, no passenger shall be allowed to remain in the vehicle.

16. Care shall be taken to prevent any petroleum spirit escaping into any drain or sewer.

17. The owner of a vehicle used for the conveyance of petroleum spirit, who employs any person in connection with such conveyance, shall furnish a copy of these Regulations to, or affix a copy thereof in some place where it can be conveniently read by, any such person and shall take all other measures necessary to ensure that any such person is acquainted with and carries out the provisions of these Regulations.

18. If the vehicle is used for the hawking of petroleum spirit and the petroleum spirit is drawn off from any vessel in the course of such hawking the following conditions shall be observed :—

(i) The quantity of petroleum spirit conveyed at any one time shall not exceed twenty gallons.

(ii) Any petroleum, other than petroleum spirit, which is carried on the vehicle, shall for the purpose of these Regulations be deemed to be petroleum spirit.

The delivery of petroleum spirit to premises licensed under the Act shall not be deemed to be the hawking of petroleum spirit for the purpose of this Regulation.

Regulations 3 and 10 shall not apply to a vehicle used in accordance with the foregoing conditions.

19. These Regulations shall not apply to the conveyance of petroleum spirit on a vehicle (not being a tank wagon or a public vehicle used for the conveyance of passengers, or a vehicle used for hawking of petroleum spirit to which Regulation 18 applies) in a quantity not exceeding thirty gallons of petroleum spirit in securely closed containers of a capacity not exceeding two gallons or in securely closed metal cans or drums of a capacity not exceeding ten gallons, or in a quantity not exceeding fifty gallons of petroleum spirit contained in a single securely closed steel barrel.

20.—(i) In the event of any breach of any of the foregoing Regulations :—

(*a*) The person committing the breach shall be liable to a penalty not exceeding in the case of a first offence £10, and in the case of a second, or any subsequent offence, £20, and to a further penalty not exceeding £10 for each day during which the breach continues.

(*b*) The petroleum spirit in respect of which, or being in the vehicle in respect of which, the breach is committed, may be forfeited.

(ii) If any person attempts to commit any breach of these Regulations he shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as if he had committed a breach of the Regulations.

21.—(i) It shall be the duty of every local authority having power to grant licences to keep petroleum spirit to enforce within their district the provisions of these Regulations.

(ii) Every such local authority shall institute and carry on such proceedings in respect of breaches of the Regulations as may be necessary to secure the observance thereof; and an inspector appointed by the local authority for the purposes of the Petroleum Acts, 1871 to 1926, may, if so authorised by the local authority, institute and carry on any proceedings under the Regulations on behalf of the authority.

(iii) The expenses incurred by a local authority in the enforcement of the Regulations shall be defrayed as part of the general expenses of the local authority under the Public Health Acts or in Scotland out of the Burgh General Assessment in the case of burghs and the General County Purposes Assessment in the case of counties.

(iv) Paragraph (ii) of this Regulation shall not apply to Scotland.

22. These Regulations may be referred to as the Petroleum Spirit (Conveyance) Regulations, 1926.

W. JOYNSON-HICKS,
One of His Majesty's Principal
Secretaries of State.

HOME OFFICE, WHITEHALL.
18*th October*, 1926.

Note.—The foregoing Regulations do not apply to the conveyance of petroleum spirit on any vehicle for use in the propulsion of such vehicle. It is recommended that in the case of public passenger vehicles, the number of spare two-gallon tins should not exceed ten.

SCHEDULE.

(A) MECHANICALLY DRIVEN ROAD TANK WAGONS.

1. The vehicle, including the tank and fittings, shall be strongly constructed of fire-resisting materials and shall be maintained in thoroughly good condition. The engine and fuel tank shall be effectively screened from the tank by a fire-resisting shield carried up above the top of the tank and down to within twelve inches of the ground, and the exhaust shall be wholly in front of this shield. The tank shall be securely fastened to the frame of the vehicle provided that in the case of a composite vehicle to which Regulation 8 applies, a removable tank securely fastened to a cradle may be used. A space of not less than six inches, which shall be left clear and unobstructed except for any part of the framework of the wagon, shall intervene between the tank and the fire-resisting shield.

2. The tank if of more than 600 gallons capacity shall be divided into self-contained compartments, no one of which shall contain more than six hundred gallons.

Provided that except in the case of tank wagons of over 1,000 gallons capacity used for conveying petroleum spirit to or from any place within the County of London or County Borough of West Ham this condition shall not apply to tank wagons constructed prior to the 1st of January, 1925, for a period of five years from that date.

3. The draw-off pipes shall be fitted with internal valves in addition to strong and secure taps and screw caps; and the taps shall be enclosed in a strong locked box of hard wood or other suitable material and those at the rear shall be protected by the rear cross member of the frame, such protection being extended when necessary to the lower rear portion of the tank. Where a siphon system of emptying the tank is employed, internal valves are not required.

Provided that in the case of a composite vehicle to which Regulation 8 applies, the taps of the tank, if not projecting beyond the back of the vehicle, need not be enclosed in a box.

4.—(*a*) The filling pipes shall be carried down nearly to the bottom of the tank and shall each terminate in such a way as to provide at all times a liquid seal at the bottom of the pipe; or alternatively (*b*) the covers over the filling openings shall be kept locked, except during the operation of filling, and the keys shall be retained by a responsible person.

Provided that (i) as regards tank wagons of over 1,000 gallons capacity used for conveying petroleum spirit to or from any place within the County of London or County Borough of West Ham, the provision in paragraph (*a*) shall be complied with in all cases; (ii) except as regards such tank wagons, the requirements of this Article shall not apply to tank wagons constructed prior to the 1st of January, 1925, for a period of five years from that date.

5. The dipping pipes shall be carried down to the bottom of the tank, and any openings in them other than the upper orifice shall be covered with fine wire gauze of not less than 28 meshes to the linear inch.

Provided that except in the case of tank wagons of over 1,000 gallons capacity used for conveying petroleum spirit to or from any place within the County of London or County Borough of West Ham this condition shall not apply to tank wagons constructed prior to the 1st of January, 1925, for a period of five years from that date.

6. The ventilating openings shall be covered with fine wire gauze of not less than 28 meshes to the linear inch, protected by covers when not in use.

(B) HORSE DRAWN ROAD TANK WAGONS.

7. The vehicle, including the tank and fittings, shall be strongly constructed and the tank shall be securely fastened to the body of the vehicle and shall if of more than 600 gallons capacity be divided into self-contained compartments, no one of which shall contain more than six hundred gallons. Provided that this condition shall not apply to tank wagons constructed prior to the 1st of January, 1925, for a period of five years from that date.

8. The draw-off pipes shall be fitted with internal valves in addition to strong and secure taps and screw caps; and the taps at the rear shall be enclosed in a strong locked box of hard wood or other suitable material.

9. The ventilating openings shall be covered with fine wire gauze of not less than 28 meshes to the linear inch, protected by covers when not in use.

S. R. & O., 1926, No. 1422.

ORDER IN COUNCIL APPLYING THE PETROLEUM ACTS, 1871 TO 1926, TO BISULPHIDE OF CARBON CONVEYED BY ROAD.

At the Court at Buckingham Palace, the 5th day of November, 1926.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas it is provided by the Petroleum Act, 1871, that His Majesty may, from time to time, make, revoke, and vary Orders in Council directing that the said Act or any part thereof shall apply to any substance, and that the said Act or the part thereof specified in any such Order shall, during the continuance of the Order, apply to such substance, and shall be construed and have effect as if such substance had been included in the definition of Petroleum Spirit, subject *inter alia* to the qualification that the label on the vessel containing such substance shall be such as may be specified in that behalf in the Order:

And whereas the Petroleum Act, 1926, is to be construed as one with the Petroleum Act of 1871:

And whereas the provisions of section 1 of the Rules Publication Act, 1893, have been complied with:

Now, therefore, in pursuance of the above-mentioned provisions of the Petroleum Act, 1871, His Majesty is pleased, by and with the advice of His Privy Council, to order and prescribe that so much of the Petroleum Acts, 1871 to 1926, as relates to the conveyance of petroleum spirit by road shall apply to bisulphide of carbon, and that the label on the vessel or package containing bisulphide of carbon shall bear in conspicuous characters the words "Bisulphide of Carbon, Highly Inflammable," together with the name and address of the sender.

M. P. A. HANKEY.

S. R. & O., 1927, No. 511.

THE PETROLEUM SPIRIT (CONVEYANCE) REGULATIONS, 1927, DATED 31ST MAY, 1927, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT IN PURSUANCE OF SECTION 9 AND THE THIRD SCHEDULE OF THE PETROLEUM ACT, 1926.

In pursuance of section 9 and the Third Schedule of the Petroleum Act, 1926, I hereby make the following Regulations for the conveyance of petroleum spirit by road :—

1. The requirement in No. 1 of the Petroleum Spirit (Conveyance) Regulations, 1926, that any vehicle on which petroleum is conveyed shall be constructed with sides and back of adequate height shall not apply to horse-drawn vehicles if the load is securely fastened to the vehicle and all vessels of two gallons capacity and under are packed in wooden cases.

2. Notwithstanding the requirement in No. 6 of the said Regulations that, if the capacity of the tank exceeds 1,500 gallons, the weight of the engine and load shall be distributed over the three axles of a six-wheeled combination vehicle (tractor and trailer), it shall be lawful to use vehicles of other types, if approved by order of the Secretary of State as suitable for the conveyance of quantities exceeding 1,500 gallons.

3. These Regulations may be referred to as the Petroleum Spirit (Conveyance) Regulations, 1927.

S. R. & O., 1928, No. 597.

PETROLEUM.

BISULPHIDE OF CARBON.

THE BISULPHIDE OF CARBON (CONVEYANCE) REGULATIONS, 1928, DATED JULY 27, 1928, MADE BY THE SECRETARY OF STATE FOR THE HOME DEPARTMENT IN PURSUANCE OF SECTION 9 AND THE THIRD SCHEDULE OF THE PETROLEUM ACT, 1926 (16 & 17 GEO. 5, C. 25) AS APPLIED BY ORDER IN COUNCIL DATED THE 5TH NOVEMBER, 1926.

In pursuance of section 9 and the Third Schedule of the Petroleum Act, 1926, as applied by Order in Council dated the 5th November, 1926, I hereby make the following regulations for the conveyance of Bisulphide of Carbon by road :—

1. Bisulphide of carbon shall not be conveyed except :—

(a) In steel or iron containers each of a capacity not exceeding 50 gallons, constructed in accordance with the specification contained in the First Schedule, maintained in good condition and securely closed so as to prevent leakage or

(b) In luted and tied-over stoppered bottles, each containing not more than 7 lbs., securely packed in strong wooden cases in sawdust, kieselguhr, or other suitable material. Each bottle shall be separated from other bottles by wooden partitions and the total weight of bisulphide of carbon in any one case shall not exceed 30 lbs., or

(c) In tank wagons, subject to the provisions of these regulations.

(A) *Provisions relating to conveyance of Bisulphide of Carbon otherwise than in Tank Wagons.*

2. Containers and cases containing bottles shall be packed so as not to project beyond the sides and ends of the vehicle.

3. Containers shall be loaded and carried bung uppermost. Where the position of the bung renders it necessary for containers such as barrels or drums to be carried on their sides in order that the bung may be uppermost, each container shall, unless packed in a strong wooden perforated case or crate, be carried on a cradle or on runners fixed to the floor of the vehicle. The load shall be secured to the vehicle by ropes or otherwise, unless sides and back of adequate height are provided.

Appendix II.

4. Containers, bottles, and cases containing bottles shall be legibly marked or labelled with the words "Bisulphide of Carbon, Highly Inflammable," together with the name and address of the sender.

5. When containers are filled, allowance shall be made for an air space of at least 7½ per cent.

(B) *Provisions relating to Conveyance of Bisulphide of Carbon in Tank Wagons.*

6. A tank wagon used for the conveyance of bisulphide of carbon shall be constructed in accordance with the provisions contained in the Second Schedule to these regulations, and together with its connections and fittings shall be maintained in good condition.

7. The capacity of a tank wagon shall not exceed 1,000 gallons. The foregoing limitation on the capacity of a tank wagon shall be construed so as to permit of the tank containing the amount specified under varying conditions of temperature. Trailers shall not be employed with tank wagons.

8. During the filling or emptying of a tank wagon the following precautions shall be observed:—

(i) If the wagon is mechanically driven the engine shall be stopped the whole time the filling or emptying is proceeding and shall not be run until all tanks have been securely closed.
(ii) If the wagon is horse-drawn, the horses shall be removed and the wheels securely scotched before the filling or emptying is begun.
(iii) Adequate provision shall be made to prevent the accumulation of a dangerous static charge of electricity.

9. Bisulphide of carbon in cans or other packages shall not be conveyed on any tank wagon used for the conveyance of bisulphide of carbon.

10. If electric lighting is employed on any tank wagon conveying bisulphide of carbon, the following conditions shall be complied with:—

(i) The pressure shall not exceed fourteen volts.
(ii) The circuit shall be heavily insulated from the chassis and the wiring shall be so fixed and protected as to reduce as far as possible risk of damage.
(iii) The generator, battery, switches and fuzes shall be carried in front of the fire-resisting screen when fitted and the battery shall be in an easily accessible position.
(iv) Means of cutting off the current close to the battery by a double pole switch or other suitable method shall be provided.

11. The tank of any tank wagon conveying bisulphide of carbon shall be legibly marked with the words "Bisulphide of Carbon, Highly Inflammable."

(C) *Provisions of General Application.*

12. No fire or artificial light capable of igniting inflammable vapour shall be allowed on any vehicle conveying bisulphide of carbon, nor shall any explosive substance or substance or article capable of causing fire or explosion be carried on such vehicle. This regulation shall not apply to petroleum spirit carried for use in the propulsion of a mechanically-driven vehicle.

13. A supply of sand or other efficient means of extinguishing an outbreak of fire shall be carried in an easily accessible position on every vehicle conveying bisulphide of carbon.

14. A person while on or attending to any vehicle conveying bisulphide of carbon shall not smoke.

15. Bisulphide of carbon shall not be conveyed on any public vehicle whilst carrying passengers.

16. All persons engaged in the loading, unloading or conveyance of bisulphide of carbon shall observe all precautions necessary for preventing fire or explosion.

17.—(*a*) The owner of a vehicle used for the conveyance of bisulphide of carbon, who employs any person in connection with such conveyance, shall furnish a copy of these regulations to, or affix a copy thereof in some place where it can be conveniently read by, any such person and shall take all other measures necessary to ensure that any such person is acquainted with and carries out the provisions of these regulations.

(*b*) No person shall deliver or cause to be delivered any bisulphide of carbon to any carrier for the purpose of conveyance by road :—

- (i) unless he shall, with a view to ensure that these Regulations are brought to the notice of the carrier, have delivered to such carrier a copy thereof;
- (ii) unless such a carrier is in possession of, or has available for use, such vehicles and equipment as are or may be adequate and necessary for the purpose of fulfilling the requirements of Regulations 2 and 3, or of complying with the provisions relating to the conveyance of bisulphide of carbon in tank wagons;
- (iii) unless where a tank wagon is not employed he delivers the bisulphide of carbon or causes it to be delivered, as the case may be, to the carrier in such a state as to comply with the requirements of Regulations 1 (*a*) or 1 (*b*), and Regulations 4 and 5.

18. These regulations shall not apply to the conveyance of bisulphide of carbon on a vehicle (not being a tank wagon) when the weight does not exceed 14 lbs. Provided that the weight of bisulphide of carbon in any one container other than a metal container shall not exceed 7 lbs.

19.—(i) In the event of any breach of any of the foregoing regulations :—

- (*a*) The person committing the breach shall be liable to a penalty not exceeding in the case of a first offence £10, and in the case of a second, or any subsequent offence, £20, and to a further penalty not exceeding £10 for each day during which the breach continues.
- (*b*) The bisulphide of carbon in respect of which, or being in the vehicle in respect of which, the breach is committed, may be forfeited.

(ii) If any person attempts to commit any breach of these regulations he shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as if he had committed a breach of the regulations.

20. The Regulations made on February 28th, 1927, and on September 9th, 1927, are hereby revoked.

21. These Regulations may be referred to as the Bisulphide of Carbon (Conveyance) Regulations, 1928.

W. JOYNSON-HICKS,
One of His Majesty's Principal
Secretaries of State.

Whitehall,
July 27th, 1928.

SCHEDULES.

FIRST SCHEDULE.

SPECIFICATION OF IRON OR STEEL CONTAINERS.

A.—Containers up to 1 gallon capacity.

1. Containers shall be made of iron or mild steel with strongly constructed seams. Each container shall be provided with a screw bung with leather washer or faced joint. Containers shall be galvanised or painted externally.

B.—Containers of 1 gallon to 50 gallons capacity.

2. Containers shall be made of iron or mild steel, of not less than the following thicknesses :—

Capacity.	Body.	Ends.
1 to 9 gallons	14 B.G.	14 B.G.
10 to 29 gallons	12 B.G. (2 517 mm.)	10 B.G. (3·175 mm.).
30 to 50 gallons	9 B.G. (3·551 mm.)	7 B.G. (4·480 mm.).

The bodies of barrels of ten gallons capacity and upwards, after rolling in process of manufacture, shall not be reduced in thickness in any part by more than one-tenth of the original thickness of the plate.

Appendix II.

3. All seams shall be welded or riveted and sweated with lead so as to make a solid joint. The pitch of the rivets shall not exceed one inch.

4. Drums shall be strengthened and protected at each end by a strong iron or steel chime-hoop welded or riveted on to the body of the drum. Drums exceeding 25 gallons capacity shall have two solid rolling hoops welded or securely shrunk on to the body of the drum; these hoops shall project sufficiently to protect the bung from damage when the drum is rolled.

5. Barrels shall have a bilge of not less than one-fifteenth of their length. The chime at each end shall consist of the body of the barrel, the flange of the end and an inner and outer chime-hoop, strongly and durably welded together. The bung shall be as nearly as possible flush with the outside of the body.

6. Each container shall be provided with a boss, welded or riveted and sweated to the body or end of the container. The boss shall be closed by a well-fitting wrought-iron or forged-steel screw bung with leather washer. In the case of drums of ten-gallon capacity and under, a faced joint made tight with soap may be used instead of the leather washer.

7. Each container shall be capable of standing a hydraulic pressure of 20 lb. per square inch without sign of injury or leakage.

8. Containers shall be galvanised or painted externally.

SECOND SCHEDULE.

(A) MECHANICALLY-DRIVEN ROAD TANK WAGONS.

1. The vehicle, including the tank and fittings, shall be strongly constructed of fire-resisting materials and shall be maintained in thoroughly good condition. The engine and fuel tank shall be effectively screened from the tank by a fire-resisting shield carried up above the top of the tank and down to within twelve inches of the ground, and the exhaust shall be wholly in front of this shield. The tank shall be securely fastened to the frame of the vehicle. A space of not less than six inches, which shall be left clear and unobstructed except for any part of the framework of the wagon, shall intervene between the tank and the fire-resisting shield.

(B) HORSE-DRAWN ROAD TANK WAGONS.

2. The vehicle, including the tank and fittings, shall be strongly constructed and the tank shall be securely fastened to the body of the vehicle.

General Provisions.

3. The tank, if of more than 500 gallons capacity, shall be divided into self-contained compartments, no one of which shall contain more than five hundred gallons.

4. Discharge valves shall be fitted only at the top of the tank and discharge shall be by the pressure of an inert gas or of water. The valve for the attachment of the pressure pipe shall be fitted with a cover, which shall be kept closed and locked except during the operation of emptying the tank, and the keys shall be retained by a responsible person.

5. The filling and discharge pipes shall be carried down nearly to the bottom of the tank and shall each terminate in such a way as to provide at all times a liquid seal at the bottom of the pipe.

6. The dipping pipes shall be carried down to the bottom of the tank, and any openings in them other than the upper orifice shall be covered with fine wire gauze of not less than 28 meshes to the linear inch.

7. The ventilating openings shall be covered with fine wire gauze of not less than 28 meshes to the linear inch, protected by covers when not in use.

S. R. & O., 1929, No. 952.

PETROLEUM.

THE PETROLEUM-SPIRIT (MOTOR VEHICLES, &C.) REGULATIONS, 1929, DATED OCTOBER 28, 1929, MADE BY THE SECRETARY OF STATE UNDER SECTION 10 OF THE PETROLEUM (CONSOLIDATION) ACT, 1928 (18 & 19 GEO. 5, C. 32), AS TO THE KEEPING AND USE OF PETROLEUM-SPIRIT FOR THE PURPOSES OF MOTOR VEHICLES, MOTOR BOATS, AIRCRAFT AND CERTAIN CLASSES OF ENGINES.

By virtue of the powers conferred on me by section 10 of the Petroleum (Consolidation) Act, 1928 (hereinafter referred to as "the Act"), I hereby make the following Regulations:—

Exemption from Act and application of Regulations.

1.—(1) Subject as hereinafter provided, the keeping and use of petroleum-spirit by persons intending to use it for the purpose of any motor vehicle, motor boat or aircraft, or of any class of engine specified in the Schedule to these Regulations and not either wholly or partly for the purposes of sale, shall be exempt from the operation of sections 1 to 9 inclusive of the Act, and petroleum-spirit kept and used by persons intending to use it as aforesaid shall be kept and used in accordance with the regulations hereinafter contained:

(2) Provided that on the application of any person intending to use petroleum-spirit as aforesaid, the local authority may grant a petroleum-spirit licence authorising the keeping thereof, and the said exemption and regulations shall not apply in respect of any petroleum-spirit so authorised to be kept.

Keeping of Petroleum-spirit.

2. The petroleum-spirit shall not be kept otherwise than in metal vessels so constructed and maintained in such condition as :—

(*a*) to be reasonably secure against breakage ; and

(*b*) to prevent the leakage of any liquid or vapour therefrom.

3. No person shall repair or cause to be repaired any vessel in which, to his knowledge, any petroleum-spirit is or has been kept until he has taken all reasonable precautions to ensure that the vessel has been rendered free from petroleum-spirit and from inflammable vapour occasioned thereby.

4. Any vessel used for the purpose of keeping the petroleum-spirit, not being the fuel tank of a motor vehicle, motor boat, aircraft or engine, shall bear, in conspicuous characters, the words "petroleum-spirit" and the words "highly inflammable" indelibly marked on the vessel or, where that is impracticable, on a metal label attached thereto.

5. The petroleum-spirit shall not be kept in any storage place which does not comply with the following requirements, that is to say :—

(*a*) the storage place shall, unless it is in the open air, be effectively ventilated to the open air :

(*b*) there shall, unless the storage place is in the open air, be an entrance thereto direct from the open air :

(*c*) in the storage place, or as near thereto as is reasonably practicable, there shall be kept fire extinguishing apparatus of a type capable of extinguishing fires occasioned by burning petroleum-spirit, or a supply of sand or other effective means for extinguishing such fires :

(*d*) the storage place shall not form part of or be attached to any building used as a dwelling place or as a place where persons assemble for any purpose unless it is separated therefrom by a substantial floor or partition which—

  (i) is constructed of material not readily inflammable ; and

  (ii) has no opening therein, so, however, that in the case of a storage place in which the only petroleum-spirit kept, in addition to that contained in the fuel-tank of any motor vehicle, motor boat, aircraft or engine, is kept in not more than two vessels of capacity not exceeding two gallons each, there may be an opening in any such partition (not being a floor) if the opening is fitted with a self-closing door constructed of hard wood or other fire resisting material :

(*e*) the storage place, if in any building, shall not be situated under any staircase or under any other means of exit likely to be required to be used for escape in case of fire unless it is separated therefrom by a substantial floor or partition conforming to the requirements contained in sub-paragraphs (i) and (ii) of the last foregoing paragraph.

6. Not more than sixty gallons of petroleum-spirit shall be kept at the same time in any one storage place, and in computing for the purposes of this regulation the amount of petroleum-spirit kept in any one storage place—

(*a*) any petroleum-spirit contained in the fuel tank of, or otherwise carried on, any motor vehicle, motor boat, aircraft or engine for the time being within the storage place shall be deemed to be kept in the storage place ; and

Appendix II.

(*b*) any two storage places not more than twenty feet apart, in the occupation of the same occupier, shall be deemed to be one storage place.

7.—(1) The petroleum-spirit shall not be kept in any vessel of capacity exceeding two gallons, not being the fuel-tank of a motor vehicle, motor-boat, aircraft or engine, unless—

(*a*) it is kept in a storage place situated more than twenty feet from any building, highway or public path ; and

(*b*) provision has been made by excavation or by the erection of retaining walls or otherwise to prevent the petroleum-spirit from flowing out of the storage place in case of fire ; and

(*c*) notice in writing that the petroleum-spirit is proposed to be so kept has been given to the local authority in accordance with the provisions of this regulation.

(2) The said notice shall be given by the occupier of the storage place before keeping the petroleum-spirit or permitting it to be kept in a vessel of capacity exceeding two gallons, and thereafter annually in the month of January.

8.—(1) The petroleum-spirit shall not, in any storage place situated within twenty feet of any building or of any stack of timber or other inflammable substance, be kept otherwise than—

(*a*) in the fuel-tank of any motor vehicle, motor boat, aircraft or engine ; and

(*b*) in not more than two other vessels of capacity not exceeding two gallons each carried thereon,

unless notice in writing that petroleum-spirit is proposed to be kept in the storage place otherwise than as aforesaid has been given to the local authority in accordance with the provisions of this regulation.

(2) The said notice shall be given by the occupier of the storage place before so keeping the petroleum-spirit or permitting it to be so kept, and thereafter annually in the month of January.

9. All reasonable precautions shall be taken at every storage place to prevent any fire or artificial light liable to ignite inflammable vapour being so near any vessel in which the petroleum-spirit is kept as to be dangerous.

Use of Petroleum-spirit.

10. No operation involving the exposure of petroleum-spirit shall be carried on in the neighbourhood of any fire or artificial light liable to ignite inflammable vapour.

11. Subject as hereinafter provided, no petroleum-spirit shall be used in any storage place otherwise than as fuel for a motor vehicle, motor boat, aircraft or engine; Provided that petroleum-spirit may be used therein—

(*a*) as fuel for any lamp or other apparatus used for the purpose of lighting or heating, so constructed and maintained in such condition as not to be liable to ignite inflammable vapour otherwise than as such fuel ; and

(*b*) in quantities not exceeding at any one time one gill, for cleaning or as a solvent for repair purposes.

12. No person shall wilfully or negligently empty, turn or permit to enter into any sewer or any drain communicating with a sewer any petroleum-spirit (*a*).

Special Provisions as to Engines used in connection with the making or repair of Roads.

13. With respect to the keeping and use on any road of petroleum-spirit for the purposes of any engine used in connection with the making or repair of roads, these regulations shall apply subject to the following modifications and additions :—

(*a*) before any petroleum-spirit is so kept, the person intending to keep it shall give to the local authority notice in writing of his intention to do so ;

(*b*) Regulation 6 (which limits the quantity of petroleum-spirit that may be kept in a storage place) shall have effect as if for the words " sixty gallons " there were therein substituted the words " thirty gallons " :

(*c*) Regulations 7 and 8 shall not apply :

(*d*) the petroleum-spirit shall not be kept in any vessel of capacity exceeding two gallons, not being the fuel-tank of the engine :

(*a*) See also P. H. A., 1925, s. 41, *ante*, p. 1587.

(e) not more than one such vessel shall be open at a time and no such vessel shall be open for any purpose other than that of fuelling the engine:

(f) all such vessels shall be kept in an iron locker:

(g) no such locker shall be situated within fifty feet of any means of exit from a theatre, music hall, cinema, or other place of public entertainment, or from a hospital, nor within fifteen feet of any means of exit from any other place where persons assemble for any purpose, or from a dwelling-house:

(h) all reasonable precautions shall be taken to prevent any unauthorised person having access to any such locker and to prevent any fire or artificial light liable to ignite inflammable vapour being within twenty feet of any such locker.

Supplementary.

14.—(1) The Interpretation Act, 1889, applies for the purposes of the interpretation of these Regulations as it applies for the purposes of the interpretation of an Act of Parliament.

(2) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Engine" means an engine of any class specified in the Schedule to these Regulations:

"Local authority," in relation to any storage place or petroleum-spirit, means the local authority empowered under the Act to grant petroleum-spirit licences in respect of the storage place or petroleum-spirit:

"Road" includes any highway and any street, bridge, lane, footway, square, court, mews, alley, or passage, whether a thoroughfare or not:

"Storage place" includes any room, building or place of any kind whatsoever, whether or not in the open air, used or proposed to be used for keeping therein petroleum-spirit for the purposes of any motor vehicle, motor boat, aircraft or engine.

15. The Regulations made by a Secretary of State under section 5 of the Locomotives on Highways Act, 1896, dated respectively the 31st July, 1907, and the 7th November, 1923, are hereby revoked:

Provided that any notice given in accordance with the requirements of those Regulations shall have effect as if given under these Regulations.

16. These Regulations shall come into force on the first day of December, 1929, and may be cited as the Petroleum-spirit (Motor Vehicles, &c.), Regulations, 1929.

J. R. CLYNES,
One of His Majesty's Principal
Secretaries of State.

Home Office,
Whitehall, S.W.1.
28*th October*, 1929.

SCHEDULE.

Engines to which these Regulations apply.

1. Engines used for the propulsion of lawn mowers, rollers or sweepers or of agricultural implements.
2. Stationary engines kept for domestic or agricultural purposes and used for the generation of power transmitted to any machine.
3. Stationary engines kept for domestic purposes and used for the generation of heat or light by means of electricity or petroleum-spirit vapour.
4. Engines used in connection with the construction or maintenance of works forming part of a harbour or canal.
5. Engines used in connection with the making or repair of roads.

Appendix II.

S. R. & O., 1929, No. 992.

PETROLEUM.

THE PETROLEUM (CARBIDE OF CALCIUM) ORDER, 1929.

At the Court at Buckingham Palace, the 5th day of November, 1929.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by the Petroleum (Consolidation) Act, 1928, (in this Order called "the Act of 1928") His Majesty is empowered by Order in Council to apply to any substance any of the provisions of the Act specified in the Order, with such modifications, if any, as may seem to His Majesty to be desirable having regard to the nature of the substance to which the Order relates:

And whereas it is desirable that certain provisions of the Act shall apply to carbide of calcium:

And whereas the provisions of section 1 of the Rules Publication Act, 1893, have been complied with:

Now, therefore, His Majesty, by virtue of the powers conferred on Him by section 19 of the Act of 1928 and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. Subject to the modifications contained in this Order the whole of the Act of 1928 shall apply to carbide of calcium in like manner as it applies to petroleum-spirit, except so much of the Act of 1928 as relates to the conveyance of petroleum-spirit by road, to the testing of petroleum-spirit, to the keeping and use of petroleum-spirit for the purpose of motor vehicles, motor boats, aircraft and engines, and to byelaws as to petroleum filling stations.

2. The following provisions as to the quantity of carbide of calcium which may be kept without a licence and the conditions of such keeping shall have effect in substitution for paragraphs (*a*) and (*b*) of the proviso to sub-section 1 of section 1 of the Act of 1928, that is to say,

(i) 5 lbs. of carbide of calcium may be so kept so long as it is kept in separate hermetically-closed metal vessels containing not more than 1 lb. each;

(ii) 28 lbs. of carbide of calcium may be so kept so long as the following conditions are observed:—

(*a*) The carbide shall be kept only in a metal vessel or vessels hermetically-closed at all times when the carbide is not actually being placed in or withdrawn from such vessel or vessels;

(*b*) The vessels containing carbide shall be kept in a dry and well-ventilated place;

(*c*) Due precautions shall be taken to prevent unauthorised persons from having access to the carbide;

(*d*) Notice shall be given of such keeping to the local authority.

Where a fixed generator is used on the premises:—

(*e*) Full and detailed instructions to be supplied by the maker, as to the care and use of the generator, shall be kept constantly posted up in such place as to be conveniently referred to by the generator attendant.

(iii) Where the carbide is kept by a general lighthouse authority, as defined by the Merchant Shipping Act, 1894, such quantity may be so kept as may be required for the purposes of such authority, provided that:—

(*a*) The carbide is kept only in a metal vessel or vessels hermetically-closed at all times when the carbide is not actually being withdrawn from such vessel or vessels.

(*b*) The vessels containing carbide are kept in a dry and well-ventilated building exclusively appropriated to the keeping of carbide, and detached from a dwelling-house or separated therefrom by a substantial partition with no opening in it.

(*c*) Due precautions are taken to prevent unauthorised persons from having access to the carbide.

(*d*) No artificial light capable of igniting inflammable vapour is allowed to be taken into the building in which the carbide is kept.

3. Instead of the words " Petroleum-Spirit " " Highly Inflammable " the label required in pursuance of section 5 of the Act of 1928 shall bear the words " Carbide of Calcium " " Dangerous if not kept dry " and the following caution : " The contents of this package are liable if brought into contact with moisture to give off a highly inflammable gas."

4. The Interpretation Act, 1889, shall apply to this Order in like manner as it applies to an Act of Parliament.

5. All previous Orders in Council relating to the keeping of carbide of calcium, viz., Orders dated 26th February, 1897, 7th July, 1897, 24th October, 1904, 8th August, 1911, 14th July, 1922, and 27th June, 1927, are hereby revoked.

6. This Order may be cited as the Petroleum (Carbide of Calcium) Order, 1929.

M. P. A. HANKEY.

S. R. & O., 1929, No. 993.

PETROLEUM.

THE PETROLEUM (MIXTURES) ORDER, 1929.

At the Court at Buckingham Palace, the 5th day of November, 1929.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas by the Petroleum (Consolidation) Act, 1928, (in this Order called " the Act of 1928 ") His Majesty is empowered by Order in Council to apply to any substance any of the provisions of the Act specified in the Order, with such modifications, if any, as may seem to His Majesty to be desirable having regard to the nature of the substance to which the Order relates :

And whereas it is desirable that certain provisions of the Act of 1928 shall apply to the Mixtures of Petroleum which are defined by the Schedule to this Order :

And whereas the provisions of section 1 of the Rules Publication Act, 1893, have been complied with :

Now, therefore, His Majesty, by virtue of the powers conferred on Him by section 19 of the Act of 1928 and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows :—

1. Subject to the modifications contained in this Order the whole of the Act of 1928 shall apply to the Mixtures of Petroleum which are defined by the Schedule to this Order in like manner as it applies to petroleum-spirit, except so much of Part II. of the Second Schedule to the Act as is inconsistent with or contradictory to Part II. of the Schedule to this Order (manner of testing mixtures of petroleum).

2. Where the mixture of petroleum is not sufficiently liquid to be measured by liquid measure, or is otherwise unsuitable to be measured by liquid measure, the following provisions as to the quantity which may be kept without petroleum-spirit licence and the conditions of such keeping shall have effect in substitution for paragraph (*b*) of the proviso to subsection (1) of section 1 of the Act that is to say,

The quantity of the mixture of petroleum-spirit shall not exceed 30 lbs. and may only be kept without a petroleum-spirit licence so long as it is enclosed in hermetically sealed packages or vessels, each of which shall contain not more than 1 lb.

3. The label required in pursuance of section 5 of the Act of 1928 shall bear the words " Petroleum Mixture giving off an inflammable heavy vapour " in substitution for the words " Petroleum Spirit " and the words " Highly Inflammable."

4. Wherever in the Act of 1928, or in any Order, Licence, Byelaw or Regulation issued under the said Act, a quantity is specified in gallons, such quantity shall, in the case of solid mixtures of petroleum defined by the Schedule to this Order, be read as though the weight of ten pounds were substituted for one gallon and of one and a quarter pounds for one pint.

5. The Interpretation Act, 1889, shall apply to this Order in like manner as it applies to an Act of Parliament.

6. The Petroleum (Mixtures) Orders of the 7th May, 1907, and of the 27th June, 1927, are hereby revoked.

7. This Order may be cited as the Petroleum (Mixtures) Order, 1929.

M. P. A. HANKEY.

SCHEDULE.

PART I.

Definition of Mixtures of Petroleum.

For the purposes of this Order the expression "mixtures of petroleum" means all mixtures (whether liquid, viscous or solid) of petroleum with any other substance except mixtures which, when tested in the manner set forth in Part II. of this Schedule, do not give off an inflammable vapour at a temperature below seventy-three degrees Fahrenheit.

PART II.

Manner of Testing Mixtures of Petroleum.

Liquid Mixtures.

1. A mixture of petroleum which is wholly liquid, flows quite freely, and does not contain any sediment or thickening ingredient, shall be tested by the method set forth in Part II. of the Second Schedule to the Act of 1928.

Sedimentary and Viscous Mixtures.

2.—(1) Where a mixture of petroleum contains an undissolved sediment that can be separated by filtration or by settlement and decantation, the sediment shall be so separated and the filtered or decanted liquid shall be tested by the method set forth in Part II. of the Second Schedule to the Act of 1928.

In separating the sediment, care must be taken to minimise the evaporation of the petroleum.

(2) Where a mixture of petroleum is such that sediment cannot be separated by filtration or by settlement and decantation, or where it is of a viscous nature, the apparatus to be used for testing the mixture shall be fitted with a stirrer in accordance with the specification contained in Part I. of the Second Schedule to the Act of 1928.

(3) In carrying out the test of a viscous petroleum mixture, the stirrer shall, except when the test flame is applied, be constantly revolved at a slow speed with the fingers, the direction of revolution being that of the hands of a clock.

(4) Subject to the foregoing provisions, the method of testing a sedimentary or viscous mixture shall be that set forth in Part II. of the Second Schedule to the Act of 1928.

Solid Mixtures.

3. The apparatus to be used for testing a solid mixture of petroleum shall be that of which a specification is contained in Part I. of the Second Schedule to the Act of 1928, and the method of carrying out the test shall be as follows:—

The solid mixture must be cut into cylinders 1½ inches long and ¼ inch in diameter by means of a cork borer or other cylindrical cutter having the correct internal diameter. These cylinders must be placed in the petroleum cup of the testing apparatus in a vertical position in such number as completely to fill the cup, the cylinders being in contact with one another, but not so tightly packed as to be deformed in shape;

Five or six of the cylinders in the centre of the cup must be shortened to ½ inch to allow space for the thermometer bulb;

The air bath of the testing apparatus must be filled with water to a depth of 1½ inches;

The water bath must then be raised to and maintained at a temperature of about 75° Fahrenheit; the cup must then be placed in the air bath, and the temperature of the sample must be allowed to rise until the thermometer in the oil cup shows 72° Fahrenheit, when the test flame must be applied.

If no flash is obtained, this temperature must be maintained constant in the oil cup for one hour, at the expiration of which time the test flame must again be applied: Provided that in testing samples of petroleum mixtures in a room of which the temperature is below 73° Fahrenheit the test flame may be applied after the sample has been a few minutes in the cup while it is still at the temperature of the room in which the test is being carried out, and if a flash is obtained by this means the test need not be proceeded with at a higher temperature.

PORT SANITARY AUTHORITIES.

See "DISEASES," AND "OFFICERS," *ante*, pp. 3139, 3610.

PROVISIONAL ORDERS.

See also "AREAS OF LOCAL GOVERNMENT."

CIRCULAR TO TOWN COUNCILS, URBAN DISTRICT COUNCILS, AND RURAL DISTRICT COUNCILS.

PROVISIONAL ORDERS UNDER THE PUBLIC HEALTH ACT, 1875.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
September 1*st*, 1920.

SIR,—I am directed by the Minister of Health to enclose herewith copies of instructions which he has had prepared for the assistance of local authorities in making application for Provisional Orders under the Public Health Act, 1875.

I am to point out that Standing Order 193 (A) of the House of Commons provides that no Bill originating in that House for confirming a Provisional Order shall be read the first time after Whitsuntide; and experience shows that, unless this date is strictly adhered to, it will probably be impossible for Bills to confirm Provisional Orders to reach the House of Lords by the date necessary to ensure compliance with the Lords' Sessional Order relating to the second reading of such Bills.

The Minister has consequently determined that all applications for Provisional Orders under the Act referred to must be received by him not later than the dates mentioned in the Provisional Order instructions, and it must be clearly understood that those dates are fixed as the latest at which applications for such Orders can be received, if it is wished that the Orders should be confirmed during the Session of 1921. It is, however, very desirable that, wherever practicable, applications should be made earlier, and the Minister would impress on every local authority who may propose to apply for a Provisional Order the importance of making their application as soon as they are in a position to furnish the requisite particulars.

It is particularly desirable that applications for Provisional Orders to alter Local Acts should be made at the earliest possible date. These applications generally require much consideration, and more attention can be given to them in the autumn than is possible during the earlier part of the following year.

The Minister has revised the instructions previously issued relating to these applications, and particular attention is drawn to paragraph 7 of the revised instructions (B).

I am to add that, in dealing with applications for the sanction by the Minister of the costs incurred by a local authority in promoting or opposing a Provisional Order under section 298 of the Public Health Act, 1875, the Minister will require that such costs shall be taxed by the taxing officer of one of the Houses of Parliament. It will not, therefore, be necessary to submit such costs for taxation by the Clerk of the Peace.

In connection with the question of costs the Minister thinks it necessary to draw attention to the fact that one of the advantages which should attach to procedure by Provisional Order as compared with procedure by Private Bill is the opportunity of saving expense which the former method affords. This advantage is largely discounted if, instead of conducting their case at a local inquiry with the assistance of their officers, who are usually perfectly capable of placing the facts before the inspector appointed to hold the inquiry, local authorities employ counsel for the purpose.

I am, Sir,
Your obedient servant,
F. J. WILLIS,
Principal Assistant Secretary.

The Clerk to the Local Authority.

PROVISIONAL ORDER INSTRUCTIONS A.

INSTRUCTIONS AS TO APPLICATIONS TO THE MINISTER OF HEALTH FOR PROVISIONAL ORDERS UNDER SECTIONS 176 AND 279 OF THE PUBLIC HEALTH ACT, 1875.

Applications for Provisional Orders under Section 176 *to put in force the compulsory powers of the Lands Clauses Acts.*

1. (*a*) The application must be made by a petition under the seal of the local authority, containing the particulars required by section 176 (3) of the Public Health Act, 1875. In the case of a rural district council requiring lands for the purposes of two or more contributory places it is not necessary (unless special circumstances would lead to saving of expense) that a separate application should be made or separate proceedings taken as regards each contributory place. The lands proposed to be purchased should be specified in the petition *by inserting therein before the prayer of the petition a copy of the book of reference* (*see Instruction* 4), *amended, if necessary, to show any changes ascertained between the preparation of the reference and the sealing of the petition, and any necessary corrections. The petition must also indicate whether the several owners, lessees and occupiers assent, dissent, are neuter, or have not replied to the notices, and this information may conveniently be given by inserting additional columns.*

(*b*) Where it is only intended to carry sewers or water mains into, through, or under lands, such lands should not be included in the petition, as the local authority are empowered by the Public Health Act to carry sewers or water mains into, through, or under lands without purchasing the lands.

2. (*a*) *Attention is drawn to the provision in section* 176 *of the Public Health Act,* 1875, *which empowers local authorities to give in the months of September and October, or of October and November, the advertisements and notices which are required before they can apply for a Provisional Order to enable them to obtain lands by compulsory purchase. The local authority should avail themselves of this power as far as practicable, so that the petition may be presented at an earlier date, and so as to prevent the possible loss of a Parliamentary session in the event of errors being discovered too late to be remedied.*

(*b*) *The petition must be presented not later than the* 31*st of October if the advertisements were published in September; not later than the* 30*th November if they were published in October; and not later than the* 18*th December if they were published in November.*

3. (*a*) It has been found in some instances that there has been a misapprehension as to the period within which the advertisements and notices prescribed by section 176 of the Public Health Act must be given. It is essential that the three consecutive weeks in which the publication takes place should all be included in the same month, whichever of the three months is selected for the purpose. Moreover, the advertisements must be published in the same newspaper each week, and the *notices* to the owners, lessees, and occupiers of the lands which it is proposed to purchase must in all cases be served in the month immediately following that in which the advertisements are published.

(*b*) It has also been found that in some cases the deposit of the plan of the proposed undertaking at the place named in the advertisement referred to in section 176 (2) (hereinafter referred to as the "deposited plan") has not been made until after the advertisement has been published; the deposit should always be made at such time as to enable the deposited plan (and sections, if any) to be seen at all reasonable hours at the prescribed place as soon as the first advertisement appears. The plan should be marked "Deposited Plan" when deposited, and should (together with the sections, if any) remain open to inspection at all reasonable hours from the date of the deposit until the time when it is sent to the Minister of Health with the petition in accordance with Instruction 4 (*b*). When the deposited plan (and sections, if any) are returned by the Minister, they should be re-deposited and remain at the prescribed place and be open to inspection at all reasonable hours until the Bill to confirm the Provisional Order, if an Order is issued, has received the Royal Assent.

4. (*a*) As regards the deposited plan and the book of reference, the following directions must be strictly complied with:—

(i) The deposited plan, which should be carefully corrected *on the ground*, should show not only the lands to be purchased, and the parish in which they are situated, but also the manner in which those lands will be utilised for the purposes in view, and the position, as nearly as practicable, of any buildings, tanks, reservoirs, or other works to be erected or constructed on the lands. The position in relation to the lands of any sewers, pipes, or other works, which may be contemplated as part of the undertaking for which the lands are required, should also be shown. In the case of land required for making a new street or for widening a street, the frontage line of the new street, or of the street when widened, should be shown by a hard line of colour; and the deposited plan should be accompanied by sections showing the proposed level of the new street in relation to the adjoining lands and to any existing streets which will communicate with the new street, and showing any alteration in the levels of the streets to be widened or altered, so far as it affects lands in that street or the communication with any existing streets. In the case of any street proposed to be widened, the deposited plan should be figured so as to show the widths at all material points of the existing street, and of the street as proposed to be widened. Any tramway in such street should be accurately indicated on the plan, and the space at material points between the outer lines of the tramway and the footpath on each side of the road, both before and after the contemplated improvement, should be given.

(ii) The deposited plan should be coloured so as to distinguish the lands proposed to be actually purchased, and each parcel of land, notwithstanding that several may belong to one owner, should be separately numbered, the outside boundaries of each parcel being defined by hard lines, and the buildings (if any) on each parcel being linked into it, so that it may be seen to what properties each number applies. If the lands are described in the advertisements by reference to numbers on the ordnance map, these numbers must be shown on the deposited plan.

(iii) The book of reference should also be prepared, *on the ground*, at the same time as, and in conjunction with, the deposited plan; it should show the parish in which the lands are situate, each parcel of land being numbered to correspond with the deposited plan, and being described so as to show clearly what properties are covered by each number. (See Instruction 1 (*a*).)

(iv) A copy of the book of reference should be placed with the deposited plan at the time of deposit, for local inspection.

(*b*) The petition should be accompanied by a copy of the deposited plan (and section, if any) or of so much thereof as relates to the petition, by a book of reference (in duplicate), altered (if necessary) in manuscript to correspond with the copy included in the petition in accordance with Instruction 1 (*a*), and by the statutory declaration or declarations required by these instructions. The deposited plan (and sections, if any) should also accompany the petition for comparison with the copy, and when returned by the Minister of Health should be re-deposited in accordance with Instruction 3 (*b*).

Appendix II.

(*c*) The deposited plan (and sections, if any) and the copy thereof, if not in book form, should be mounted on linen.

5. (*a*) A statutory declaration specifying the manner in which the notices under section 176 were served upon the owners, lessees, and occupiers, and the names of the persons served, should be made by the person who served them, and the service must be effected in one of the modes prescribed by section 267 of the Act. The service should be effected by a responsible person. In the event of difficulty arising in ascertaining the actual interests of several owners, lessees, or occupiers where the boundaries between lands are not well or clearly defined, and the interests may overlap, it would be well to describe the lands as belonging to all the parties who claim or who are believed to have an interest in the lands, and to serve the notices accordingly, so as to avoid possible objection to the lands being taken on the ground of want of due notice.

(*b*) A statutory declaration should also be made by the clerk to the local authority, showing that the other requirements of section 176 and of these instructions have been duly complied with, and the following exhibits should be annexed, viz. :—(1) Copies of the newspapers containing the advertisements ; and (2) a copy of the form of notice served upon owners, lessees, and occupiers ; and of the form of reply (if any).

6. In the case of land required for widening a street, the fact that the street is repairable by the inhabitants at large should be stated in the petition.

7. Standing Orders 38 of the House of Commons and 39 of both Houses of Parliament, extracts from which are appended, must be complied with, and immediately after the last of the deposits required by the Standing Orders has been made, the Minister of Health should be furnished with an *affidavit* for production to the examiners of Standing Orders, in proof that the requirements of the Standing Orders referred to have been complied with. This affidavit must state definitely that the plans, sections, books of reference or maps deposited at the Private Bill office and at the office of the Clerk of the Parliaments respectively in compliance with Standing Orders 39 above referred to, are in accordance with those Orders *duplicates* of those deposited at the Ministry of Health. The deposit should in no case be made before the date on which the application is made to the Minister.

8. Where the taking of the land will not involve the acquisition of any house or houses occupied, either wholly or partially, by thirty or more persons of the working class, whether as tenants or lodgers, this fact should be stated in the *affidavit*, so as to show that the Standing Order does not apply.

9. Every statutory declaration and affidavit must be made or sworn before a Justice of the Peace or a Commissioner for Oaths, and must be stamped with a half-crown *impressed* stamp ; and each exhibit to a statutory declaration or affidavit must be marked by the declarant or deponent and by the Justice of the Peace or Commissioner for Oaths, as the case may be, in the usual way.

10. Two or more local authorities cannot jointly petition for a Provisional Order to enable them to put in force the compulsory powers of the Lands Clauses Acts. Either each local authority must present a separate petition in respect of the particular lands which they require, or, if the several local authorities are combining under section 285 of the Public Health Act, 1875, for the execution of a scheme, a petition must be presented by one of them with regard to all the land required. In the latter case a copy of the agreement should accompany the application.

11. If the scheme for which it is proposed to take lands compulsorily involves works of sewerage or the laying of water mains outside the district of the local authority, they will probably find it convenient to satisfy the requirements of section 32 or section 54 of the Public Health Act when they are taking the necessary proceedings for the Provisional Order : but the advertisements and notices under those sections should be distinct from the advertisements, notices and proofs under section 176 of the Act. If this course is adopted it may have the effect of preventing delay at a subsequent stage of the proceedings in cases where advertisements and notices under section 32 or section 54 have to be issued before the works for which the land is required can be commenced. Section 53 should also be complied with, where it is intended to construct a reservoir to hold more than 100,000 gallons of water.

Applications for Provisional Orders under Section 279 for the Constitution of United Districts.

1. It is desirable that the local authority of each of the districts proposed to be formed into a united district should concur by resolution in the application. The resolution should specify the purposes for which the united district is to be constituted and the basis upon which the representation on the joint board and the contributions to the common fund by the constituent authorities are proposed to be settled. A copy of the resolution, certified by the clerk, should be forwarded to the Minister of Health, together with a copy of any agreement to combine which may have been executed.

2. The application should be made not later than the 18th December next, and it is desirable that it should be sent in before that date if possible.

Extracts from Standing Orders.

STANDING ORDER 38 (HOUSE OF COMMONS).

"Where any Bill contains or revives or extends power to take compulsorily or by agreement any land in any local area as defined for the purposes of this Order, and such taking involves or may involve the taking in that area of any house or houses occupied either wholly or partially by thirty or more persons of the working class, whether as tenants or lodgers, the promoters shall deposit in the *Private Bill office* and at the office of the central authority on or before the 21st day of December, a statement giving the description and postal address of each of such houses, its number on the deposited plans, the parish in which it is situate, and the number (so far as can be ascertained) of persons of the working class residing in it, and also a copy of so much of the deposited plans (if any) as relates thereto.

"This Order shall not apply where a statement in pursuance of this Order was deposited in respect of the Act, the powers of which are proposed to be revived or extended.

"For the purposes of this Order the expression 'local area' means—as respects London, the administrative county of London, as respects England and Wales (outside London) any borough, or other urban district, and elsewhere than in a borough or other urban district, any parish; . . .

"The expression 'house' means any house or part of a house occupied as a separate dwelling.

"The expression 'working class' means mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons, other than domestic servants, whose income in any case does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them.

"The expression 'central authority' means, as regards England and Wales, the Local Government Board (*a*) . . .

"The expression 'Bill' includes a Bill confirming a Provisional Order."

STANDING ORDER 39 (HOUSE OF COMMONS).

"Whenever plans, sections, books of reference or maps are deposited in the case of a Provisional Order . . . proposed to be made by any public department . . . duplicates of the said documents shall also be deposited in the *Private Bill office* (*b*): provided that with regard to such deposits as are so made at any public department . . . after the prorogation of Parliament, and before the 30th day of November in any year, such duplicates shall be so deposited on or before the 30th day of November."

N.B.—It is particularly requested that the petition, declaration, affidavit, notices, and other documents may be on foolscap paper of the usual size, and that

(*a*) Now the Minister of Health.

(*b*) In Standing Order 39 (House of Lords) the "Office of the Clerk of the Parliaments" is substituted.

Appendix II. whenever more than two copies of any of these documents are required for use such documents may be printed so as to facilitate examination.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
September, 1920.

PROVISIONAL ORDER INSTRUCTIONS B.

INSTRUCTIONS AS TO APPLICATIONS TO THE MINISTER OF HEALTH FOR PROVISIONAL ORDERS UNDER SECTIONS 297 AND 303 OF THE PUBLIC HEALTH ACT, 1875 (*a*).

Repeal, alteration, or amendment of Local Acts or Confirming Acts.

1. The application should be made by a resolution of the local authority, asking the Minister in general terms to repeal, alter, or amend the Act, wholly or partially, as the case may require, and setting out the objects desired to be attained, and a copy of the resolution, certified by the clerk, should be forwarded to the Ministry of Health. The resolution should be sufficiently wide in its terms to cover any provisions incidental to or consequential upon the main objects of the application which may, in the course of the consideration of the case by the Ministry, prove to be required. It is suggested that the resolution might, as a general rule, be in a form to the following effect:

Resolved that the make application to the Minister of Health for the issue of a Provisional Order under sections 297 and 303 of the Public Health Act, 1875, to partially repeal, alter or amend the Act so as:—

(1) To
(2) To
(3) For the several purposes of this application, or for purposes connected with, incidental to or consequent on those purposes to make any such alteration or amendment of the said local Act or of any other local Act, or of any Act confirming a Provisional Order made in pursuance of any of the sanitary Acts or of the Public Health Act, 1875, and in force in the said [borough] [district] as may be necessary or desirable.

2. The application must be received by the Ministry not later than the 15th November next, and it is very desirable that it should be sent in before the 1st October next.

3. The application should be accompanied by a King's Printers' copy of the Act, and by a statement showing the particular provisions which it is proposed should be repealed, altered or amended, the precise alterations desired, and any provisions which will require consequential alteration; and in the event of the local Act having been previously altered by Provisional Order or local Act, a reference to such Order or Act should be given. The statement should also show clearly the grounds upon which each of the proposed amendments is desired.

4. In any case in which powers are sought which deviate from, are in extension of, or are repugnant to the general law, the statement should show the circumstances peculiar to the locality which are alleged to justify the grant of the powers, and should contain a reference to any recent precedents for the grant of such powers.

5. If the powers sought can be obtained under a general Act, the reasons for not proceeding under the provisions of the general law should be fully set out in the statement.

6. If additional borrowing powers are sought, the purposes for which the powers are required should be stated, and in cases in which actual works have been decided on for which a loan will be required, estimates should be furnished, showing as far as practicable the amounts required for each purpose, together with plans and sections of the works. References should also be given to the provisions of the Acts under which the local authority claim to have power to carry out the purposes for which the borrowing powers are sought.

7. As regards gas undertakings attention is directed to the provisions of the Gas Regulation Act, 1920, and it is suggested that if a local authority desire further powers in regard to such an undertaking they should in the first instance place their

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(*a*) See the notes to s. 303, *ante*, p. 639.

proposals before the Board of Trade and ascertain whether that department could by means of a special order confer on the local authority the powers they desire.

8. If the application proposes to confer tne power to acquire any land or relates to an area which is described by reference to a map or plan, the map or plan must be on a scale of not less than six inches to the mile and must accompany the application.

9. In all cases in which plans, etc., are deposited, Standing Order 39 of each House of Parliament must be complied with.

10. In the case of any proposal to acquire land, Standing Order 38 of the House of Commons must also be complied with, and an *affidavit* must be supplied for production to the examiner of Standing Orders, in proof that the requirements of those Standing Orders have been complied with, or that Standing Order 38 does not apply, as the case may be. This affidavit must be sworn before a Justice of the Peace or a Commissioner for Oaths, and stamped with a half-crown *impressed* stamp, and must state definitely that the plans, sections, books of reference or maps deposited at the Private Bill office and at the office of the Clerk of the Parliaments respectively, in compliance with Standing Orders 39 above referred to, are, in accordance with those Orders, *duplicates* of those deposited at the Ministry of Health.

Extracts from Standing Orders.

STANDING ORDER 38 (HOUSE OF COMMONS).

"Where any Bill contains or revives or extends power to take compulsorily or by agreement any land in any local area as defined for the purposes of this Order, and such taking involves or may involve the taking in that area of any house or houses occupied either wholly or partially by thirty or more persons of the working class, whether as tenants or lodgers, the promoters shall deposit in the *Private Bill office* and at the office of the central authority, on or before the 21st day of December, a statement giving the description and postal address of each of such houses, its number on the deposited plans, the parish in which it is situate, and the number (so far as can be ascertained) of persons of the working class residing in it, and also a copy of so much of the deposited plans (if any) as relates thereto.

"This Order shall not apply where a statement in pursuance of this Order was deposited in respect of the Act, the powers of which are proposed to be revived or extended.

"For the purposes of this Order the expression 'local area' means—as respects London, the administrative county of London, as respects England and Wales (outside London) any borough, or other urban district, and elsewhere than in a borough or other urban district, any parish; . . .

"The expression 'house' means any house or part of a house occupied as a separate dwelling.

"The expression 'working class' means mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons, other than domestic servants, whose income in any case does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them.

"The expression 'central authority' means, as regards England and Wales, the Local Government Board (*a*) . . .

"The expression 'Bill' includes a Bill confirming a Provisional Order."

STANDING ORDER 39 (HOUSE OF COMMONS).

"Whenever plans, sections, books of reference or maps are deposited in the case of a Provisional Order . . . proposed to be made by any public department . . . . duplicates of the said documents shall also be deposited in *the Private Bill office* (*b*): provided that with regard to such deposits as are so made at any public department . . . after the prorogation of Parliament, and before the 30th day of November

(*a*) Now the Minister of Health.

(*b*) In Standing Order 39 (House of Lords) the "Office of the Clerk of the Parliaments" is substituted.

Appendix II. in any year, such duplicates shall be so deposited on or before the 30th day of November."

N.B.—It is particularly requested that all applications and statements may be on foolscap paper of the usual size.

MINISTRY OF HEALTH, WHITEHALL, S.W.1.
September, 1920.

RATING AND VALUATION.

S. R. & O., 1926, No. 795.

VALUATION, ENGLAND.

RETURNS.

THE RATING AND VALUATION ACT (RETURNS) RULES, 1926, DATED 30TH JUNE, 1926, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING THE FORM OF NOTICES REQUIRING RETURNS TO BE MADE BY OCCUPIERS, OWNERS AND LESSEES UNDER SECTIONS 40 TO 42 OF THE SAID ACT.

Whereas by sections 40 to 42 of the Rating and Valuation Act, 1925, provision is made with respect to the service by rating authorities and assessment committees of notices requiring occupiers, owners and lessees of hereditaments to make returns containing such particulars as may be reasonably required for the purpose of carrying out the Act:

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe the form of any return or other document whatsoever which is required or authorised to be used under or for the purposes of the Act:

Now therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following rules:—

1. These rules may be cited as the "Rating and Valuation Act (Returns) Rules, 1926," and shall come into operation on the date hereof.

2. Subject to the provisions of the two next succeeding rules, every notice served by a rating authority under section 40 of the Rating and Valuation Act, 1925, upon the occupier, owner or lessee of any hereditament requiring him to make such a return as is mentioned in the said section shall be in the form shown in Part I. of the Schedule hereto, or in a form substantially to the like effect, and the particulars to be specified on the reverse side thereof shall include questions as to the matters mentioned in Part II. of the said Schedule.

3. A rating authority, if they think fit, may in the case of notices served upon the occupiers, owners or lessees of hereditaments of any particular class omit questions as to any of the matters mentioned in Part II. of the Schedule hereto which appear to them to be inappropriate to hereditaments of that class, and may in any case omit questions as to any of the said matters which appear to them to be inappropriate to a return to be made by an occupier or, as the case may be, by an owner or lessee, not being an occupier (a).

4. A rating authority may, if they think fit, in the case of notices served upon the owners or lessees of hereditaments, not being occupiers, serve one notice only in respect of two or more hereditaments of which the same person is the owner or lessee, and may in such case specify the hereditaments to which the notice relates in a schedule to be attached to the notice and framed in such manner, whether tabular or otherwise, as may appear to them most convenient for recording the required particulars.

(a) See as to this provision *Grant* v. *Knaresborough U.D.C.*, [1928] Ch. 310; 92 J. P. 30.

Appendix II.

5. Every notice served by an assessment committee under section 41 of the Rating and Valuation Act, 1925, upon the occupier, owner or lessee of any hereditament requiring him to make such a return as is mentioned in the said section shall be in the form shown in Part I. of the Schedule hereto, or in a form substantially to the like effect, and the particulars to be specified on the reverse side thereof shall include questions as to the matters mentioned in Part II. of the said Schedule, or questions as to such of those matters as appear to the assessment committee to be material.

SCHEDULE.

PART I.

Parish or Ward .
No. .
County Borough, Borough or District of .

RATING AND VALUATION ACT, 1925.

Notice requiring Return for the Assessment of Rateable Property.

To .
or other The Occupier,
Owner or Lessee,
of .

In pursuance of the provisions of the Rating and Valuation Act, 1925, you are hereby required to make with respect to the property above-mentioned [specified in the Schedule annexed hereto] a true and correct return of the particulars set out on the reverse side hereof [in the Schedule annexed hereto] and to deliver such return to me, the Officer duly authorised by the to make this requirement, at the under-mentioned address within 21 days from the service of this Notice.

Dated this day of 192 .

[*Name*] .
[*Address*] .

Note.—(This gives the effect of sections 40, 41, 42 and 68 of the Act of 1925.)

REVERSE SIDE.

Return to be rendered by an occupier, owner or lessee of rateable property.

Question.	*Answer.*
1.	1.
2.	2.
3.	3.

DECLARATION.

I declare that the foregoing particulars are in every respect fully and truly stated to the best of my judgment and belief.

Given under my hand this day of 192 .

Occupier (owner *or* lessee).
Profession or Occupation
and Business Address.

PART II.

1. Situation of property, including name of street or road and name and/or number of property.

2. Name of occupier, or of each joint occupier.

3. Name and address of owner. (If not known, name and address of agent or person to whom rent is paid, the word "agent" being added in such a case.)

4. Description of property, including—
   - (*a*) Particulars of any cottages, stables, garages or other out-buildings;
   - (*b*) Estimated extent (i) of agricultural land and woodlands, and (ii) of gardens or other land (not covered by buildings), if exceeding an area to be specified.

5.—(1) Whether the property is occupied (*a*) wholly as a private residence, or (*b*) partly as a private residence and partly for trade or business purposes, or (*c*) solely for trade or business purposes.

(2) Nature of the trade or business carried on, if any.

6. Particulars as to the extent of occupation where part only of the property is occupied by the person making the return, including information as to parts (if any) let off, and as to payments received therefor, or for advertising or other rights or privileges.

7.—(*a*) Rent (if any) payable or receivable per week, quarter, year or other period by person making the return;

(*b*) the date when such rent was fixed;

(*c*) whether such rent includes rates (in whole or in part), or water rates, or covers any other services—the nature and value of any such services to be specified;

(*d*) whether the landlord or the tenant undertakes to bear in whole or in part, and, if in part, to what extent, the cost of repairs, insurance and other expenses necessary to maintain the property.

8. Whether the property is held under lease or agreement in writing, and, if so, particulars as to—

(*a*) the date of commencement thereof;

(*b*) the term for which granted;

(*c*) any consideration other than rent (*e.g.*, money premium, surrender of any existing lease, or agreement to lay out money for the improvement of the property);

(*d*) amount of ground rent where ground rent only is paid.

9. Information as to any alterations or improvements carried out during the preceding five years.

10. Information as to the annual amount of and liability of landlord or tenant for —(*a*) land tax (if any); (*b*) tithe rent charge or payment in lieu of tithes (if any); (*c*) land drainage rates or other similar charges (if any).

11. In the case of flats, tenements and other property let out in parts, such of the foregoing particulars as are appropriate and, in addition thereto, the following particulars—to be required from the owner or lessee, not being the occupier—with respect to the separate lettings (including any parts unoccupied)—

(*a*) number of each part, if separately numbered;

(*b*) rooms in each part;

(*c*) floor or floors on which each part is situated;

(*d*) special services rendered by the landlord and covered by the rent.

S. R. & O., 1926, No. 796.

VALUATION, ENGLAND.

FORM OF VALUATION LIST.

THE RATING AND VALUATION ACT (FORM OF VALUATION LIST) RULES, 1926, DATED 30TH JUNE, 1926, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING THE FORM OF VALUATION LIST TO BE USED FOR THE PURPOSES OF THE SAID ACT, THE FORM OF THE DECLARATION AND CERTIFICATE TO BE APPENDED TO SUCH LIST AND THE PARTICULARS WITH RESPECT TO TOTALS OF VALUES TO BE INSERTED IN SUCH LIST AND TO BE RECORDED (*a*).

Whereas by Part II. of the Rating and Valuation Act, 1925, provision is made with respect to the preparation, approval, revision and effect of valuation lists:

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe the form of any valuation list or other document whatsoever which is required or authorised to be used under or for the purposes of the Act:

Now therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following rules:—

1.—(1) These rules may be cited as the Rating and Valuation Act (Form of Valuation List) Rules, 1926, and shall come into operation on the date hereof.

(*a*) See also the Rating and Valuation (Apportionment) Act (Special List) Rules, 1928 and 1929, *post*, pp. 3711, 3726 and 3727.

(2) In these rules, unless the context otherwise requires—

"the Act" means the Rating and Valuation Act, 1925;

"valuation list" includes a draft valuation list;

"agricultural land" means agricultural land within the meaning of the Agricultural Rates Acts, 1896 and 1923;

"agricultural buildings" means buildings (other than dwelling houses) occupied together with agricultural land, or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon;

"farm house" means a dwelling house occupied together with agricultural land by a person carrying on or directing agricultural operations thereon, but does not include a dwelling house normally occupied by a workman or labourer;

"parish" includes any part of a parish being either a contributory place or an area otherwise subject to separate or differential rating.

2. Subject as hereinafter provided, every valuation list made under the provisions of the Act shall incorporate the form A in the Schedule hereto, and the declaration and certificate required to be appended thereto shall be in the form B in the said Schedule:

Provided that, in the case of a valuation list for an urban rating area, columns 10a, 10b, and 10c of form A (which relate to agricultural hereditaments) and, in the case of any valuation list, column 11 (which relates to certain properties entitled to partial relief from rating) may respectively be omitted from any page of a list which contains no hereditament in respect of which an entry would be necessary in such a column.

3. Where a rating area comprises two or more parishes (as defined in rule 1), the particulars relating to all the hereditaments in each parish shall be contained in a separate and distinct portion of the valuation list, and at the end of each portion there shall be left such blank space as may be estimated to be necessary for the addition of particulars relating to new hereditaments.

4. The hereditaments contained in each portion of a valuation list shall, subject to any directions given by the assessment committee, be entered therein in such order as the rating authority may think convenient:

Provided that in all cases—

(*a*) hereditaments specified in class (3) of Part II. of the Second Schedule to the Act shall be entered in one group after the entries relating to other rateable hereditaments in the parish; and

(*b*) hereditaments occupied by or on behalf of the Crown for public purposes in respect of which a contribution is made by the Crown in aid of rates shall be entered in one group at the end of that portion of the list which relates to the parish.

5. A rating authority and an assessment committee shall comply with the following directions as to the entries to be made in the respective columns of the valuation list hereinunder referred to:—

Columns 1–10c.—Separate entries shall be made throughout these columns in respect of a farm house, agricultural buildings and agricultural land in the occupation of one person. .

Column 6.—No entry in respect of estimated extent shall be necessary in the case of—

(*a*) a hereditament consisting of a dwelling house, or other building, without land; or

(*b*) a hereditament, not being agricultural land or woodlands, of which the estimated extent does not exceed one-quarter of an acre or is, in the opinion of the rating authority, otherwise immaterial.

Column 7.—No entry in respect of gross value shall be made in the case of a hereditament not belonging to any of the classes specified in Part I. of the Second Schedule to the Act, or in the case of a hereditament occupied by or on behalf of the Crown for public purposes:

Column 8.—No entry in respect of net annual value shall be made in the case of a hereditament of which the net annual value and the rateable value are the same:

Columns 9, 10 (a) (b) *and* (c) *and* 11.—The rateable value of a hereditament shall be entered in that column which (according to the heading thereof) is appropriate to such hereditament:

Column 11.—The hereditaments of which the rateable values are to be entered in this column are tithes, tithe commutation rentcharge, and other payments in lieu of tithes, issuing out of any land, and any land used as a railway constructed under the powers of any Act for public conveyance or as a canal or towing-path for a canal, any land covered with water, and any woodlands:

Columns 7–11.—No entry shall be made in any of these columns in the case of a church, chapel or other hereditament so long as the occupier is wholly exempt from rating in respect thereof:

Provided, nevertheless, that in the case of any hereditament in respect of which such a payment or contribution is made as is mentioned in section 2 (7) or section 64 (3) of the Act the value upon which the amount of such payment or contribution is calculated shall be entered in the appropriate column as representing the rateable value of that hereditament.

6. A rating authority and an assessment committee shall comply with the following directions as to the method of making corrections, insertions, alterations or amendments in a valuation list—

(i) a correction, insertion, alteration or amendment if made before approval of the list shall be made in ink of the same colour as that used in the preparation of the list, and if made after approval of the list shall be made in ink of a different colour:

(ii) a line shall be ruled through any words or figures which require to be omitted, or for which other words or figures are to be substituted, in such manner as to leave legible the original entries:

(iii) where a hereditament becomes divided into two or more hereditaments, the whole of the original entries may be struck out and the particulars with respect to the new hereditaments may be entered at the end of that portion of the list which relates to the parish, a reference to the page on which such particulars are to be found being inserted at the place where the original entries occur;

(iv) every correction, insertion, alteration or amendment shall be authenticated by the responsible officer, whether of the rating authority or assessment committee, having for the time being the custody of the list, and such officer shall for that purpose enter the date and his initials in column 12.

7. Immediately before the approval of a valuation list the entries as to gross, net annual and rateable values in columns 7 to 11 (inclusive) shall be totalled at the foot of each page of the list and the total for each page shall be carried to a summary or summaries so arranged as to show in respect of (*a*) the rating area as a whole and (*b*) each parish (as defined in rule 1) the following information, viz.,

(i) the totals of all the entries in each of the said columns, and

(ii) the grand total of all the rateable values entered in columns 9 to 11 (inclusive).

8. All corrections, insertions, alterations and amendments made in a valuation list after such list has been approved (including such as are made by direction of a Court of Quarter Sessions) shall be recorded in the minutes of the assessment committee, and the committee shall cause the necessary net additions or subtractions to be made to or from the relevant totals appearing in the summaries referred to in the last preceding rule.

9. Every assessment committee shall cause to be kept a book entitled "Record of Total Rateable Values," and shall cause to be entered therein in respect of each rating area and of each parish (as defined in rule 1),

(*a*) upon approval of a valuation list, such totals of values as are mentioned in paragraphs (i) and (ii) of rule 7; and

(*b*) whenever corrections, insertions, alterations or amendments are made, the net increase or decrease in any total resulting therefrom.

10. The copy of a deposited valuation list transmitted to an assessment committee in accordance with section 25 (2) of the Act shall be retained by the committee, who shall cause the entries therein to be corrected from time to time so that such copy may agree with the valuation list except in regard to figures recorded by the committee in a record of total rateable values.

SCHEDULE.

A.

Form of Valuation List.

Assessment No. 1.	Name of Occupier. 2.	Name of Owner. 3.	Description of property. 4.	Name or situation of property. 5.	Estimated extent. 6.	VALUES.							Date of Amendment and initials of responsible officer. 12.
						Gross Value where required to be ascertained. 7.	Net Annual Value where it differs from Rateable Value. 8.	Rateable Value.					
								Hereditaments not specified in later columns. 9.	Agricultural Hereditaments.			Tithes, etc. land used as a railway or canal, etc., or covered with water, and woodlands. 11.	
									Farm House. 10a.	Agricultural Buildings. 10b.	Agricultural Land. 10c.		

Appendix II.

B.

Form of Declaration and Certificate.

We do hereby declare and certify that the above valuation list was approved by the Assessment Committee for the Assessment Area at a meeting held this day, and that the provisions of the Rating and Valuation Act, 1925, have been duly complied with in respect to such list.

Dated this day of 19 .

A.B.
C.D.
E.F.
Three members of the Committee present at the said meeting.

S. R. & O., 1926, No. 797.

RATING, ENGLAND.

FORMS OF PRECEPT.

THE RATING AND VALUATION ACT (FORMS OF PRECEPT) RULES, 1926, DATED 30TH JUNE, 1926, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING FORMS OF PRECEPTS TO BE USED UNDER THE ACT (*a*).

Whereas by section 9 of the Rating and Valuation Act, 1925, and by paragraph (10) of the Seventh Schedule to the said Act, provision is made with respect to precepts to be issued to rating authorities by boards of guardians in respect of any period beginning on or after the first day of April, 1927, and by councils of counties in respect of any period beginning on or after that date but before the first day of April, 1929:

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable may by rules prescribe the form of any return or other document whatsoever which is required or authorised to be used under or for the purposes of the Act:

Now, therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following rules:—

1.—(1) These rules may be cited as the Rating and Valuation Act (Forms of Precept) Rules, 1926, and shall come into operation on the date hereof.

(2) In these rules the expression "the Act" means the Rating and Valuation Act, 1925.

2. Every precept issued by a board of guardians under section 9 of the Act in respect of any period beginning on or after the first day of April, 1927, shall be in the form set out in the Schedule hereto, or in a form substantially to the like effect.

3.—(1) Every precept issued by the council of a county in respect of any period beginning on or after the first day of April, 1927, but before the first day of April, 1929 (*b*), may be in the form which at the date of this Order is customarily used for precepts issued by that council, subject to such modifications as may appear necessary or desirable to give effect to the provisions of sub-section (1) of section 9 of the Act, of paragraph (10) of the Seventh Schedule to the Act and of paragraph (2) of this rule.

(*a*) See the R. & V. Act (Product of Rates and Precepts) Rules, 1929, *post*, p. 3723. The powers and duties of guardians are transferred to county and county borough councils by L. G. A., 1929, s. 1, *ante*, p. 1860.

(*b*) See the R. & V. Act (Forms of Precepts—County Councils) Rules, 1929, *post*, p. 3719.

(2) In every such precept the council shall specify the amount which they have included in the precept in respect of each service administered by them for which a separately balanced account is kept, and may also, if they see fit, specify the amount which they have included in respect of any other service or group of services administered by them.

SCHEDULE.

FORM OF PRECEPT—GUARDIANS.

Rating and Valuation Act, 1925.

Poor Law Union.

To the , being the Rating Authority for the rating area comprising the District [*or* Borough] of .

The Guardians of the Poor of the Union hereby give notice that in respect of the [half] year commencing on the day of 19 they will require from you—

(*a*) for the purpose of meeting their Union common charges the proceeds of a rate of *d.* in the pound,* [together with such further sum as is required by section 9 (2) (*b*) and (*c*) of the above-mentioned Act]; and

(*b*) † for the purpose of meeting other charges, being amounts separately chargeable on the single parishes specified below [*or* on the back hereof], the sum of £ :

And they do accordingly hereby require you to levy in your rating area, as part of the $\frac{\text{poor}}{\text{general}}$ rate, [*or* in that part of your rating area which is within the said Union, as an additional item of the $\frac{\text{poor}}{\text{general}}$ rate], such rate as is mentioned above * [increased by such an amount as may be required to comply with the provisions aforesaid]:

And to make payments on account of the proceeds of such rate to their Treasurer [*name and address*] as follows ‡:—

£ on the day of 19 .
£ ,, ,, ,,
£ ,, ,, ,,
£ ,, ,, ,,

And † they do further require you to pay to their said Treasurer the sum of £ mentioned in paragraph (*b*) above on or before the 19 .

Dated this day of 19 .
(*Signature*)

Chairman [*or* Acting Chairman].
Clerk.

Particulars of separate parochial charges.

Parish	*Purpose*	*Amount*
		£

Notes as to use of the form.

* The words within brackets marked * should be omitted from precepts addressed to a rural rating authority and from precepts addressed to an urban rating authority so long as that authority is levying a poor rate.

† Paragraph (*b*) (and the concluding words of the precept) may be omitted, if not required.

‡ The number of instalments is in the discretion of the guardians.

Appendix II.

S. R. & O., 1926, No. 798.

RATING, ENGLAND.

FORMS OF DEMAND NOTE (*a*).

THE RATING AND VALUATION ACT (FORMS OF DEMAND NOTE) RULES, 1926, DATED 30TH JUNE, 1926, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING THE FORMS OF DEMAND NOTES TO BE USED BY RATING AUTHORITIES.

Whereas by section 7 of the Rating and Valuation Act, 1925, provision is made with respect to the inclusion of certain information in the demand notes on which general rates and special rates are levied:

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe the form of any demand note or other document whatsoever which is required or authorised to be used under or for the purposes of the Act:

Now, therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following rules:—

1.—(1) These rules may be cited as the Rating and Valuation Act (Forms of Demand Note) Rules, 1926, and shall come into operation on the date hereof.

(2) In these rules,—

"demand note" does not include a demand note issued before the date of the first new valuation;

"the Act" means the Rating and Valuation Act, 1925.

2. Every demand note for a general rate or a special rate shall incorporate form A or form B in the Schedule hereto, as the case may be, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable by instalments.

3.—(1) In the case of every hereditament in respect of which an allowance may be claimed under sub-section (1) or sub-section (2) of section 11 of the Act, the rating authority, instead of entering the particulars specified in form A or form B (as the case may be) in the columns appearing upon the demand note, shall enter those particulars in a schedule or schedules to be referred to in, and attached to, the demand note.

(2) Any such schedule shall contain information with respect to the allowance which may be claimed, together with such provision, by way of additional columns or otherwise, as may be necessary or convenient for calculating the net amount due or remaining due.

(3) The rating authority may, if they see fit, make use of a schedule or schedules in the manner provided by paragraph (1) of this rule in any case where a person undertakes to pay the rates in respect of two or more hereditaments but is not entitled to claim any allowance referred to in the said paragraph.

4. A rating authority in preparing demand notes, or schedules to be attached thereto, shall comply with the following directions:—

(1) Every hereditament to which the demand relates shall be entered separately, and the particulars relating to it shall be entered separately in the appropriate columns:

(2) There shall be entered in the first column the number by which each hereditament to which the demand relates is distinguished in the rate book;

(3) There shall be entered in the second column in respect of every hereditament to which the demand relates, if other than that specified in the address, the situation of that hereditament and, also, such brief description thereof as may be reasonably necessary for purposes of identification;

(*a*) See as to this Order the notes to s. 7 of the R. & V. Act 1925, *ante*, p. 1650. The Order here set out has now been repealed: see the Order of February 5th, 1930, at p. 3918, *post*.

(4) In cases where the net annual value of a hereditament is the same as the rateable value thereof, no entry shall be made in the column headed "Net Annual Value":

Provided that, without prejudice to the right of a ratepayer to require a separate statement of the particulars relating to each hereditament, the rating authority may, where the same person is liable for or undertakes to pay the rates in respect of two or more dwelling houses, combine the particulars relating to those houses in such manner, consistent with accountancy requirements, as in their opinion is convenient.

5. A demand note shall also include,—
   (i) information with regard to the place and mode of payment; and
   (ii) in a rating area in which a resolution under section 8 of the Act (as to discount for prompt payment) is in force, information as to the effect of the resolution (including the date after which payment must be made in full).

6. A rating authority may include in a demand note for rates a demand for any water rate, rent or charge, or other rate, rent or charge payable to them, and may combine in one demand note demands for a general rate and for a special rate, provided that such combined demand note shall be so framed as to include all the information which by the Act and these rules would be required to be given to ratepayers if separate demand notes were issued.

7. There shall be included in every demand note a statement showing the amount in the pound which is being levied by the rating authority,—

(*a*) for their own purposes, and

(*b*) for the purposes of each authority by which a precept has been issued to them;

And such statement shall also show the amount in the pound which is being levied for the purposes of each service, or group of services, administered by the rating authority or by a precepting authority, in respect of which a separate fund account is kept.

8. For the purposes of the last preceding rule the following provisions shall have effect:—
   (i) The expression "separate fund account" includes,—
      (*a*) in relation to expenses chargeable on part only of a rating area, the separate account or accounts of such expenses;
      (*b*) in relation to any service for which by law separate accounts are required to be kept, the separate revenue account kept therefor; and
      (*c*) in relation to the remaining services, the general revenue account of the authority.
   (ii) If the rating authority think fit, and if and so far as any precepting authority concerned are willing to supply the necessary information, the rating authority in addition to showing the amount in the pound which is being levied for the purposes of any group of services included in a separate fund account, may indicate the amount in the pound which is being levied in respect of any one or more of those services.
   (iii) In calculating the amount in the pound which is being levied for the purposes of any specified service there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service.
   (iv) Where the amount in the pound which would otherwise have been levied for the purposes of any service (or group of services) administered by the rating authority and included in a separate fund account has been reduced by the allocation of any income not arising out of or in connection with such service (or group of services), such allocation and reduction and the source from which the income is derived shall be shown.
   (v) Where the aggregate amount in the pound which would otherwise have been levied by the rating authority has been varied in order to give effect to any financial adjustment under the Seventh Schedule to the Act or any differential rating provisions to which effect has to be given by the rating authority, the statement shall show the extent of, and reason for, such variation.

Appendix II.

SCHEDULE.

FORM A.

Demand Note for General Rate.

Mr. .... [or occupier].

Address ....

The Council of the..demand payment of a General Rate at.....................pence in the pound made in respect of the financial [half] year ending on the.......................day of..............................192 , and of the arrears (if any) of former rates,* now due from you as below :—

Number.	Hereditament (if other than that specified in the address).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount.
				£ s. d.
	Arrears (if any) of former rates *		...	
			Total	

* Words relating to arrears may be omitted, if not required.

FORM B.

Demand Note for Special Rate.

Parish of..

[or other area subject to the special rate].

Mr. .... [or occupier].

Address ....

The Rural District Council of..........................demand payment of a Special Rate made in respect of the financial [half] year ending on the..........................day of ....192 , and of the arrears (if any) of former rates,* now due from you as below.

The Rate is made at ....pence in the pound upon the rateable value of hereditaments as shown below except that it is made upon one-quarter only of that rateable value in the case of tithe, tithe rent charge, woodlands, land covered with water, or used as a canal or as a towing path for a canal, or as a railway constructed under the powers of any Act of Parliament for public conveyance.

* Words relating to arrears may be omitted, if not required

Number.	Hereditament (if other than that specified in the address).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount.
				£ s. d.
	Arrears (if any) of former rates *		...	
			Total	

* Words relating to arrears may be omitted, if not required.

S. R. & O., 1926, No. 1019.

VALUATION, ENGLAND.

The Central Valuation Committee (Constitution) Scheme, 1926, dated 3rd August, 1926, made by the Minister of Health under section 57 of the Rating and Valuation Act, 1925 (15 & 16 Geo. 5, c. 90), for the constitution of a Central Valuation Committee.

Whereas by section 57 of the Rating and Valuation Act, 1925, it is provided that, for the purpose of promoting uniformity of valuation, a Central Valuation Committee consisting of such persons as are mentioned in the said section shall be constituted in accordance with a scheme to be made by the Minister of Health after consultation with local authorities and associations of local authorities and any organisation representing assessment committees appointed under the Union Assessment Acts, 1862 to 1880:

Now therefore, the Minister of Health, after such consultations as are above referred to, in exercise of the powers conferred upon him by the said section 57 and of every other power enabling him in that behalf, hereby makes the following scheme—

1.—(1) This scheme may be cited as the Central Valuation Committee (Constitution) Scheme, 1926, and shall come into operation on the date hereof.

(2) In this scheme, unless the context otherwise requires—

"the Committee" means the Central Valuation Committee constituted by this scheme;

"constituent association" means an association mentioned in the next succeeding Article;

"the Minister" means the Minister of Health;

"the Act" means the Rating and Valuation Act, 1925.

2. There shall be constituted for the purposes specified in the next succeeding Article a central valuation committee for England and Wales consisting of thirty-two members, who shall be appointed (subject to the variations hereinafter contained with respect to certain original appointments) in accordance with the following provisions—

(i) Twenty-four persons, each of whom shall be a member of a rating authority, an assessment committee or a county valuation committee (or of two or more of such bodies) shall be appointed by the associations, and in the proportions hereinunder mentioned, that is to say—

by the County Councils Association—

seven persons, being members of county valuation committees, of whom two at least shall be members also of rating authorities ;

by the Association of Municipal Corporations—

eight persons, of whom four at least shall be members of rating authorities, and four at least shall be members of assessment committees ;

by the Urban District Councils Association—

two persons, of whom one at least shall be a member of a rating authority and one at least shall be a member of an assessment committee ;

by the Rural District Councils Association—

two persons, of whom one at least shall be a member of a rating authority, and one at least shall be a member of an assessment committee ; and

by the Association of Poor Law Unions in England and Wales—

five persons, being members of assessment committees.

(ii) Eight persons shall be appointed by the Minister of Health, and of such persons three at least shall be officers of rating authorities or assessment committees.

(iii) A person who at the date of his appointment as a member of the committee was duly qualified for appointment shall not become disqualified for acting by reason of the fact that he ceases to be a member of a rating authority, assessment committee or county valuation committee.

3. The purpose for which the committee is constituted is the promotion of uniformity in the principles and practice of valuation throughout England and Wales ; and in the furtherance of such purpose it shall be the duty of the committee to take all such steps as may appear to them to be useful or expedient, and in particular—

(*a*) to consider the operation of the Act and questions connected with the powers and duties imposed by it upon rating authorities, assessment committees, and county valuation committees ;

(*b*) to call for such information as they may deem to be material from rating authorities, assessment committees and county valuation committees ;

(*c*) to consult persons having experience in the law and practice of valuation for the purpose of ascertaining the points (if any) with respect to which the practice is not uniform or leads to inequalities in the system of valuation or with respect to which amendments of the law may appear to be desirable ;

(*d*) to convene, or arrange with a county valuation committee (or with two or more such committees) for the convening of, conferences, either central or regional, for the discussion of questions relating to the valuation of hereditaments in general, or hereditaments of particular classes, with a view more particularly to the formulation of principles for the assistance or guidance of rating authorities, assessment committees and county valuation committees ;

(*e*) from time to time to give to the Minister information with respect to the matters aforesaid, to bring to his notice any conclusions arrived at or recommendations made by the committee, or at any such conference as aforesaid, and to make to him such representations as they may think fit ; and

(*f*) to submit to the Minister in every year an annual report of their proceedings during the year ending on the 31st day of March.

4. The first members of the committee shall be appointed as soon as practicable after the making of this scheme ; and, in the case of such first appointments, the provisions of Article 2 hereof with respect to the permanent constitution of the committee shall be subject to the following variations—

(*a*) in any case where a person to be appointed by a constituent association is required by the said Article to be a member of a county valuation committee or of an assessment committee, the association may, in lieu of themselves making an appointment in the first instance, nominate to the Minister a person who is not for the time being duly qualified for appointment by them, and the Minister may appoint such person to be a member of the committee;

(*b*) a member so appointed by the Minister shall as soon as he becomes duly qualified be deemed to be a member appointed by the association which nominated him: Provided that if he does not become qualified before the 31st day of December, 1926, he shall vacate his appointment.

5.—(1) The normal term of office of a member of the committee shall be five years; provided that one-half of the members shall retire on the 1st January, 1929, and in every fifth year thereafter, and the other half on the 1st January, 1931, and in every fifth year thereafter.

(2) The members to retire in the year 1929 shall be three members appointed by the County Councils Association, four members appointed by the Association of Municipal Corporations, one member appointed by the Urban District Councils Association, one member appointed by the Rural District Councils Association, three members appointed by the Association of Poor Law Unions in England and Wales and four members appointed by the Minister; and each of the constituent associations and the Minister shall determine which of the members appointed by them or by him shall retire on that date.

(3) Any vacancy occurring amongst the members appointed by a constituent association or by the Minister in consequence of death, resignation, expiration of term of office or otherwise shall be filled as soon as possible after its occurrence by the association, or by the Minister as the case may be.

(4) A person appointed to fill a casual vacancy shall not hold office beyond the date on which the member in whose place he is appointed would in the ordinary course have retired.

(5) A retiring member shall be eligible for re-appointment if otherwise qualified.

6.—(1) The committee shall from time to time appoint one of their number to be chairman at all meetings at which he is present, and may from time to time appoint also a vice-chairman.

At any meeting of the committee the chairman or acting chairman shall have a second or casting vote.

(2) The quorum, proceedings and (subject as hereinafter mentioned) place of meeting of the committee shall be such as the committee determine, and the committee may transact any business entrusted to it notwithstanding any vacancy among its members or any defect in the appointment or qualification of any member.

(3) The first meeting of the committee shall be held on such date and at such place as may be fixed by the Minister.

7. The committee may make such arrangements for secretarial and other assistance as they may deem necessary; and, if and whenever suitable premises for the transaction of the business of the committee, or the holding of conferences, are not available free of charge, the committee may make such arrangements for the provision of suitable premises as appear to them to be expedient.

8.—(1) For the purpose of meeting any expenses incurred or to be incurred by them in the exercise of their powers or the performance of their duties under this scheme (including the repayment to members of reasonable expenses incurred by them in attending meetings of, and conferences called by or on behalf of, the committee), the committee may invite any rating authority, county valuation committee or assessment committee to make contributions towards such expenses in accordance with a scale to be fixed from time to time by the committee with the approval of the Minister; and it shall be lawful for any such authority or committee, without any further sanction than is herein contained, to make contributions in accordance with such scale.

(2) The committee shall include in their annual report to the Minister a statement of their receipts and payments for the year ending on the 31st day of March in that year.

Appendix II.

S. R. & O., 1926, No. 1123.

DISTRICT COUNCIL, ENGLAND.

The Rate Accounts (Rural District Councils) Order, 1926, dated September 15, 1926, made by the Minister of Health.

To the Councils of the several rural districts in England and Wales,—

Whereas by reason of the provisions of the Rating and Valuation Act, 1925, it is desirable to prescribe the methods in which the accounts of the receipts and expenditure under that Act of rating authorities and their officers shall be kept and presented for audit:

Now, therefore, the Minister of Health, by virtue of the powers conferred upon him by section 5 of the District Auditors Act, 1879, and of all other powers enabling him in that behalf hereby orders as follows:—

1. This Order may be cited as the Rate Accounts (Rural District Councils) Order, 1926, and shall come into operation on the first day of April, 1927.

2.—(1) This Order shall apply, subject to any amendment thereof or any departure therefrom to which the Minister may from time to time assent, to every rural district council and to the officers of every such council in relation to the accounts of their receipts and expenditure under the Rating and Valuation Act, 1925.

(2) In this Order, unless the context otherwise requires,—

"council" means rural district council;

"the Act" means the Rating and Valuation Act, 1925;

"the Minister" means the Minister of Health;

"year" means a period of twelve months commencing upon the first day of April;

"rating officer" means an officer to whom the duty of collecting rates in a rural district or any defined part thereof is assigned by the council;

"collection district" means the area in which the duty of collecting rates is so assigned to a rating officer;

"rate" includes both a general and a special rate.

Accounts of the Council.

3.—(1) The clerk, or other officer to whom the duty has been assigned by the council, shall keep such ledger accounts, books of account and records as are required by this Article or are needed for the purpose of presenting a full and correct account of transactions under the Act.

(2) The accounts, books and records required to be kept by this Article are:—

(i) Ledger accounts on the double entry system according to the Form A in the Schedule hereto, including:—
  - Personal Accounts with—
    - Each officer having cash transactions under the Act.
    - The ratepayers in respect of rates assessed upon them.
    - The ratepayers in respect of costs due from them.
    - Each authority from which precepts are received.
  - Impersonal Accounts of—
    - Valuation expenses.
    - Cost of rate collection.
    - General rate income.
    - Special rate income.
  - Final Accounts of or for—
    - Each part of the area in which an additional item of rate is levied or to which income in aid of rate is credited.
    - General rate income appropriation.
    - Financial adjustments certified under the Act.

(ii) A continuous record (to be kept either in the ledger or in a separate book provided for the purpose) of the ascertained products of the rates levied for the purposes of each precepting authority, of each part of the area in which an additional item of the general rate is levied, and of each fund or revenue in respect of which the council are required to keep separate account, and of the disposal thereof, showing the surplus or deficiency to date in respect of each such levy;

(iii) A Rate Charge Book according to the Form B in the Schedule hereto;

Provided that the council may, if they think fit, in lieu of keeping a separate Rate Charge Book in the said Form B, record on the valuation list, in additional columns, added thereto for the purpose, particulars of all rates made during the currency of the list, and in respect of each such rate the particulars so recorded shall be deemed to constitute the Rate Charge Book;

Provided also that, during the period before the first new valuation list made under the Act comes into operation in the district, the provisions of Article 4 (1) (i) (*a*) in regard to the keeping of a Rate Book shall apply in lieu of the foregoing provisions in regard to the keeping of a Rate Charge Book;

(iv) A Summons List and Costs Account Book according to the Form D in the Schedule hereto;

(v) A Rate Arrears Book according to the Form E in the Schedule hereto;

(vi) An account of the rate receipt forms purchased and issued to the several rating officers showing the numbers so issued at each date according to the consecutive numbering printed on the forms; and

(vii) A Rate Produce Book, showing how the produce of a penny rate has been ascertained for the year, both in the district as a whole and in each part thereof in which the general rate is levied at a different poundage, and also how the produce of each special rate has been ascertained.

Accounts of Rating Officers.

4.—(1) Each rating officer shall, in respect of his collection district,—

(i) keep and punctually enter up and balance—

(*a*) during the period before the first new valuation list made under the Act comes into operation in the district, Rate Books (General and Special) according to the forms at present in use in the parish or parishes concerned, and

(*b*) thereafter, a Rate Account Book according to the Form F in the Schedule hereto;

(ii) keep and punctually enter up and balance a Cash Account according to the Form G in the Schedule hereto;

(iii) subject as herein provided, keep and punctually enter up Receipt Books containing consecutively numbered copies of the receipts given by him according to the Form H in the Schedule hereto;

Provided that during the period before the first new valuation list made under the Act comes into operation in the district the rating officer may continue to use receipt check books according to the form in use at the date of this Order in the parish or parishes concerned:

Provided also that thereafter any rating officer who was employed in the collection of poor rates before the first day of April, 1927, may, if the council approve and if the number of assessments in his collection district does not exceed 500, continue to use receipt check books according to the form prescribed by the General Order for Accounts (Unions), 1867, in the manner prescribed by that Order:

(iv) prepare and submit as and when directed by the council and in all cases immediately upon the close of each rate period:—

(*a*) a list of the items which should in his opinion be written off as irrecoverable, showing the reason in each case; and

(*b*) a list of the other items which are still to be collected at the date when such list is prepared, or at the close of the rate period, as the case may be;

(v) keep a book or books containing consecutively numbered copies of the statements according to one or other of the Forms J, K or L in the

Schedule hereto which have been attached by him to the demand notes addressed to owners or other ratepayers; and

(vi) transmit to the clerk of the council, not less frequently than once a month, a return of all the facts and dates, which have come to his knowledge since the date of his last return in regard to new properties becoming ready for occupation, additions to existing properties, and persons entering into occupation of, or ceasing to occupy, premises in his collection district.

(2) Each rating officer or other officer who collects rate monies on behalf of the council shall—

(i) bank all monies of the council received by him at such times and in such manner as is directed by the council, and in no case less frequently than once a week;

(ii) comply with the Accounts (Payment into Bank) Order, 1922 (*a*); and

(iii) submit his accounts for examination at such times and in such manner as is directed by the council and in no case less frequently than once a month.

(3) Any warrant officer or broker who receives rate monies on behalf of the council shall keep and punctually enter up a Cash Account and Receipt Book, as prescribed in this Order, and shall comply with the Accounts (Payment into Bank) Order, 1922 (*a*).

General.

5. The officer who is charged with the duty of keeping the accounts of the council shall be responsible for the prompt and correct entry and balancing of all the accounts, books and records referred to in Article 3 of this Order, for presenting the ledger accounts to the council or to the appropriate committee, and for obtaining their approval to the submission of such accounts with or without amendment to the district auditor, and for the submission of all accounts at the audit.

He shall also be responsible for the maintenance of a current supervision and independent examination of the accounts, books and records required to be kept by other officers.

6.—(i) The following books shall together constitute the Rate Book of the rural district, that is to say:—

(*a*) in respect of any period before the first new valuation list made under the Act comes into operation in the district, the Rate Books for the several collection districts kept in accordance with Article 4 (1) (i) (*a*) hereof; and

(*b*) in respect of any subsequent period the Rate Charge Book for the district and the Rate Account Books for the several collection districts kept in accordance with Articles 3 (2) (iii) and 4 (1) (i) (*b*) hereof, respectively.

(ii) Rate Books and Rate Account Books for a collection district kept by a rating officer in accordance with Article 4 (1) (i) hereof shall be deemed to be accounts of the council, and the officer shall, as and when the council may direct, deposit any such book at the offices of the council.

7. A refund made to a ratepayer in respect of an overpayment of either the current rate or any previous rate shall be treated in the rate book of the period then current as an amount written off in that book during that period, the amount of such refund being added to the total of the appropriate column relating to irrecoverable sums and being deducted from the total of the column relating to amounts paid by ratepayers.

8. When a refund is made to an outgoing occupier in respect of a rate payment covering a period extending beyond the end of his occupation, a new rate charge of equal amount shall be entered either at the end of the current rate book, or in a column provided for the purpose in that book, and any sum collected from a new occupier of the hereditament, and any part of the new charge written off as irrecoverable in respect of such period, or carried forward as recoverable arrears, shall also be entered in the appropriate column in connection with the new entry.

(*a*) See this Order at p. 3039, *ante*.

Appendix II.

9. Subject as herein provided, the forms prescribed in this Order shall not be modified in any material respect without the express approval of the Minister:

Provided always that the council may, without such approval, make such additions to any form as may appear to them to be useful in connection with the keeping or verification of any of the council's accounts or records.

10. Any Order heretofore issued by the Minister or his predecessors relating to any accounts with respect to which provision is made by this Order is hereby rescinded in so far as it is inconsistent with any such provision.

SCHEDULE (*a*).

* * * * * *

S. R. & O., 1926, No. 1178.

BOROUGH, MUNICIPAL, ENGLAND.

DISTRICT COUNCIL, ENGLAND.

THE RATE ACCOUNTS (BOROUGH AND URBAN DISTRICT COUNCILS) ORDER, 1926, DATED SEPTEMBER 30, 1926, MADE BY THE MINISTER OF HEALTH.

To the councils of the several municipal boroughs and urban districts in England and Wales:—

Whereas by reason of the provisions of the Rating and Valuation Act, 1925, it is desirable to prescribe the methods in which the accounts of the receipts and expenditure under that Act of rating authorities and their officers shall be kept and presented for audit;

Now, therefore, the Minister of Health, by virtue of the powers conferred upon him by section 5 of the District Auditors Act, 1879, and of all other powers enabling him in that behalf, hereby orders as follows:—

1. This Order may be cited as the Rate Accounts (Borough and Urban District Councils) Order, 1926, and shall come into operation on the first day of April, 1927.

2.—(1) This Order shall apply, subject to any amendment thereof or any departure therefrom to which the Minister may from time to time assent, to the council of every borough and urban district and to the officers of every such council in relation to the accounts of their receipts and expenditure under the Rating and Valuation Act, 1925.

(2) In this Order, unless the context otherwise requires—

" council " means council of a borough or urban district;

" the Act " means the Rating and Valuation Act, 1925;

" the Minister " means the Minister of Health;

" year " means a period of twelve months commencing upon the first day of April;

(*a*) The forms in this Schedule are identical with those in the Schedule to the Rate Accounts (Borough and Urban District Councils) Order, 1926, *post*, p. 3671, with the following exceptions:—Form B: The words " [and special] " are inserted after " general " in the heading, and a footnote is appended to the " Rate made " columns in the following terms. " For parts of the rating area where Special Rates are made columns headed " Special Rate at....... in the £ " should also be provided to such extent as may be necessary. N.B.—The amount in the £ of the Special Rate on the pages relating to railway lines, etc., will be at one-quarter of the amount in the £ appearing on the other pages of the book." Form C is omitted. Form F: The words " or No. of receipt " are omitted in the heading to the Date of Payment column.

Appendix II.

"chief financial officer" means the chief officer charged with keeping the accounts of the council;

"rate" means—

(a) until a general rate is levied, a poor rate (or a consolidated rate which includes a poor rate), and

(b) thereafter, a general rate.

Accounts of the Council.

3.—(1) The chief financial officer of the council shall keep such ledger accounts, books of account and records as are required by this Article or are needed for the purpose of presenting a full and correct account of transactions under the Act.

(2) The accounts, books and records required to be kept by this Article are :—

(i) Ledger accounts on the double entry system according to the Form A in the Schedule hereto including :—

Personal Accounts with—
  Each officer having cash transactions under the Act;
  The ratepayers in respect of rates assessed upon them;
  The ratepayers in respect of costs due from them;
  Each authority from which precepts are received.
Impersonal Accounts of—
  Valuation expenses;
  Cost of rate collection;
  Rate income.
Final Accounts of or for—
  Each part of the area in which an additional item of rate is levied or to which income in aid of rate is credited;
  Rate income appropriation;
  Financial adjustments, if any, certified under the Act.

(ii) A continuous record (to be kept either in the ledger or in a separate book provided for the purpose) of the ascertained products of the rates levied for the purposes of each precepting authority, of each part of the area in which an additional item of the general rate is levied, and of each fund or revenue in respect of which the council are required to keep separate account, and of the disposal thereof, showing the surplus or deficiency to date in respect of each such levy.

(iii) A Rate Charge Book according to the Form B, or a Rate Book according to the Form C, in the Schedule hereto;

Provided that the council may, if they think fit, in lieu of keeping a separate Rate Charge Book in the said Form B record on the valuation list, in additional columns added thereto for the purpose, particulars of all rates made during the currency of the list, and in respect of each such rate the particulars so recorded shall be deemed to constitute the Rate Charge Book.

(iv) A Summons List and Costs Account Book according to the Form D in the Schedule hereto;

(v) A Rate Arrears Book according to the Form E in the Schedule hereto;

(vi) An account of the rate receipt forms purchased and issued to the several collecting officers showing the numbers so issued at each date according to the consecutive numbering printed on the forms; and

(vii) A Rate Produce Book, showing how the produce of a penny rate has been ascertained for the year, both in the rating area as a whole and in each part thereof in which the general rate is levied at a different poundage.

Accounts of Officers.

4. Any officer who is responsible for rate collection in any collection district of the rating area shall—

(i) In every case where a Rate Charge Book according to Form B is adopted by the council, keep and punctually enter up a Rate Account Book according to the Form F in the Schedule hereto and balance such account promptly after the close of the rate period;

(ii) Prepare and submit, as and when directed by the council, and in all cases immediately upon the close of each rate period:—

(*a*) a list of the items which should in his opinion be written off as irrecoverable, showing the reason in each case, and

(*b*) a list of the other items which are still to be collected at the date when such list is prepared, or at the close of the rate period, as the case may be;

(iii) Keep a book or books containing consecutively numbered copies of the statements according to one or other of the Forms J, K or L in the Schedule hereto which have been attached by him to the demand notes addressed to owners or other ratepayers; and

(iv) Transmit to the chief financial officer not less frequently than once a month a return of all the facts and dates which have come to his knowledge since the date of his last return in regard to new properties becoming ready for occupation, additions to existing properties, and persons entering into occupation of, or ceasing to occupy, premises in his collection district.

5.—(1) Every officer who collects rate monies on behalf of the council, shall—

(i) keep and punctually enter up and balance a Cash Account according to the Form G in the Schedule hereto;

(ii) keep and punctually enter up Receipt Books containing consecutively numbered copies of the receipts given by him according to the Form H in the Schedule hereto;

(iii) bank all monies of the council received by him at such times and in such manner as is directed by the council, and in no case less frequently than twice a week;

(iv) comply with the Accounts (Payment into Bank) Order, 1922 (*a*); and

(v) submit his accounts for examination at such times and in such manner as is directed by the council and in no case less frequently than once a week.

(2) Any warrant officer or broker who receives rate monies on behalf of the council shall keep and punctually enter up a Cash Account and Receipt Book as prescribed in this Order, and shall comply with the Accounts (Payment into Bank) Order, 1922 (*a*).

Transitional Provisions.

6. In respect of any period before the first new valuation list made under the Act comes into operation in the area, the council, notwithstanding anything hereinbefore contained,—

(*a*) shall, instead of bringing into use Form B or Form C in the Schedule hereto, continue to use Rate Books according to the form at present in use in the parish or parishes concerned; and

(*b*) may, instead of bringing into use for any purpose any other form in the Schedule hereto, continue to use any form at present in use for a similar purpose.

General.

7. The chief financial officer shall be responsible for the prompt and correct entry and balancing of all the accounts, books and records referred to in Article 3 of this Order, for presenting the ledger accounts to the council or to the appropriate committee, and for obtaining their approval to the submission of such accounts with or without amendment to the district auditor, and for the submission of all accounts at the audit.

He shall also be responsible for the maintenance of a current supervision and independent examination of the accounts, books and records required to be kept by other officers.

(*a*) This Order is set out at p. 3039, *ante*.

Appendix II.

8. Where a Rate Charge Book according to Form B is kept, that book, together with the Rate Account Books according to Form F kept for the several collection districts, shall together constitute the Rate Book of the borough or urban district; and the Rate Account Books of the collection districts shall be deemed to be accounts of the council and shall, as and when the council may direct, be deposited at the offices of the council.

9. A refund made to a ratepayer in respect of an overpayment of either the current rate or any previous rate shall be treated in the rate book of the period then current as an amount written off in that book during that period, the amount of such refund being added to the total of the appropriate column relating to irrecoverable sums and being deducted from the total of the column relating to amounts paid by ratepayers.

10. When a refund is made to an outgoing occupier in respect of a rate payment covering a period extending beyond the end of his occupation, a new rate charge of equal amount shall be entered, either at the end of the current rate book, or in a column provided for the purpose in that book, and any sum collected from a new occupier of the hereditament and any part of the new charge written off as irrecoverable in respect of such period, or carried forward as recoverable arrears, shall also be entered in the appropriate column in connection with the new entry.

11. The ledger accounts, officers' cash accounts and the bank account relating to transactions under the Act shall be kept and balanced apart from any accounts of the council and of their officers which are not subject to audit by the district auditor, but may be kept or balanced together with any other accounts which are subject to that audit.

12. Subject as herein provided, the forms prescribed in this Order shall not be modified in any material respect without the express approval of the Minister:

Provided always that the council may, without such approval, make such additions to any form as may appear to them to be useful in connection with the keeping or verification of any of the council's accounts or records.

13. Any Order heretofore issued by the Minister or his predecessors relating to any accounts with respect to which provision is made by this Order is hereby rescinded in so far as it is inconsistent with any such provision.

Appendix II.

SCHEDULE.

FORM A.

LEDGER ACCOUNT.

Dr. *Cr.*

Date.	Folio of Corresponding Credit.	Account of Corresponding Credit.	Description of Item.	Amount.			Total.			Date.	Folio of Corresponding Debit.	Account of Corresponding Debit.	Description of Item.	Amount.			Total.		
				£	*s.*	*d,*	£	*s.*	*d.*					£	*s.*	*d.*	£	*s.*	*d.*

Appendix II.

FORM B.

RATE CHARGE BOOK—GENERAL RATES MADE, 19...... TO 19......*

Assessment Number.	Occupier.	Dates (in cases of change of occupancy).		Owner, where the owner pays the rates.	Description of Property.	Name or Situation of Property.	Rate made........ day of..............				Rate made........ day of..............				Rate made........ day of..............				Rate made........ day of..............				....
		From	To				Rateable Value.	General Rate at ....in the £			Rateable Value.	General Rate at ....in the £.			Rateable Value.	General Rate at ....in the £.			Rateable Value.	General Rate at ....in the £.			
							£	£	s.	d.	£	£	s.	d.	£	£	s.	d.	£	£	s.	d.	
1																							
2																							

Note in regard to use of form.

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* *I.e.*, during the five years covered by the currency of the valuation list.

FORM C.

RATE BOOK.

Assessment Number.	Occupier.	Dates (in cases of change of occupancy).		Owner where the owner pays the rates.	Description of property.	Name or Situation of property.	Rateable Value.	Rate at ...... in the £.			Arrears of previous rates.			Total for each Occupier or Owner.			Owners' Allowances.			Empty Allowances. *			Otherwise Irrecoverable. *			Reason why Irrecoverable. *	Amounts Paid.			Date of payment or No. of receipt.	Arrears Carried Forward.		
		From	To																														
1							£	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.		£	s.	d.		£	s.	d.
2																																	

Notes in regard to use of form.

* One column suffices where a separate book giving details of irrecoverable rates is kept.

Where Section 8 of the Rating and Valuation Act, 1925, has been adopted, a further column headed " Discount " will be needed on the Credit side.

Where the rate is made payable by instalments, extra columns for amounts paid and date of payment should be added.

Appendix II.

FORM D.

SUMMONS LIST AND COSTS ACCOUNT.

SUMMONS LIST.										COSTS ACCOUNT.																					
										Dr.																					*Cr.*
Assessment Number.	Name.	Rates due.				Paid before		Warrant signed.	Notes at Hearing.	Brought forward.		Summons.		Service.		Warrant.		Distraint.		Commitment.		Total.		Costs Paid.		Date of Payment.	Written off.			Carried forward.	
		Amount.			Period.	Service.	Hearing.																				Amount.		Reason.		
		£	s.	d.						s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.	s.	d.		s.	d.		s.	d.

FORM E.

RATE ARREARS BOOK.

Arrears at [30 September, 1927].														Treatment in half-year to [31 March, 1928].										
Name of Ratepayer.	Hereditaments concerned.	Amount due in respect of											Proceedings taken and result thereof.	Collected during half-year.				Written-off during half-year.			Reasons for writing-off or directions given by Committee.	Carried forward at (31 March)		
		Rate to (30 Sept.)			Previous Rates.			Costs.		Total.				Amount.			Date (or No. of receipt).							
		£	s.	d.	£	s.	d.	s.	d.	£	s.	d.		£	s.	d.		£	s.	d.		£	s.	d.

Submitted to and approved by............................ Committee.

Date..........................

Signature of Chairman.......................

Appendix II.

FORM F.

RATE ACCOUNT BOOK.

..........................District. Half-year..........................

Assessment Number.	Ratepayer's Name.	Property and Address (in short).	Rate at ......in £.			Arrears brought forward.			Total for each Owner or Occupier.			Owners' Allowances.			Empty Allowances.			Otherwise Irrecoverable.			Amounts Paid.			Date of Payment or No. of receipt.	Arrears carried forward.			Collector's Notes, including dates of change of occupation.
			£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.	£	s.	d.		£	s.	d.	

Notes in regard to use of form.

Where Section 8 of the Rating and Valuation Act, 1925, has been adopted a further column headed "Discount" will be needed on the Credit side.

Where the rate is made payable by instalments, extra columns for amounts paid and date of payment should be added.

FORM G.

CASH ACCOUNT.

COLLECTIONS.										DEPOSITS.			
Date.	Receipt Number.	Amount Received.					Total up to time of Banking.			Date.	Amount.		
		Rate.			Costs.								
		£	s.	d.	s.	d.	£	s.	d.		£	s.	d.

FORM H.

RECEIPT BOOK.

RECEIPT.

(Consec. No.) ....Council.

Received this 19

from...

the sum of £.........................in respect of

the items entered hereon.

...........................Collecting Officer.

By Cash.
By Cheque.

Assessment Number.	Current Rate.		
	£	s.	d.
Arrears (if any)			
Costs (if any) .			
Total . .			

Notes in regard to use of form.

If a discount for prompt payment is allowed under Section 8 of the Act, the form should provide for showing the total rate charge of the current period and the discount deducted therefrom.

If the receipt of water charges or other income is dealt with on the rate receipt form a separate column or columns should be provided for entering the items of such receipts.

A separate "total" column should be added where sanction has been obtained to total the receipts in the Receipt Book for entry in the officer's Cash Account.

Appendix II.

STATEMENTS TO BE ATTACHED TO DEMANDS ADDRESSED TO OWNERS.

FORM J.

For owners Rated under Section 11 (1) *or agreeing under Section* 11 (2) (*b*).

(Consec. No.)

Assessment Numbers.	Hereditaments.	Rateable Values.	Full Rates.			Deductions claimed for Empty Periods.				
						Period.		Amount.		
						From	To			
		£	£	s.	d.			£	s.	d.
		£								
Deductions in respect of Empties		£								

An allowance of.........% is claimable if..................of the above is paid before ....and the remainder before..........................

FORM K.

For owners agreeing under Section 11 (2) (*a*).

(Consec. No.)

Assessment Numbers.	Hereditaments.	Rateable Values.	Full Rates.		
		£	£	s.	d.

Total.............. £

Less..............% £

£

An allowance of ......% is claimable if..................of the above is paid before............ ....and the remainder before..........................

FORM L.

For owners agreeing under Section 11 (2) (*c*).

(Consec. No.)

Assessment Numbers.	Hereditaments.	Rateable Values.	Full Rates.		
		£	£	*s.*	*d.*
		Total .			

The owner's rent accounts show that the amounts collectable and collected during the (half) year in respect of rent and rates taken together were respectively £ .... and £ ....

The amount due to the council is that proportion of the above total which the aggregate amount actually collected in respect of rent and rates bears to the aggregate amount due in respect thereof, less.........%.

Note in regard to use of Forms K and L.

On Forms K and L it is not necessary to enter in the final column detail in respect of amounts brought together in the columns of the Rate Account Book headed "Total for each owner."

S. R. & O., 1926, No. 1502.

VALUATION, ENGLAND.

THE RATING AND VALUATION ACT (COUNTY VALUATION COMMITTEES) ORDER, 1926, DATED 30TH NOVEMBER, 1926, MADE BY THE MINISTER OF HEALTH UNDER SECTION 67 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR REMOVING A DIFFICULTY ARISING IN CONNECTION WITH THE APPLICATION OF CERTAIN PROVISIONS OF THAT ACT TO AREAS CONSISTING OF AN ADMINISTRATIVE COUNTY AND A COUNTY BOROUGH OR COUNTY BOROUGHS.

Whereas for the purpose of promoting uniformity in the principles and practice of valuation and assisting rating authorities and assessment committees in the performance of their functions under the Rating and Valuation Act, 1925, it is provided by section 18 (1) of that Act that there shall be established in every county a committee of the county council (to be called the county valuation committee);

And whereas by section 16 (3) of the said Act it is provided that any two or more councils, whether councils of counties or county boroughs, may make and submit to the Minister of Health a joint scheme for the constitution of assessment areas;

And whereas in certain cases the councils of counties and county boroughs have submitted joint schemes; and in such circumstances a difficulty arises in connection with the representation of the councils of county boroughs on the county valuation committee;

And whereas by section 67 of the said Act it is provided that if any difficulty arises in connection with the application of the Act to any exceptional area, or the preparation of the first valuation list for any area, or otherwise in bringing into operation any of the provisions of the Act, the Minister of Health may by order remove the difficulty, or constitute any assessment committee, or declare any assessment committee to be duly constituted, or make any appointment, or do any other thing, which appears to him necessary or expedient for securing the due preparation of the list, or for bringing the said provisions into operation, and any such order may modify the provisions of the Act so far as may appear to the Minister necessary or expedient for carrying the order into effect;

And whereas application has been made to the Minister of Health by certain councils to remove the difficulty above-mentioned by making such an order as is hereinafter contained:

Now therefore the Minister of Health, by virtue of the powers conferred upon him by the said section 67, and of all other powers enabling him in that behalf, hereby orders as follows:—

1. This Order may be cited as the Rating and Valuation Act (County Valuation Committees) Order, 1926, and shall come into operation on the date hereof.

2. In any case where the councils of a county and of a county borough, or two or more county boroughs, have made and submitted to the Minister of Health a joint scheme for the constitution of assessment areas, and such scheme has been approved by the Minister, the county valuation committee for the county may include such number of persons to be appointed by the council of any county borough which is for the purposes of the Local Government Act, 1888, deemed to be situate in the county, as may be agreed between the councils of the county and of the county borough, and it shall not be necessary that a person so appointed shall be a member of the council of the county.

S. R. & O., 1927, No. 55.

OVERSEERS: TRANSFER OF POWERS.

THE OVERSEERS ORDER, 1927.

At the Court of Buckingham Palace, the 7th day of February, 1927. Present:
The King's Most Excellent Majesty in Council.

Whereas by sub-section (2) of section 1 of the Rating and Valuation Act, 1925, it is enacted that as from the 1st day of April, 1927, being the appointed day within the meaning of that Act, all powers and duties of the overseers of the poor in relation to the making, levying and collection of rates, and of any other person who by virtue of any local Act has powers in that behalf, shall in every rating area be exercised and performed by the rating authority:

And whereas sub-section (1) of section 62 of the same Act provides that after the day aforesaid overseers shall cease to be appointed, and that His Majesty may by Order in Council provide, subject to the provisions of the Act, for the transfer as from that day to rating authorities, or such other local authorities or persons as seems expedient, of the powers and duties of and any property vested in overseers, and that any such Order may contain such supplemental and consequential provisions as appear to His Majesty to be necessary or expedient to make in connection with the abolition of the office of overseer:

And whereas sub-section (3) of the said section 62 enacts that any reference in any Act or document to overseers in relation to any of their powers or duties shall be construed as references to the rating authority or to the other persons to whom those powers or duties are transferred by or in pursuance of the Rating and Valuation Act, 1925:

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

Preliminary.

1.—(1) This Order may be cited as the Overseers Order, 1927, and save as otherwise expressly provided shall come into operation on the 1st day of April, 1927.

(2) This Order shall not extend to Scotland, Northern Ireland, the Isles of Scilly or the administrative County of London.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires—

"Parish" has the same meaning as in sub-section (4) of section 68 of the Rating and Valuation Act, 1925;

"Property" includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books and documents;

"Rating authority" means the council of any county borough, urban district or rural district;

"Rural parish" means a parish in a rural district;

"Urban parish" means a parish in a county borough or urban district;

"The Act of 1925" means the Rating and Valuation Act, 1925;

"The appointed day" means the 1st day of April, 1927;

"The Minister" means the Minister of Health.

(3) Where rural parishes are grouped under a common parish council, any reference in this Order to the parish council shall include a reference to the grouped parish council, but where the powers or duties in connection with which the expression is used are excluded by the grouping order from the powers or duties exercisable by the parish council, any reference in this Order to the parish council shall be read as a reference to the parish meeting of each of the grouped parishes.

Jurors Book and Electors Register.

3.—(1) Subject to the provisions of this Article, the powers and duties of overseers under the enactments relating to the preparation of the jurors book and register of electors are hereby transferred to the rating authority.

(2) If the registration officer at any time shall send the rating authority a request that one or more of their officers shall be designated by them to perform the duties of overseers in relation to the preparation of the jurors book or the register of electors, the rating authority shall forthwith designate one or more of their officers for the purpose, and the officer or officers so designated shall, while the designation continues in force, perform the duties of overseers in relation to those matters or either of them, as the case may be:

Provided that if the registration officer shall raise a question whether an officer designated by a rating authority is an officer to whom the work can properly be assigned by the rating authority, that question shall be determined by the Secretary of State.

(3) A designation under this Article of an officer to perform any duty shall cease to have effect if either the rating authority revoke the designation, or the registration officer notifies the rating authority that the assistance of the designated officer will not be required by him in the performance of that duty:

Provided that any such revocation or notification, if given at any time between the 30th day of April and the 15th day of October in any year, shall not have effect until the 15th day of October in the same year.

(4) Where the rating authority revoke a designation under this article they shall forthwith send notice of the revocation to the registration officer.

(5) The remuneration and expenses of a designated officer in respect of—

(*a*) the preparation of the jurors book shall be payable by the rating authority in accordance with the enactments relating to the preparation of the jurors book; and

(*b*) the preparation of the register of electors shall be defrayed in accordance with the enactments relating to the registration of electors.

(6) Any document required to be signed by overseers and relating to the preparation of the jurors book or the registers of electors may be signed by an officer designated under this Article by the rating authority.

Holding or Management of Parish Property, Village Greens and Allotments.

4.—(1) The powers and duties of the overseers, or of the churchwardens and overseers, of any urban parish with respect to the holding or management of parish property (not being property relating to affairs of the church or held for an ecclesiastical charity within the meaning of the Local Government Act, 1894), and the holding or management of village greens or of allotments, whether for recreation grounds or for gardens or otherwise for the benefit of the inhabitants or any of them, and whether of that parish or of that parish conjointly with other parishes, are hereby transferred to the rating authority.

(2) The powers and duties of overseers, or of the churchwardens and overseers, mentioned in paragraph (1) of this Article, as respects any rural parish not having a separate parish council and to which sub-section (6) of section 19 of the Local Government Act, 1894, applies, are hereby transferred to the parish meeting.

(3) Where immediately before the appointed day the overseers, or the churchwardens and overseers, of any urban parish are associated with any other persons in the holding or management of parish property, village greens or allotments to which this Article applies, the powers and duties of the overseers, or of the churchwardens and overseers, in relation to such holding or management, are hereby transferred to such number of persons, not exceeding the number of overseers, or of churchwardens and overseers (as the case may be) as may be appointed by the rating authority, and shall be exercised and performed by the persons so appointed jointly with the persons associated with them.

(4) Paragraph (3) of this Article shall extend to any rural parish, and if the parish has a parish council with the substitution for the rating authority of the parish council, and if the parish has not a parish council with the substitution for the rating authority of the parish meeting.

Other Powers and Duties of Overseers.

5.—(1) The powers and duties of overseers, or of the churchwardens and overseers, under the enactments mentioned in the schedule to this Order are hereby transferred to the local authorities or persons mentioned in the third, fourth and fifth columns of that schedule, and those enactments shall have effect accordingly.

(2) The powers and duties of overseers under any rules in relation to elections made under section 48 of the Local Government Act, 1894, are hereby transferred to the clerk to the rating authority.

(3) Any powers or duties of overseers, or of the churchwardens and overseers, not transferred by the Act of 1925 and to which the foregoing provisions of this Order do not extend are hereby transferred to the rating authority.

Transfer of Property.

6.—(1) All property held by overseers, or by the churchwardens and overseers, for the purposes or in the exercise or performance of any powers or duties transferred by the foregoing provisions of this Order shall by virtue of this Order pass to and vest in the authority to whom the powers and duties are transferred, subject to all debts and liabilities affecting the same.

(2) Notwithstanding anything in section 25 of the Welsh Church Act, 1914, all property vested in the overseers, or in the churchwardens and overseers, of an urban parish (not being property to which paragraph (1) of this Article applies or property connected with the affairs of the church or held for an ecclesiastical charity within the meaning of the Local Government Act, 1894), shall by virtue of this Order be transferred to and vest in the rating authority, subject to all trusts and liabilities affecting the same.

(3) Where property is transferred to the rating authority by this Article, the rating authority shall apply the net income of the property for the benefit of the persons for whose benefit the income of the property would have been applied if this Order had not been made.

7.—(1) In any rural parish to which sub-section (6) of section 19 of the Local Government Act, 1894, applies, the chairman of the parish meeting and, in lieu of the overseers, the councillor or councillors for the time being representing the parish on the rural district council shall, on and after the appointed day, be the body corporate constituted by that sub-section, and shall be called the representative body of the parish:

Provided that if the parish is represented on the rural district council by one councillor only, and that councillor is also chairman of the parish meeting, the rural district council, at a meeting held either before or after the appointed day, shall appoint in lieu of the overseers a local government elector of the parish to be

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a member of the representative body of the parish, who shall hold office for a term of four years, or until the offices of rural district councillor for the parish and chairman of the parish meeting cease to be held by one person.

(2) On the appointed day, or if the first appointment under the proviso to paragraph (1) of this Article is made after the appointed day by the rural district council, on the day on which the appointment is made by them, the legal interest in all property vested in the body corporate consisting of the chairman of the parish meeting and overseers shall, by virtue of this Order, be transferred to and vest in the representative body of the parish.

(3) If on the appointed day the representative body constituted by this Article is not complete, the persons who immediately before that day constitute the body corporate consisting of the chairman of the parish meeting and overseers shall continue to constitute that body corporate until the representative body is complete.

(4) Any reference in any Act or document to the corporate body consisting of the chairman of the parish meeting and overseers of a parish shall be read as a reference to the corporate body constituted by this Article.

Trustees under Local Acts.

8. Where immediately before the appointed day the overseers of any parish are members *ex officio* of a body of trustees incorporated by a local Act, and property the income whereof is applicable in aid of the poor rate or otherwise for the general benefit of the ratepayers, parishioners or inhabitants of a parish is vested in those trustees, such number of persons, not exceeding the number of the overseer trustees, as the rating authority shall appoint, shall be trustees in place of the overseers.

Charities.

9.—(1) Subject to the provisions of this Article, where immediately before the appointed day the overseers of a parish, as such, are either alone or jointly with any other persons, trustees of any charity, such number of persons, not exceeding the number of the overseer trustees, as the local authority within the meaning of this Article shall appoint, shall be trustees in their place.

(2) The local authority within the meaning of this Article shall be—

(*a*) Where the parish is an urban parish, the rating authority ;
(*b*) Where the parish is under a parish council, the parish council ;
(*c*) Where the parish is a rural parish not under a parish council, the parish meeting.

(3) If the rating authority are the council of a county borough or urban district comprising more than one parish, and their borough or district is divided into wards for the election of councillors, the power of appointing trustees conferred on the rating authority by this Article shall be exercised by them on the nomination of the councillors elected for the ward or wards comprising the parish, or any part of the parish, for which the overseer trustees acted as overseers.

(4) This Article shall not extend to a charity which is an elementary school within the meaning of the Education Act, 1921.

10. The preceding Article of this Order shall extend to any charity not being an elementary school within the meaning of the Education Act, 1921, for which overseers act, immediately before the appointed day, as trustees for the nomination of beneficiaries or any other special purpose, so as to provide for the appointment by the local authority, as defined in that Article, of trustees in succession to the overseers for the special purposes for which the overseers are trustees.

11.—(1) Where immediately before the appointed day overseers are trustees of any charity either generally or for any special purpose, or any charitable endowment is vested in overseers, either alone or jointly with other persons, and—

(*a*) provision is not made by any enactment or by this Order for the appointment of trustees as successors to the overseers or for the vesting of the property ; or
(*b*) any difficulty arises in the application to the charity or endowment of the provisions of the Local Government Act, 1894, or this Order ;

the Charity Commissioners, on the application of any trustee or beneficiary, or any local authority or persons interested, may by order or scheme provide for the appointment of trustees as successors to the overseers or for the vesting of the property, or for the removal of the difficulty, as the case may require.

(2) In the application of paragraph (1) of this Article to any endowment held solely for educational purposes, the Board of Education shall be substituted for the Charity Commissioners.

(3) Notwithstanding anything in section 66 of the Local Government Act, 1894, where overseers immediately before the appointed day are trustees of any elementary school within the meaning of the Education Act, 1921, or have powers of management or control over any such school, the Board of Education may by order provide for the appointment of trustees or other persons in succession to the overseers.

Term of Office of Trustees, etc. Vacancies.

12.—(1) The term of office of a trustee or member of a corporate body appointed under a power conferred by this Order shall, subject to the provisions of this Order, be four years.

(2) Any trustee appointed under a power conferred by this Order may, by a notice signed by him and delivered to the appointing authority, resign his office as trustee, and a copy of the notice shall forthwith be sent by him to the clerk or chairman of the trustees.

(3) Any member of a corporate body appointed by a rural district council under a power conferred by this Order may, by a notice signed by him and delivered to the clerk of that council, resign his office as member.

(4) The body in whom by this Order is vested the power of appointing trustees or members of a corporate body shall fill, as soon as practicable, any vacancy in the office.

(5) Nothing in this Article shall affect the power of the Minister, the Board of Education or the Charity Commissioners to prescribe the term of office of a trustee or other person in any order made under a power conferred by this Order.

Enactments as to expenditure and receipts of Overseers.

13.—(1) Save as otherwise provided in this Order—

(*a*) Any enactment authorising expenses to be defrayed by overseers and either expressly providing or conveying by implication that the expenses shall be defrayed from the poor rate of a parish; and

(*b*) any enactment, authorising fines, fees, allowances, income from an endowment, or other receipts to be applied in aid of the poor rate of a parish, and either expressly providing or conveying by implication that the receipts are to be so applied by overseers; and

(*c*) any order or direction given under any enactment referred to in this Article;

shall have effect with the substitution for the overseers of the rating authority, and for the poor rate of the general rate or the poor rate, or, where the area for which the rate is made comprises more than one parish, of that portion of the general rate or poor rate which is levied on the parish.

(2) Where under sub-section (3) of section 41 of the Education Act, 1921, as amended by this Article, a county council direct money arising from an endowment to be paid to the rating authority, they shall specify the parish or parishes for whose benefit the money is by the rating authority to be applied and the proportions in which the money is so to be applied.

Service and Signature of Documents.

14. Save as otherwise provided by this Order, where any enactment or order provides for the service upon or transmission to the overseers, or the churchwardens and overseers, of a parish of any document, the enactment or order shall have effect in its application to—

(1) an urban parish, as if it provided for the service of the document on or its transmission to the clerk to the rating authority;

(2) a rural parish under a parish council, as if it provided for the service of the document on or its transmission to the chairman of the parish council; or

(3) a rural parish not under a parish council, as if it provided for the service of the document on or its transmission to the chairman of the parish meeting.

15.—(1) Any document required to be signed by the overseers, or by the churchwardens and overseers, of a parish and relating to powers or duties transferred by this Order to a local authority may, save as otherwise in this Order provided, be signed by the clerk to the local authority.

(2) Any document required to be signed by the overseers, or by the churchwardens and overseers, of a parish and relating to powers or duties transferred by this Order to a chairman, officer or other person, may be signed by that person.

Expenses of Execution of Transferred Powers, etc.

16.—(1) Any expenses incurred in the exercise or performance of those powers and duties of overseers which by this Order are transferred to—

(*a*) the parish council or chairman of the parish council, or to the parish meeting or chairman of the parish meeting, shall be defrayed as part of the general expenses of the parish council or parish meeting as the case may require;

(*b*) a relieving officer shall be defrayed by the board of guardians (*a*) as expenditure in the relief of the poor; or

(*c*) a police constable shall be defrayed by the rating authority, subject nevertheless to the power of a justice, on the application of the rating authority, to order the reimbursement of the expenses under section 6 of the Burial of Drowned Persons Act, 1808.

(2) Subject to the provisions of this Order, any expenses incurred in the exercise or performance of those powers and duties which by this Order are transferred to the rating authority, or to the clerk to the rating authority, shall be defrayed by the rating authority, and shall be chargeable by them to the account of the parish in respect of which the expenses were incurred.

Supplemental Provision as to Property Transferred.

17. Where by or in pursuance of this Order property is transferred from overseers to another authority—

(1) The authority to whom the property is transferred shall hold the property for the estate, interest and purposes, and subject to the covenants, conditions, and restrictions for and subject to which the property would have been held if this Order had not been made, so far as the same are not modified by or in pursuance of the Act of 1925; and

(2) All debts and liabilities incurred by overseers in respect of or otherwise affecting the property shall become debts and liabilities of the authority to whom the property is transferred and shall, subject to the provisions of the Act of 1925, be defrayed from the like property and funds from which they would have been defrayed if this Order had not been made.

Exceptional Areas.

18.—(1) In relation to the Parish of Folkestone next Sandgate, the Urban District Council of Sandgate shall be deemed for the purposes of this Order to be the rating authority.

(2) If any difficulty arises in connection with the application of this Order to any exceptional area, as defined in section 67 of the Act of 1925, or otherwise in bringing into operation in an exceptional area any of the provisions of this Order, the Minister may, by order, remove the difficulty or do anything which appears to him necessary or expedient for bringing the said provisions into operation.

(3) An order of the Minister under this Article may modify the provisions of this Order in so far as may appear to the Minister necessary or expedient for carrying his order into effect, and may provide for any necessary adjustment of property and liabilities.

Savings.

19. This Order shall have effect subject to the provisions of the Act of 1925.

20. The abolition of the office of overseer shall not, nor shall anything contained in this Order,—

(1) affect any order which may have been made under section 33 of the Local Government Act, 1894, conferring on the council of a borough or urban district any powers, duties or liabilities of overseers or of a parish council; or

(2) affect the transfer by the Local Government Act, 1894, to parish councils of

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(*a*) Now the county or county borough council (L. G. A., 1929 s. 1, *ante*, p. 1860).

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any powers, duties and liabilities of overseers. or affect any powers as to charities conferred on parish councils by that Act.

21. Nothing in this Order shall prejudice or affect any right or interest in any charitable endowment, or the jurisdiction of the Charity Commissioners or the Board of Education over any charitable endowment.

22. This Order shall have effect subject to the provisions of any future Order made under section 62 of the Act of 1925.

M. P. A. HANKEY.

SCHEDULE.

ENACTMENTS CONFERRING POWERS OR IMPOSING DUTIES ON OVERSEERS AND DESTINATION OF POWERS AND DUTIES.

Enactment. (1)	Subject-matter. (2)	Destination in urban parishes. (3)	Destination in rural parishes under a parish council. (4)	Destination in rural parishes not under a parish council. (5)
The Disorderly Houses Act, 1751 (25 Geo. 2, c. 36), ss. 5, 6 & 7 and as extended by any other enactments.	Costs of prosecutions of keepers of disorderly houses and rewards to informers.	The rating authority.	The rating authority.	The rating authority.
The Burial of Drowned Persons Act, 1808 (48 Geo. 3, c. 75), ss. 1 to 13.	Burial of bodies found thrown in or cast on shore from the sea.	Any police constable acting within the parish.	Any police constable acting within the parish.	Any police constable acting within the parish.
The Vestries Act, 1818 (58 Geo. 3, c. 69), s. 2.	Provision of minute book for vestry meetings.	The rating authority.	—	—
The Disorderly Houses Act, 1818 (58 Geo. 3, c. 70), s. 7, as extended by any other enactment.	Service on overseers of notice.	The clerk to the rating authority.	The clerk to the rating authority.	The clerk to the rating authority.
	Prosecutions by overseers.	The rating authority.	The rating authority.	The rating authority.
The Poor Law Amendment Act, 1834 (4 & 5 Will. 4, c. 76)—				
s. 54 (*a*) . . .	Relief from poor rate in cases of sudden and urgent necessity and medical relief.	Any relieving officer.	Any relieving officer.	Any relieving officer.
s. 55 (*b*) . . .	Register of recipients of outdoor relief.	The board of guardians.	The board of guardians.	The board of guardians.
The Parish Notices Act, 1837 (7 Will. 4 & 1 Vict. c. 45), s. 3.	Signature of notice convening vestry meeting.	The clerk to the rating authority.	—	—
The Parish Constables Act, 1842 (5 & 6 Vict. c. 109), ss. 2 to 4, 8 to 10, 14 & 16.	Appointment, etc., of parish constables.	The clerk to the rating authority.	The chairman of the parish council.	The chairman of the parish meeting.
The Vestries Act, 1850 (13 & 14 Vict. c. 57), ss. 1, 4 and 5.	Application for order and provision of rooms or buildings for vestry meetings, etc., and loans for those purposes.	The rating authority.	—	—
The Burial Act, 1852 (15 & 16 Vict. c. 85), s. 42, as extended by the Burial Act, 1853 (16 & 17 Vict. c. 134), s. 7.	Provision of mortuary where no burial board appointed.	The rating authority.	The parish council.	—

(*a*) See now s. 34, P. L. A., 1927.

(*b*) See now s. 77, P. L. A., 1927.

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Enactment. (1)	Subject-matter. (2)	Destination in urban parishes. (3)	Destination in rural parishes	
			under a parish council. (4)	not under a parish council. (5)
The Parochial Offices Act, 1861 (24 & 25 Vict. c. 125), ss. 1, 2,	Provision of parish offices and depositories for parish books.	The rating authority.	—	—
The Poor Law Amendment Act, 1867 (30 & 31 Vict. c. 106), s. 29.	Provision in rural parish of fire engine, fire station, etc.	—	—	The parish meeting.
The Parish Constables Act, 1872 (35 & 36 Vict. c. 92)—				
s. 4 . . .	Delivery of copy of resolution to justices.	The clerk to the rating authority.	The clerk to the parish council.	The chairman of the parish meeting.
ss. 9, 12 . .	Payment over by constable and payment to constable of fees and allowances.	The rating authority.	The rating authority.	The rating authority.
The Public Health Act, 1875 (38 & 39 Vict. c. 55)—				
s. 185 and as applied by any other enactment.	Copy of bye-laws of rural district council.	—	The clerk to the parish council.	The chairman of the parish meeting.
s. 229 (*a*) . .	Appeal against apportionment by rural district council of expenses.	—	The parish council.	The parish meeting.
The Reserve Forces Act, 1882 (45 & 46 Vict. c. 48), s. 24 and as applied by any other enactment or by Order in Council.	Publication and service of notices by overseers.	The clerk to the rating authority.	The chairman of the parish council.	The chairman of the parish meeting.
The Burial of Drowned Persons Act, 1886 (49 & 50 Vict. c. 20), s. 1.	Burial of bodies found in or cast on shore from tidal or navigable waters, etc.	Any police constable acting within the parish.	Any police constable acting within the parish.	Any police constable acting within the parish.
The Extraordinary Tithe Redemption Act, 1886 (49 & 50 Vict. c. 54), s. 8.	Supply of information as to extraordinary tithe.	The clerk to the rating authority.	The chairman of the parish council.	The chairman of the parish meeting.
The Territorial and Reserve Forces Act, 1907 (7 Edw. 7, c. 9), s. 19, as applied by any other enactment or by Order in Council.	Publication and service of notice by overseers.	The clerk to the rating authority.	The chairman of the parish council.	The chairman of the parish meeting.
The Education Act, 1921 (11 & 12 Geo. 5, c. 51), s. 161 (2).	Compliance with directions of Board of Education as to notices.	The clerk to the rating authority.	The chairman of the parish council.	The chairman of the parish meeting.
The Housing Act, 1925 (15 & 16 Geo. 5, c. 14), s. 81 (2).	Appeal against apportionment by rural district council of expenses under Part III.	—	The parish council.	The parish meeting.

(*a*) This right of appeal is now abolished by the L. G. A., 1929.

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S. R. & O., 1927, No. 76.

THE RATING AND VALUATION ACT, 1925 (INSPECTION OF DOCUMENTS) RULES, 1927, DATED 15TH FEBRUARY, 1927, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 (1) OF THE RATING AND VALUATION ACT, 1925, FOR PRESCRIBING THE FEES TO BE DEMANDED UNDER SECTION 60 (1) OF THAT ACT IN RESPECT OF THE INSPECTION OF DOCUMENTS MORE THAN TEN YEARS OLD.

Whereas by sub-section (1) of s. 60 of the Rating and Valuation Act, 1925, it is provided that any ratepayer (whether a ratepayer in the rating area to which the documents relate or in some other area) may at all reasonable times, on payment, in the case of a document which is more than ten years old, of such fee as may be prescribed, and, in any other case, without payment, inspect and take copies of and extracts from any rate book or other document in the said sub-section mentioned;

And whereas by sub-section (1) of section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe anything which by the said Act is required to be prescribed:

Now, therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 hereby orders as follows:—

1. The fee herein-under mentioned may be demanded from any ratepayer who, under sub-section (1) of section 60 of the Rating and Valuation Act, 1925, claims to inspect to take copies of, or extracts from, any document referred to in the said sub-section which is more than ten years old, that is to say, a fee of two shillings and sixpence in respect of each such document which he requires to be produced.

2. Nothing in these rules shall be construed as precluding the authority or person having the custody of any document referred to in the said sub-section from supplying copies thereof or extracts therefrom at the request of any ratepayer upon such terms as to payment as may be agreed.

S. R. & O., 1927, No. 80.

THE RATING AND VALUATION ACT (TRANSFER OF OFFICERS) ORDER, 1927, DATED 18TH FEBRUARY, 1927, MADE BY THE MINISTER OF HEALTH UNDER SECTION 67 OF THE RATING AND VALUATION ACT, 1925, FOR REMOVING DIFFICULTIES ARISING IN CONNECTION WITH THE TRANSFER OF CERTAIN OFFICERS TO ASSESSMENT COMMITTEES AND RATING AUTHORITIES.

Whereas by sub-sections (1) and (2) of section 48 of the Rating and Valuation Act, 1925, provision is made with respect to the transfer of officers employed in the service of union assessment committees to assessment committees constituted under the said Act and with respect to the transfer of officers employed in the performance of duties of overseers to rating authorities;

And whereas it has been represented to the Minister of Health that in certain cases difficulty will arise in arranging for the employment of an officer by the authority in whose service he can most effectively be employed and that in order to remove any such difficulty and for securing the due preparation of valuation lists and otherwise for bringing into operation the provisions of the Act, it is expedient that provision should be made whereby certain officers may with their consent and the consent of the authorities concerned be transferred to one only of the authorities to whom they would by the operation of the recited sub-sections be transferred, or may be transferred to some authority other than the authority or authorities to whom they would be so transferred;

And whereas by s. 67 of the said Act it is provided that if any difficulty arises in connection with the preparation of the first valuation list for any area or otherwise in bringing into operation any of the provisions of the Act the Minister of Health may by order remove the difficulty, or do any other thing which appears to him necessary or expedient for securing the due preparation of the list or for bringing the said provisions into operation, and any such order may modify the provisions of the Act so far as may appear to the Minister necessary or expedient for bringing the order into effect:

Now therefore, the Minister of Health, by virtue of the powers conferred upon him by the said section 67 and of all other powers enabling him in that behalf, hereby orders as follows:—

1.—(1) This order may be cited as the Rating and Valuation Act (Transfer of Officers) Order, 1927, and shall come into operation on the date hereof.

(2) In this Order,—

"the Act" means the Rating and Valuation Act, 1925;

"the appointed day" means the 1st day of April, 1927; and

"authority" means a rating authority or an assessment committee.

2. In any case where the authority, or one of the authorities, to whom an officer would be or has been transferred by s. 48 of the Act does not require the services of such officer, but another authority acting for or within the same or an adjoining assessment area (whether one of the authorities to whom he would be or has been so transferred or not) or the County Valuation Committee require his services, then, at any time before the expiration of three months from the appointed day, and whether the officer's appointment has been determined or not, the first mentioned authority and the authority or committee requiring the officer's services may with his consent in writing, but not otherwise, make and give effect to an agreement whereby the officer shall be deemed to be, or to have been, transferred to the authority or committee requiring his services and shall have as against that authority or committee so far as regards the office in respect of which he would have been or has been transferred to the first mentioned authority all the same rights under sections 48 to 51 of the Act as he would have had or has against the first mentioned authority except in so far as the agreement may modify such rights.

S. R. & O., 1927, No. 90.

THE RATING AND VALUATION ACT (REPEALS, ETC.) ORDER, 1927, DATED 19TH FEBRUARY, 1927, MADE BY THE MINISTER OF HEALTH UNDER SECTION 69 (4) OF THE RATING AND VALUATION ACT, 1925, FOR FIXING THE DATES UPON WHICH THE SAID SECTION 69 SHALL COME INTO OPERATION FOR DIFFERENT PURPOSES AND IN RELATION TO DIFFERENT AREAS.

Whereas by sub-sections (1), (2), and (3) of section 69 of the Rating and Valuation Act, 1925, provision is made for the repeal of certain enactments therein referred to, with respect to the manner in which references in other Acts or documents to certain terms and expressions are to be construed, and with respect to the exercise of certain powers by assessment committees and rating authorities during the period between the appointed day and the date of the first new valuation as defined for the purposes of the said Act;

And whereas by sub-section (4) of the said section it is provided that the section shall come into operation on such date as may be fixed by the Minister of Health, and that the Minister may fix different dates for different purposes, and in relation to different areas:

Now therefore, the Minister of Health, in pursuance of the powers given to him by the said section 69 (4) hereby orders as follows:—

1. This Order may be cited as the Rating and Valuation Act (Repeals, etc.) Order, 1927, and shall come into operation on the date hereof.

2. In this Order,—

"the Act of 1925" means the Rating and Valuation Act, 1925;

"the appointed day" means the 1st day of April, 1927;

"the date of the first new valuation" means, in relation to any rating area or part of a rating area, the date on which the first new valuation list made under Part II. of the Act of 1925 for that area or part comes into operation; and "the date of the first general rate" means in relation to a rural rating area the appointed day, and in relation to an urban rating area the date of the first new valuation.

3. Sub-section (2) of section 69 of the Act of 1925 shall come into operation on the dates hereinafter mentioned, that is to say:—

The paragraph which relates to references to gross value, gross estimated rental, net annual value, and rateable value, on the date of the first new valuation so far as regards values or rentals referred to as determined by valuation lists made under the Union Assessments Acts, 1862 to 1880, and on the 1st day of April, 1929, so far as regards values or rentals referred to as shown in, or ascertained in accordance with the Acts relating to, the basis or standard of county rates.

Sub-paragraph (*a*) of the paragraph which relates to references to assessable value, on the appointed day; sub-paragraph (*b*) of the same paragraph on the 1st day of April, 1929, where the term to be construed is used in connection with or in relation to the Agricultural Rates Acts, 1896 and 1923, as applying to a county rate, and on the date of the first new valuation in other cases; and sub-paragraph (*c*) of the same paragraph, on the date of the first new valuation; and

The remainder of the sub-section, on the appointed day.

4. Sub-section (3) of section 69 of the Act of 1925 shall come into operation on the appointed day.

5. Sub-section (1) of section 69 of the Act of 1925 shall come into operation on the dates hereinafter mentioned, that is to say:—

So far as it repeals the enactments specified in Part I. of the Schedule to this Order, on the appointed day;

So far as it repeals the enactments specified in Part II. of the Schedule to this Order, on the date of the first general rate;

So far as it repeals the enactments specified in Part III. of the Schedule to this Order, and so far as it repeals so much of any Act (whether public or local and personal) not mentioned in the Eighth Schedule to the Act of 1925 as authorises any valuation of a hereditament to be made for the purposes of any rate in respect of which the valuation list is by the Act of 1925 made conclusive, or any assessment of any such rate to be made except on the basis of that valuation list, on the date of the first new valuation; and

So far as it repeals the enactments specified in Part IV. of the Schedule to this Order, on the 1st day of April, 1929.

6. This Order does not apply to Scotland, Northern Ireland, the Administrative County of London, or the Isles of Scilly.

SCHEDULE.

PART I.

ENACTMENTS REPEALED AS FROM THE APPOINTED DAY.

Session and Chapter.	Short Title.	Extent of Repeal.
43 Eliz. c. 2	The Poor Relief Act, 1601.	Section one so far as it relates to the appointment of overseers; in section eight the words "the noyacion of overseers"; section nine.
14 Car. 2, c. 12	The Poor Relief Act, 1662.	Section twenty-one so far as it relates to the appointment of overseers.
17 Geo. 2, c. 3	The Poor Rate Act, 1743.	The whole Act.
17 Geo. 2, c. 38	The Poor Relief Act, 1743.	Section three.
54 Geo. 3, c. 91	The Poor Law (Overseers) Act, 1814.	The whole Act.
59 Geo. 3, c. 12	The Poor Relief Act, 1819.	Sections six and seven

Session and Chapter.	Short Title.	Extent of Repeal.
3 & 4 Will. 4, c. 90 .	The Lighting and Watching Act, 1833.	In section thirty-three the words from "Provided always" to the words "pay for the purposes of this Act"; and section thirty-four.
6 & 7 Will. 4, c. 96 .	The Parochial Assessments Act, 1836.	In section one the words "be allowed by any justices or"; in section two the words from "and the churchwardens" to the words "force or validity"; sections three, four and five; in the Schedule, the heading and the declaration to the form of rate.
7 & 8 Vict. c. 101 .	The Poor Law Amendment Act, 1844.	Sections twenty-two and sixty-two.
11 & 12 Vict. c. 91 .	The Poor Law Audit Act, 1848.	Sections one, two and eleven.
11 & 12 Vict. c. 110	The Poor Law Amendment Act, 1848.	Section seven.
12 & 13 Vict. c. 8 .	The Poor Law (Overseers) Act, 1849.	The whole Act.
12 & 13 Vict. c. 103 .	The Poor Law Amendment Act, 1849.	Section six.
13 & 14 Vict. c. 57 .	The Vestries Act, 1850	Sections six to nine.
15 & 16 Vict. c. 81 .	The County Rates Act, 1852.	In section thirty-two the word "allowed."
20 Vict. c. 19 . .	The Extra-Parochial Places Act, 1857.	In section one the words from "and the justices" to the end of the section.
24 & 25 Vict. c. 55 .	The Poor Removal Act, 1861.	Section ten.
25 & 26 Vict. c. 103	The Union Assessment Committee Act, 1862.	Sections two to thirteen and sixteen; in section seventeen the words "or delivered to them as hereinbefore provided," the words "and a copy of such valuation list shall be forthwith delivered to the Board of Guardians" and the words "allowed by the Justices"; in section eighteen the words from "any overseer" to "within such Union or"; in section nineteen the words "allowed by Justices"; in section twenty the words "with the consent of the Guardians as aforesaid"; in section twenty-one the words "or delivered to" and the words "or delivered"; in section twenty-three the words from "and shall be preserved" to the end of the section; in section twenty-six the words "or the Committee may with such consent as aforesaid appoint a person for such purposes"; in section twenty-eight the words from "and instead" to the words "hereunto annexed"; sections thirty to thirty-six, and thirty-eight to forty-five; in the schedule the form of declaration.
27 & 28 Vict. c. 39 .	The Union Assessment Committee Amendment Act, 1864.	In section two the words from "with the consent" to the words "every guardian" and the words "but in the name of the guardians of such union"; sections three, four, seven, eight, ten and eleven.
28 & 29 Vict. c. 79 .	The Union Chargeability Act, 1865.	Section twelve.

Appendix II.

Session and Chapter.	Short Title.	Extent of Repeal.
29 & 30 Vict. c. 113	The Poor Law Amendment Act, 1866.	Sections ten to twelve.
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Sections twenty-eight and twenty-nine; in section thirty the words from "for the use of the Guardians" to the words "Committee Act, 1862"; sections thirty-one, thirty-two, thirty-nine and forty.
32 & 33 Vict. c. 41 .	The Poor Rate Assessment and Collection Act, 1869.	Sections fourteen and seventeen, and in section eighteen the words "with the allowance of the rate by the justices."
38 & 39 Vict. c. 55 .	The Public Health Act, 1875.	In section two hundred and ten, the words from "any such rate" to the words "shall be excluded"; sections two hundred and nineteen, two hundred and twenty, and two hundred and twenty-two except so far as those sections relate to private improvement rates; sections two hundred and thirty and two hundred and thirty-one, and section two hundred and forty-eight.
39 & 40 Vict. c. 61 .	The Divided Parishes and Poor Law Amendment Act, 1876.	In section six the words "for which an overseer shall be appointed and," and the word "other."
43 & 44 Vict. c. 7 .	The Union Assessment Act, 1880.	The whole Act.
45 & 46 Vict. c. 20 .	The Poor Rate Collection Act, 1869, Amendment Act, 1882.	Section four.
45 & 46 Vict. c. 50 .	The Municipal Corporations Act, 1882.	Section one hundred and forty-four except subsections (1) and (2); in subsection (2) of section one hundred and ninety-eight the words "allowed by two justices usually acting in and for the borough and has been" and section two hundred and thirty-eight.
52 & 53 Vict. c. 63 .	The Interpretation Act, 1889.	Section five.
55 & 56 Vict. c. 53 .	The Public Libraries Act, 1892.	In subsection (1) of section eighteen the words from "and (*c*) where" to the end of the subsection.
56 & 57 Vict. c. 73 .	The Local Government Act, 1894.	Subsection (1) and paragraph (*a*) of subsection (2) of section five; in paragraph (i) of subsection (1) (*c*) of section 6 the words "appeals or objections by them in respect of the valuation list or" and the words "poor rate or"; in paragraph (5) of section nineteen the words from "The power and" to the words "the parish meeting and"; in subsection (1) of section thirty-three the words from "all or any of" to the words "liabilities of overseers and"; sections thirty-four and fifty; subsection (3) of section eighty-one; in rule 7 of Part I. of the First Schedule the words "the appointment of an overseer" and the words "an assistant overseer or"; in rule (3) of Part II. of the First Schedule the words "and to appoint the overseers."

PART II.

ENACTMENTS REPEALED AS FROM THE DATE OF THE FIRST GENERAL RATE.

Session and Chapter.	Short Title.	Extent of Repeal.
54 Geo. 3, c. 170 .	The Poor Relief Act, 1814.	Section eleven.
5 & 6 Will. 4, c. 50 .	The Highway Act, 1835	In section twenty-seven the words from "and provided also" to the end of the section; sections twenty-eight, twenty-nine, thirty-one, thirty-two, thirty-four, and thirty-six to forty.
45 & 46 Vict. c. 27 .	The Highway Rate Assessment and Expenditure Act, 1882.	The whole Act, except sections one, two and six.
53 & 54 Vict. c. 17 .	The Public Health (Rating of Orchards) Act, 1890.	The whole Act.
54 & 55 Vict. c. 33 .	The Allotments Rating Exemption Act, 1891.	The whole Act.

PART III.

ENACTMENTS REPEALED AS FROM THE DATE OF THE FIRST NEW VALUATION.

6 & 7 Will. 4, c. 96 .	The Parochial Assessments Act, 1836.	The whole Act, so far as not previously repealed.
10 & 11 Vict. c. 34 .	The Towns Improvement Clauses Act, 1847.	Sections one hundred and seventy-six and one hundred and seventy-seven.
13 & 14 Vict. c. 101	The Poor Law Amendment Act, 1850.	Section seven.
25 & 26 Vict. c. 103	The Union Assessment Committee Act, 1862	The whole Act, so far as not previously repealed.
27 & 28 Vict. c. 39 .	The Union Assessment Committee Amendment Act, 1864.	The whole Act, so far as not previously repealed, except sections six, nine and thirteen.
30 & 31 Vict. c. 102	The Representation of the People Act, 1867.	Section seven.
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Sections thirty and thirty-eight.
32 & 33 Vict. c. 41 .	The Poor Rate Assessment and Collection Act, 1869.	Sections three to six, nine, eleven, thirteen, sixteen and twenty.
37 & 38 Vict. c. 54 .	The Rating Act, 1874.	Section twelve; and in section fifteen the definitions of "valuation list" and "assessment committee."
38 & 39 Vict. c. 55 .	The Public Health Act, 1875.	In section two hundred and ten, the words from "public notice" to the end of the section; section two hundred and eleven, except sub-paragraph (c) of paragraph (1) and paragraph (4) thereof; section two hundred and twelve; in section two hundred and eighteen the words "general district rate or"; sections two hundred and twenty-one, two hundred and twenty-three, and two hundred and twenty-five, except so far as those sections relate to private improvement rates.
45 & 46 Vict. c. 20 .	The Poor Rate Assessment and Collection Act, 1869, Amendment Act, 1882.	The whole Act, so far as not previously repealed.

Session and Chapter.	Short Title.	Extent of Repeal.
45 & 46 Vict. c. 50 .	The Municipal Corporations Act, 1882.	Section one hundred and forty-five; sub-section (1) of section one hundred and forty-six from " on receipt of " to the words " in the borough " where those sections (3), (4), (5), and (6) of section one hundred and forty-six; sections one hundred and forty-seven and one hundred and forty-eight; subsection (5) of section one hundred and ninety-seven; and section one hundred and ninety-nine.
59 & 60 Vict. c. 16 .	The Agricultural Rates Act, 1896.	In section five the words " and in any valuation made by the council of a borough or any other council for the purpose of raising the borough or other rate " ; in section nine the definition of " rateable value " so far as it relates to any rate not being a county rate.
10 & 11 Geo. 5, c. 17	The Increase of Rent and Mortgage Interest (Restrictions) Act, 1920.	Subsection (1) of section sixteen.
13 & 14 Geo. 5, c. 39	The Agricultural Rates Act, 1923.	In the substituted definition of rateable value in Part II. of the Schedule the words from " and in the case of " to the end of the definition.

PART IV.

ENACTMENTS REPEALED AS FROM THE FIRST DAY OF APRIL, 1929.

3 & 4 Vict. c. 88 .	The County Police Act, 1840.	Section four.
15 & 16 Vict. c. 81 .	The County Rates Act, 1852.	Sections four to twenty; in section twenty-six the words from " a printed list " to " within the county and " ; sections twenty-seven to twenty-nine, and forty to forty-three.
27 & 28 Vict. c. 39 .	The Union Assessment Committee Amendment Act, 1864.	Section nine.
29 & 30 Vict. c. 78 .	The County Rate Act, 1866.	The whole Act.
51 & 52 Vict. c. 41 .	The Local Government Act, 1888.	Subsection (2) of section thirty-three.
55 & 56 Vict. c. 73 .	The Local Government Act, 1894.	In paragraph (i) of subsection (1) (c) of section six the words " appeals in respect of the " and the words " county rate, or the basis of the county rate; and ".
59 & 60 Vict. c. 16 .	The Agricultural Rates Act, 1896.	In section five the words " and in the basis or standard for any county rate"; and in section nine the definition of " rateable value " so far as not previously repealed.
13 & 14 Geo. 5, c. 39	The Agricultural Rates Act, 1923.	In subsection (2) of section six the words from " and section nine " to the end of the subsection, and the substituted definition of " rateable value " in Part II. of the Schedule so far as not previously repealed.

S. R. & O., 1927, No. 479/L. 21.

THE PLANT AND MACHINERY (VALUATION FOR RATING) RULES, 1927, DATED 7TH APRIL, 1927, MADE BY THE LORD CHIEF JUSTICE OF ENGLAND UNDER SECTION 24 OF THE RATING AND VALUATION ACT, 1925, FOR FIXING THE FEES TO BE CHARGED IN RESPECT OF PROCEEDINGS BEFORE A REFEREE AND WITH RESPECT TO THE PROCEDURE ON AND IN CONNECTION WITH REFERENCES UNDER THAT SECTION.

In pursuance of the powers conferred on me by section 34 of the Rating and Valuation Act, 1925, I, the Lord Chief Justice of England, hereby make the following Rules :—

1. These Rules may be cited as the Plant and Machinery (Valuation for Rating) Rules, 1927.

2.—(1) In these Rules, unless the context otherwise requires,—

" The Act " means the Rating and Valuation Act, 1925 ;

" Question " means a question arising on or in connection with an objection or proposal made, or appeal brought, under Part II. of the Act as to whether any particular plant or machinery falls within any of the classes or descriptions specified in the confirmed statement referred to in sub-section (5) of section 24 of the Act ;

" Panel " means the panel of referees constituted under section 24 of the Act and consisting of persons appointed by the Lord Chief Justice of England ;

" Referee " means the member of the panel appointed in accordance with these Rules to determine a question ;

" Assessment Committee " means an assessment committee constituted in accordance with the provisions of the Act ;

" Court " means, in the case of a county, the committee of the justices of the county appointed under s. 32 of the Act and, in the case of a borough having a separate court of quarter sessions, the recorder ; and

" Prescribed officer " means the secretary to the Lord Chief Justice of England, whose address for the purpose of these Rules is Royal Courts of Justice, Strand, London, W.C.2.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3.—(1) Where an assessment committee or court have decided, with the written consent of all parties to the proceedings before them, to refer a question to a member of the panel for his determination, they shall—

(i) if all parties to the proceedings are agreed as to the member of the panel to whom the question is to be referred, forward to that member an appointment appointing him to act as referee in the matter ; and

(ii) if all parties are not so agreed, forward to the prescribed officer an application, in duplicate, requesting the Lord Chief Justice to appoint a member of the panel to act as referee in the matter.

(2) Appointments, and applications for the appointment, of referees shall be in the forms set out in the First Schedule to these Rules, or in forms to the like effect.

4.—(1) The Lord Chief Justice on receiving a valid application for the appointment of a referee shall, as soon as may be, proceed to select from the panel and appoint a person to act as referee in the matter.

(2) The prescribed officer shall, as soon as a referee has been appointed, forward to him one copy of the application bearing his appointment at the foot thereof and notify the name and address of the referee to the clerk to the assessment committee or court from whom the application was received.

(3) Upon receipt of such notification as is mentioned in paragraph (2) of this Rule the clerk to the assessment committee or court shall notify the name and address of the referee to each party to the proceedings.

5.—(1) The referee shall as soon as may be after his appointment proceed with the determination of the question referred to him, but in fixing the place and time of hearing and of any inspection to be made by him, shall, so far as is reasonably possible, consult the convenience of the parties to the proceedings.

(2) Every party to the proceedings shall furnish to the referee on his request any document or other information which it is in his power to furnish and which the referee may require for the purpose of considering and determining the question referred to him.

(3) The referee may in any case, and shall if so required by any party to the reference, before making his award, inspect the plant or machinery in respect of which the question arises, and upon any such inspection each party shall be entitled to be represented by two persons or such greater number of persons as may be agreed between them.

(4) Paragraphs (*a*) and (*c*) of section 7 of the Arbitration Act, 1889, and paragraphs (*g*) and (*i*) of the First Schedule to that Act shall apply to any reference under these Rules as if the referee were an umpire, and the award of the referee so far as it contains any direction as to the taxation and payment of costs may be enforced in manner provided by section 12 of that Act.

(5) The award of the referee shall set out in a Schedule or Schedules a brief description of each piece of plant or machinery specified in the appointment or application for appointment of the referee which he finds to fall, or not to fall, within any of the classes or descriptions specified in the confirmed statement.

(6) Subject to the provisions of the Act and of these Rules the proceedings before a referee shall be such as he in his discretion may think fit.

6. The fees specified in the Second Schedule to these Rules shall be payable to the referee and shall be deemed to be costs of his award.

7.—(1) If a referee refuses to act or is incapable of acting or dies, the assessment committee or court by whom, or upon whose application, he was appointed may, with the consent of all parties to the proceedings, appoint another member of the panel to act as referee, and in the absence of such consent the Lord Chief Justice may, upon application being made to him, make such an appointment.

(2) The making of a substituted appointment under this Rule shall operate as a revocation of the previous appointment and reference.

SCHEDULES.

FIRST SCHEDULE.

FORM OF APPOINTMENT.

Rating and Valuation Act, 1925.

To , of .

In pursuance of the provisions of section 24 of the above-mentioned Act, the Assessment Committee for the Assessment Area of the County of (the Rating Appeal Committee of Quarter Sessions for the County of) (I, the Recorder of the Borough (City) of ,) hereby appoint you, a member of the panel of referees constituted for the purposes of the said section, to act as referee for the determination of the question of which particulars are annexed.

Date

Signatures
Chairman and Clerk
(or Recorder.)

PARTICULARS.

Names and addresses of all parties to the proceedings before the Committee or Court and of their respective solicitors (if any) .

Whether all parties have agreed in writing to the reference and as to the referee to be appointed ?

Question.—Whether the plant and/or machinery specified below or any and which of it falls within any of the classes or descriptions specified in the confirmed statement referred to in section 24 (5) of the Rating and Valuation Act, 1925 :—

(*Insert here* (*or in a Schedule attached*) *a brief description of the plant and/or machinery, sufficient to indicate to the referee the nature and magnitude of the question referred to him, with information as to the situation of the premises and of the nearest railway station.*)

Appendix II.

FORM OF APPLICATION FOR APPOINTMENT.

Rating and Valuation Act, 1925.

To the Lord Chief Justice of England.

In pursuance of the provisions of section 24 of the above-mentioned Act, the Assessment Committee for the Assessment Area of the County of (the Rating Appeal Committee of Quarter Sessions for the County of) (I, the Recorder of the Borough (City) of ,) hereby apply for a member of the panel of referees constituted for the purposes of the said section to be appointed to act as referee for the determination of the question of which particulars are annexed.

Date

Signatures
Chairman and Clerk
(or Recorder.)

PARTICULARS.

Names and addresses of all parties to the proceedings before the Committee or Court and of their respective solicitors (if any).

Whether all parties have agreed in writing to the reference ?

Question.—Whether the plant and/or machinery specified below or any and which of it falls within any of the classes or descriptions specified in the confirmed statement referred to in section 24 (5) of the Rating and Valuation Act, 1925 :—

(*Insert here* (*or in a Schedule attached*) *a brief description of the plant and/or machinery, sufficient to indicate to the referee the nature and magnitude of the question referred to him, with information as to the situation of the premises and of the nearest railway station.*)

Names of any of the members of the panel who have been concerned in the valuation of the plant and/or machinery in question, or have advised either the authority or the ratepayers with respect thereto.

APPOINTMENT.

I hereby appoint of as referee to determine the above-mentioned question.

Date C. J.

SECOND SCHEDULE.

Fees payable to a Referee.

Where the hearing before the Referee of the question referred to him does not occupy more than three hours, ... 7 guineas.

Where the hearing occupies more than three hours but not more than five hours, ... 10 guineas.

Where the hearing occupies more than five hours, the last mentioned fee together with an additional fee at the rate of 1½ guineas in respect of each hour or portion of an hour beyond the first five into which the hearing extends.

Notes.—1. The above fees cover the preparation of the Referee's award, but he is entitled to charge in addition thereto reasonable travelling and subsistence expenses and the cost of stamping his award.

2. Any time occupied by the Referee in necessary travelling to and from the hearing and in inspecting the plant and/or machinery in respect of which the question arises shall be treated as time occupied in the hearing.

Appendix II.

S. R. & O., 1927, No. 308.

THE ASSESSMENT COMMITTEES (FINANCIAL STATEMENT AND AUDIT OF ACCOUNTS) ORDER, 1927, DATED 8TH APRIL, 1927, MADE BY THE MINISTER OF HEALTH.

The Minister of Health, in pursuance of his powers under ss. 3 and 8 of the District Auditors Act, 1879, and of all other powers enabling him in that behalf, hereby orders as follows :—

1.—(1) This Order may be cited as the Assessment Committees (Financial Statement and Audit of Accounts) Order, 1927, and shall come into operation on the date hereof.

(2) In this Order "assessment committee" means an assessment committee constituted under the Rating and Valuation Act, 1925.

2. The provisions of this Order shall apply to the financial statement to be prepared and submitted to the district auditor in duplicate by every assessment committee in respect of—

(i) the period from the date when the committee was constituted to the thirty-first day of March, 1927; and

(ii) each subsequent financial year.

3. Subject to any direction which may be given by the Minister of Health—

(i) The financial statement shall be prepared according to, and shall contain the particulars specified in, the form set forth in the Schedule to this Order; and

(ii) The certificate of the district auditor to be appended to each duplicate copy of the statement shall be in the form set forth in the said Schedule.

4. For the purposes of its application to the accounts of an assessment committee s. 247 (10) of the Public Health Act, 1875, shall be modified by the addition thereto of the following proviso :—

> Provided that an assessment committee may, on the completion of the audit, if they think fit, in lieu of publishing an abstract of their accounts in some one or more of the local newspapers circulated in the district, cause to be advertised in some one or more of those newspapers notice that the audit has been completed, and that the audited accounts and statutory financial statement will be open for inspection, without payment, by any ratepayer within the assessment area at all reasonable times within the period of fourteen days from some subsequent date to be mentioned in the notice.

THE SCHEDULE.

..............................Assessment Committee.

FINANCIAL STATEMENT.

The District Auditors Act, 1879 (42 Vict. c. 6)

and

The Rating and Valuation Act, 1925 (15 & 16 Geo. 5, c. 90).

Statement of the Receipts and Expenditure of the above-named Assessment Committee for the year ended the 31st March, 192 .

Clerk..

Address..

....

PART I.

Receipts (or Income).

	£	s.	d.	£	s.	d.
From late Union Assessment Committees						
From the under-mentioned councils in pursuance of precepts, viz. . .						
From the						
From the						
From the						
From the						
Costs recovered in respect of :—						
Arbitrations						
Appeals to Quarter Sessions . .						
Appeals to High Court . . .						
From all other sources, specifying them * :						
....						
....						
....						
Total Receipts (or Income) .	.	.				
Balances in hand brought forward. .						
Balance overspent (if any) at end of period						
Total Receipts (or Income) and Balances	.	.				

Expenditure.

	£	s.	d.	£	s.	d.
Administrative Expenses :— . .						
Salaries or other remuneration of officers						
Other Established Charges † . .						
Compensation to transferred officers .						
Costs of arbitrations						
Costs of appeals to Quarter Sessions .						
Costs of appeals to High Court . .						
Other Expenditure,‡ namely :—						
Expenses of members attending conferences held by County Valuation Committees						
Payment for copies of Schedule A values						
....						
....						
Total Expenditure . . .	.	.				
Balances overspent brought forward .						
Balance in hand at end of period .						
Total Expenditure and Balances . .	.	.				

.................................Responsible Accounting Officer.
..................day of.................................19 .

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* Small items of Receipt or Income under this heading may be entered as "Miscellaneous."

† The cost of stationery, printing, books, postage, and office rent, rates, and taxes should be entered against this heading.

‡ Small items of expenditure under this heading may be entered as "Miscellaneous."

PART II.

	£	s.	d.
Total Expenditure			
Less amount disallowed at Audit			
Total Expenditure allowed at Audit			
Deductions, if any, in accordance with the Schedule to Audit Stamp Duty (Local Authorities) Order, 1921 :—			
Net Expenditure on which Audit Stamp Duty is payable . . .			

I hereby certify that I have compared the entries in this Financial Statement with the accounts of the Assessment Committee relating thereto, and that the regulations with respect to this Statement have been duly complied with.

I hereby further certify that I have ascertained by audit the correctness of this Statement, and that the expenditure of the said Authority during the year ended the 31st March, 192 , included in the Statement and allowed by me at audit is *

As witness my hand this day of 19 .

.... Stamp ....District Auditor.

* The amount to be inserted in words at length.

S. R. & O., 1927, No. 416.

THE RATING AND VALUATION ACT (ASSESSMENT APPEALS) RULES, 1927, DATED 29TH APRIL, 1927, MADE BY THE SECRETARY OF STATE UNDER SECTION 34 OF THE RATING AND VALUATION ACT, 1925, WITH RESPECT TO THE PRACTICE AND PROCEDURE TO BE FOLLOWED ON AND IN CONNECTION WITH APPEALS UNDER PART II. OF THE SAID ACT.

In pursuance of the powers conferred upon me by section 34 of the Rating and Valuation Act, 1925, I hereby make the following Rules :—

1. These Rules may be cited as the Rating and Valuation Act (Assessment Appeals) Rules, 1927, and shall apply to every appeal to a court of quarter sessions under the provisions of Part II. of the Rating and Valuation Act, 1925.

2.—(1) In these Rules, unless the context otherwise requires—

"the Act" means the Rating and Valuation Act, 1925 ;

"Court" in the case of a court of quarter sessions for a county means the committee of the justices of the county constituted in accordance with the provisions of section 32 of the Act ;

"Clerk" means clerk of the peace ;

"party" does not include a person served with a copy of a notice of appeal who has not given notice in accordance with these Rules of his intention to appear as a respondent to the appeal ;

"net annual value" means the net annual value of the hereditament to which an appeal relates as appearing in the valuation list, or, in any case where the net annual value of that hereditament does not appear in the valuation list, the rateable value as so appearing.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3.—(1) Every person upon whom a copy of a notice of appeal is served in accordance with the provisions of the Fifth Schedule to the Act shall, if he intends to appear as respondent to the appeal, give notice in writing of his intention so to appear, stating whether he intends to appear separately or jointly with some other person and specifying an address at which documents directed to him may be served.

(2) Such notice shall be given to the clerk and to the appellant before the expiration of fourteen days from the date of the service of the copy of the notice of appeal, or within such extended time as may under these Rules be allowed, and a person omitting to give such notice shall not be heard in opposition to the appeal except upon such terms as the Court may think fit to impose.

(3) A county valuation committee, if they intend to appear as a respondent to an appeal, shall give the like notice of their intention so to appear, provided that in the case of such a committee, the period of fourteen days above mentioned shall be calculated from the date on which a copy of the notice of appeal is served upon the assessment committee.

4. For the purpose of enabling parties to an appeal to make applications with respect to the place and date of hearing, the clerk shall at the request of any party give to him in writing information as to the place at which, and the date on which, such appeal will, subject to any application for a different place or date to be fixed, be in the list of cases for hearing, and also such reasonable information as to the number and nature of the cases awaiting hearing and arrangements for future sittings of the court as he may be able to give.

5.—(1) An application to which this Rule relates shall be made to the clerk in accordance with the provisions of this Rule, and, subject to any general directions given to him by the Court, the clerk shall deal with the application in such manner as he thinks proper, regard being had to the convenience of the parties and the desirability of limiting so far as practicable the costs of appeals, and shall communicate his decision in writing to each party to the appeal.

(2) The application shall be made in writing and shall state briefly the grounds upon which it is made and the names and addresses of all parties to the appeal.

(3) If the application is made with the consent of all parties, it shall be accompanied by consents signed by the parties or their solicitors.

(4) If the application is made with the consent of all parties, then, before it is made, a copy thereof shall be served upon each party, and the application shall state that this requirement has been complied with.

(5) Except where the application is made with the consent of all parties the clerk shall not decide it until the expiration of six days from the receipt thereof, and before deciding it he shall consider any written objections which may have been received by him before the expiration of that period from any other party to the appeal, and, if so required by any party, shall give to all parties an opportunity of appearing before him.

(6) Where an application is made under this Rule, the clerk (whether he grants or refuses such application) shall without any request in that behalf extend the time limited by these Rules for doing any act if he considers that it is reasonable to do so having regard to the delay involved in making and determining the application.

(7) The decision of the clerk upon an application to which this Rule relates shall not be subject to appeal:

Provided that nothing herein contained shall be construed as limiting the power of the Court upon the hearing of the appeal to grant a postponement or extension of time upon such conditions as to costs or otherwise as they may think fit.

(8) The applications to which this Rule relates are applications for—

- (*a*) postponing the hearing of an appeal;
- (*b*) fixing a date for the hearing of an appeal;
- (*c*) fixing or altering the place of hearing; and
- (*d*) extending the time limited by these Rules for giving notice of intention to appear as respondent or for lodging a statement of the party's case, when required by these Rules.

6. An application to the Court under these Rules shall be made in the form of a notice of motion which shall be served upon the clerk and upon each party to the appeal seven clear days at least before the date on which the motion is to be made.

7. Where the terms of any Order or judgment for which application is made to the Court have been agreed upon by all parties, particulars of such terms, signed by the parties or their solicitors, shall be sent to the clerk, and at any subsequent sitting of the Court an Order or judgment may be made or entered in accordance with such terms in the absence of the parties unless the Court for any special reason require their attendance.

8. Where the net annual value of the hereditament to which an appeal relates exceeds £200, the following provisions shall have effect—

(*a*) Before the expiration of fourteen days from the date on which the appellant first receives notice of any person's intention to appear as respondent to the appeal, he shall state in writing his case and the facts to be proved and the points of law (if any) to be argued in support of the case, and shall serve two copies of such statement on the clerk and one copy on each person who has given notice of intention to appear as respondent.

(*b*) Before the expiration of fourteen days from the date of the service upon him of the appellant's case, each respondent shall state in writing his case and the facts to be proved and the points of law (if any) to be argued in support of the case (including any objection to the sufficiency of the notice of appeal or the service thereof) and shall serve two copies of such statement on the clerk and one copy on the appellant.

(*c*) Where the appeal is brought to a court of quarter sessions for a county, each party shall before the day fixed for the hearing supply six additional copies of his statement of case for the use of the Court.

(*d*) If in the opinion of the Court the case presented by any party upon the hearing of the appeal has not been indicated with reasonable particularity in his statement of case, the Court shall make such order in the matter with regard to adjournment, costs or otherwise as may appear to them to be just and equitable.

9. Upon the hearing of an appeal the appellant shall begin; and, if two or more respondents appear separately, they shall be heard in such order as the Court may determine.

10. Costs ordered by the Court, or directed by an arbitrator, to be paid by any party to an appeal shall be taxed by the clerk on such date as he may determine.

11. Upon a taxation of costs the amounts to be allowed as between party and party to counsel, solicitors, expert witnesses, valuers, and arbitrators in respect of the matters mentioned in Part I. of the Schedule hereto shall not exceed the amounts therein specified, unless the Court at the hearing otherwise order or the clerk for special reasons considers such amounts to be inadequate.

12.—(1) Any party dissatisfied with a taxation of costs by the clerk may, within five days, serve on the other party interested therein and on the clerk objections in writing specifying the items objected to and the grounds of his objections and asking for the taxation to be reviewed in respect of such items.

(2) Upon such application the clerk shall reconsider and review his taxation upon such objections (receiving, if he thinks fit, further evidence in respect thereof); and, if so required within five days by either party, he shall state in writing the reasons for his decision thereon and any special facts or circumstances in relation thereto.

(3) Any party dissatisfied with the decision of the clerk as to any item which may have been objected to as aforesaid may within ten days apply to the Court to review the taxation and the Court may thereupon make such Order as they think just, including the payment of the costs of the review of taxation; but the taxation of the clerk shall be final and conclusive as to all matters which shall not have been objected to in manner aforesaid.

(4) The clerk may in any particular case extend any period of time limited by this Rule.

13. The fees specified in Part II. of the Schedule hereto shall be payable in respect of the matters mentioned therein to the clerk.

14.—(1) In any case where the clerk is also an officer of any authority or committee which is a party to an appeal, the chairman of the Court or the recorder, as the case may be, shall appoint some independent person, being a barrister or a solicitor, to act in lieu of the clerk upon the hearing by the Court of such appeal and in all proceedings preliminary or incidental thereto other than applications made with the consent of all parties.

(2) A person appointed in accordance with the provisions of this Rule shall be entitled to receive out of the county fund or the general rate fund of the borough, as the case may be, a fee calculated according to the scale set out in Part III. of the Schedule hereto.

15. The provisions of section 59 of the Act shall apply to documents required or authorised to be served under these Rules.

SCHEDULE.

PART I.

Scale of Fees to be Allowed upon Taxation as between Party and Party.

1. *Counsel.*

(1) Where the net annual value does not exceed £100, there may be allowed to Counsel the following fees :—

	Net Annual Value					
	Not exceeding £50.			Exceeding £50 but not exceeding £100.		
	£	*s.*	*d.*	£	*s.*	*d.*
Settling notice and grounds of appeal	1	3	6	1	3	6
Advising upon evidence	1	3	6	1	3	6
Brief upon any motion in Court	2	4	6	2	4	6
Brief upon hearing in Court	4	6	6*	5	10	0*
Conference	1	6	0	1	6	0

(2) Where the net annual value exceeds £100, such fees shall be allowed as are considered to be reasonable.

(3) Fees to a second counsel shall not be allowed in any case, except in pursuance of an Order of the Court made immediately after the conclusion of the hearing or, in the case of an appeal referred to arbitration, made upon motion when the award is enrolled.

2. *Solicitors.*

(1) Where the net annual value does not exceed £100, there may be allowed to Solicitors the following fees :—

	Net Annual Value					
	Not exceeding £50.			Exceeding £50 but not exceeding £100.		
	£	*s.*	*d.*	£	*s.*	*d.*
Attending hearing in Court with Counsel	1	1	0	1	1	0
Conducting appeal in Court without Counsel	2	2	0	3	3	0

While the Solicitors' Remuneration Act General Order, 1919, continues in force, these fees may be increased by 33⅓ per centum.

(2) In respect of matters not specified above, such fees shall be allowed as are considered to be reasonable.

(3) Where the net annual value exceeds £100, such fees shall be allowed as are considered to be reasonable.

3. *Expert Witnesses and Valuers.*

(1) There may be allowed to surveyors, other similar expert witnesses, and valuers a qualifying fee as hereunder :—

	£	*s.*	*d.*
Where the net annual value does not exceed £100	5	5	0
Where the net annual value exceeds £100 but does not exceed £200	6	6	0

Where the net annual value exceeds £200, such fee as is considered to be reasonable.

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* Where there is no local bar in the court town or within twenty miles thereof (measured in a straight line), a further fee not exceeding £1 1*s.* may be allowed if the fee otherwise allowable is considered to be insufficient.

In addition, an allowance of £3 3s. may be made for each day on which a witness is necessarily in Court for the purpose of giving evidence.

The above allowances shall include all professional fees and expenses except necessary plans and diagrams.

(2) Fees to more than two expert witnesses on behalf of any one party shall not be allowed except in pursuance of an Order of the Court made immediately after the conclusion of the hearing or, in the case of an appeal referred to arbitration, upon motion when the award is enrolled.

(3) Where a witness gives evidence as to the value of part only of the hereditament to which the appeal relates, the fee to be allowed shall be calculated upon the net annual value estimated to be attributable to that part.

(4) Where the hereditament to which the appeal relates is part of an undertaking extending into more than one parish and in order to determine the value of the hereditament it is necessary to ascertain the value of the whole undertaking, the fee to be allowed shall be calculated upon the net annual value of the whole undertaking; but if two or more appeals relating to different parts of the undertaking are decided upon the same ascertainment of its total value, the fee shall be apportioned between such appeals, a proportion only being allowed in respect of each.

4. *Arbitrators.*

There may be allowed to arbitrators the following fee:—

	£	*s.*	*d.*
Where the net annual value does not exceed £100	7	7	0
Where the net annual value exceeds £100 but does not exceed £200 .	10	10	0
Where the net annual value exceeds £200, such sum as may have been agreed between the parties or in the absence of agreement, as may be awarded by the Court.			

The above fees shall cover all expenses (including costs of preparing and making award) other than stamp duty.

PART II.

Fees to be Paid to the Clerk.

	£	*s.*	*d.*
Entering appeal		2	6
Information in writing as to cases for hearing and sittings of Court .		2	6
Application to Clerk under Rule 5 (including notification of decision)		5	0
Application to Court (including notice requiring attendance of parties or notification of order made)		5	0
* Hearing fee—			
Where net annual value does not exceed £100		10	0
Where net annual value exceeds £100 but does not exceed £300.	1	0	0
Where the net annual value exceeds £300	3	0	0
Certified copy of any Order of Court		1	0
Special case—			
Drawing (if not drawn by parties), for every folio of 72 words .		1	0
Attending Chairman for settling case, for each hour's attendance .		10	0
Copy, for any party, of case as settled, for every folio of 72 words.			4
Taxation—			
For every £2 (or fraction of £2) of the Bill as taxed . . .		1	0

* NOTE.—No hearing fee is payable, if the appeal is disposed of without a hearing in Court.

PART III.

Fees to be Paid to a Person Appointed under Rule 14 to Act in Lieu of the Clerk.

In respect of each day's attendance upon the Court at the hearing of an appeal:—

	£	*s.*	*d.*
If in attendance for less than 3 hours	5	5	0
If in attendance for 3 hours or longer	7	7	0

In respect of Special Cases and Taxations, such fees as are specified in Part II. of this Schedule.

In addition to the above fees reasonable travelling and subsistence expenses necessarily incurred in the performance of duties—whether duties in respect of which a fee is specified or not—shall be allowed.

S. R. & O., 1927, No. 480.

THE PLANT AND MACHINERY (VALUATION FOR RATING) ORDER, 1927, DATED 30TH MAY, 1927, MADE BY THE MINISTER OF HEALTH UNDER SECTION 24 (5) OF THE RATING AND VALUATION ACT, 1925, FOR CONFIRMING WITH MODIFICATIONS THE STATEMENT PREPARED BY THE COMMITTEE CONSTITUTED UNDER SECTION 24 (3) OF THAT ACT.

Whereas by sub-sections (1), (3), (4), and (5) of section 24 of the Rating and Valuation Act, 1925, it is provided as follows :—

"(1) For the purpose of the making or revision of valuation lists under this Part of this Act, the following provisions shall have effect with respect to the valuation of any hereditament other than a hereditament the value of which is ascertained by reference to the accounts, receipts, or profits of the undertaking carried on therein :—

"(*a*) All such plant or machinery in or on the hereditament as belongs to any of the classes specified in the Third Schedule to this Act shall be deemed to be a part of the hereditament :

"(*b*) Subject as aforesaid, no account shall be taken of the value of any plant or machinery in or on the hereditament.

* * * * * *

"(3) For the purpose of enabling all persons concerned to have precise information as to what machinery and plant falls within the classes specified in the said Third Schedule, there shall be constituted a committee consisting of five persons to be appointed by the Minister, and the said committee shall as soon as may be after the passing of this Act prepare a statement setting out in detail all the machinery and plant which appears to the committee to fall within any of the classes specified in the said Schedule.

"(4) The committee shall as soon as the said statement has been prepared transmit it to the Minister, who shall cause it to be published in such manner as he thinks fit.

"(5) The Minister, after considering the statement and any representations which may be made to him with respect thereto, may, if he thinks fit, make an order confirming it, with or without modifications, and, subject as hereinafter provided, the statement as confirmed by the order shall for all purposes have effect as if it were substituted for the Third Schedule to this Act.

"The order confirming the statement shall as soon as may be after it is made be laid before both Houses of Parliament, and if either House within the next subsequent twenty days on which that House has sat next after the order is laid before it presents an Address to His Majesty against the order, or any part thereof, the order, or that part of the order, shall thenceforth be void, but without prejudice to the validity of anything done thereunder and without prejudice to the making of a new order."

And whereas a committee, duly appointed by the Minister of Health in accordance with the provisions above recited, have prepared and transmitted to the Minister the Statement which they were required by those provisions to prepare and transmit to him ;

And whereas the Minister has caused such statement to be published, and having considered it and all representations made to him with respect thereto, has decided to modify it in certain respects and to confirm it as so modified in the form set out in the Schedule to this Order :

Now therefore the Minister of Health by virtue of the powers conferred upon him by the said section 24 (5) hereby orders as follows :—

1.—(1) This Order may be cited as the Plant and Machinery (Valuation for Rating) Order, 1927, and shall come into operation on the date hereof.

(2) In this Order "the Statement" means the statement prepared by the committee appointed under sub-section (3) of section 24 of the Rating and Valuation Act, 1925, and transmitted to the Minister of Health in accordance with sub-section (4) of that section.

2. The statement as modified and set out in the Schedule to this Order is hereby confirmed.

Appendix II.

SCHEDULE.

STATEMENT PREPARED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 24 OF THE RATING AND VALUATION ACT, 1925, AS MODIFIED AND CONFIRMED BY THE MINISTER OF HEALTH.

Classes of Machinery and Plant deemed to be Part of the Hereditament.

CLASS 1 (*a*).

Machinery and plant specified in paragraphs (*a*) to (*l*) of the Schedule to this Class (together with the appliances and structures accessory thereto specified in paragraphs (1) and (2) of the Schedule of Accessories) which is used or intended to be used mainly or exclusively in connection with the generation, storage, primary transformation (as herein defined) or main transmission (as herein defined) of power in or on the hereditament.

"Primary transformation of power" means and includes any transformation of electrical power in or on the hereditament by any transforming plant which changes the pressure or frequency or form of current of the power as generated in or on or supplied to the hereditament to another pressure or frequency or form of current for distribution in the hereditament wherever such transformation is effected at some point in the main transmission as hereinafter defined.

"Main transmission of power" means and includes all transmission of power from the generating plant or point or points of supply in or on the hereditament up to and including:—

(i) Where power is transmitted to any other hereditament, the point or points at which power passes from the hereditament;

(ii) Where power is transmitted by means of shafting or gear wheels, any shaft or shafts or gear wheel or wheels which is or are directly driven by means of belts, ropes, gear, or other means from the shaft, pulley, drum, driving wheel, or gear of the prime mover;

(iii) Where electrical power is transmitted by means of a cable or cables, the main distribution board or boards to which the cable or cables from the generator or generators or point or points of supply is or are led either directly or with the intervention of a transformer or transformers, and whose bus bars carry or are intended to carry electrical energy at the pressure at which the power distribution circuits are supplied;

(iv) Where hydraulic or pneumatic power is transmitted by means of a pipe or pipes, the point or points where the main supply ceases excluding any branch service piping connected with such main piping.

SCHEDULE TO CLASS 1 (*a*).

(*a*) Steam boilers, including their settings, chimneys, flues and dust or grit catchers used in connection therewith: furnaces; mechanical stokers; injectors, jets, burners and nozzles; superheaters; feed water pumps and heaters; economisers; accumulators; deærators; blow-off tanks; gas retorts and charging apparatus, producers and generators.

(*b*) Steam engines; steam turbines; internal combustion engines; hor-air engines; barring engines.

(*c*) Continuous and alternating current dynamos; couplings to engines and turbines; field exciter gear; three-wire or phase balancers.

(*d*) Storage batteries, with stands and insulators, regulating switches, boosters and connections forming part thereof.

(*e*) Static transformers; auto transformers; motor generators; motor converters; rotary converters; transverters; rectifiers; phase converters; frequency changers.

(*f*) Cables and conductors; switchboards, distribution boards, control panels and all switchgear and other apparatus thereon.

(*g*) Water wheels; water turbines; rams; governor engines; penstocks; spillways; surge tanks; conduits; flumes; sluice gates.

(*h*) Pumping engines for hydraulic power; hydraulic engines; hydraulic intensifiers; hydraulic accumulators.

(*i*) Air compressors; compressed air engines.

(*j*) Windmills.

(*k*) Shafting, couplings, clutches, worm-gear, pulleys and wheels.

(*l*) Steam or other motors which are used or intended to be used mainly or exclusively for driving any of the machinery and plant falling within this Class.

CLASS 1 (*b*).

Machinery and plant specified in paragraphs (*a*) to (*h*) of the Schedule to this Class (together with the appliances and structures accessory thereto specified in paragraph (2) of the Schedule of Accessories) which is used or intended to be used mainly or exclusively in connection with the heating, cooling, ventilating, lighting, draining, or supplying of water to the land or buildings of which the hereditament consists, or the protecting of the hereditament from fire:

Provided that, in the case of machinery or plant which is in or on the hereditament for the purpose of manufacturing operations or trade processes, the fact that it is used in connection with those operations or processes for the purposes of heating, cooling, ventilating, lighting, supplying water or protecting from fire shall not cause it to be treated as falling within the classes of machinery and plant specified in the Schedule to this Class.

SCHEDULE TO CLASS 1 (*b*).

(a) *General.*

Any of the machinery and plant specified in the Schedule to Class I. (*a*) and any steam or other motors which are used or intended to be used mainly or exclusively for driving any of the machinery and plant falling within paragraphs (*b*) to (*h*) of this Schedule.

(b) *Heating.*

(i) Water heaters.
(ii) Headers and manifolds; steam-pressure reducing valves; calorifiers; radiators; heating panels; hot-air furnaces with distributing ducts and gratings.
(iii) Gas pressure regulators; gas burners; gas heaters and radiators and the flues and chimneys used in connection therewith.
(iv) Plug-sockets and other outlets; electric heaters.

(c) *Cooling.*

(i) Refrigerating machines.
(ii) Water screens; water jets.
(iii) Fans and blowers.

(d) *Ventilating.*

Air intakes, channels, ducts, gratings, louvres and outlets; plant for filtering, washing drying, warming, cooling, humidifying, deodorising and perfuming, and for the chemical and bacteriological treatment of air; fans; blowers; gas burners, electric heaters, pipes and coils when used for causing or assisting air movement.

(e) *Lighting.*

(i) Gas pressure regulators; gas burners.
(ii) Plug-sockets and other outlets; electric lamps.

(f) *Draining.*

Pumps and other lifting apparatus; tanks; screens; sewage treatment machinery and plant.

(g) *Supplying Water.*

Pumps and other water-lifting apparatus; sluice-gates; tanks, filters and other machinery and plant for the storage and treatment of water.

(h) *Protection from Fire.*

Tanks; pumps; hydrants; sprinkler systems; fire alarm systems; lightning conductors.

SCHEDULE OF ACCESSORIES.

(1) In addition to the machinery and plant specified in paragraphs (*a*) to (*l*) of the Schedule to Class 1 (*a*), any of the following machinery and plant which is used or intended to be used mainly or exclusively in connection with the handling, preparing or storing of fuel required for the generation or storage of power in or on the hereditament:—

Cranes with their grabs or buckets; truck or wagon tipplers; elevating and conveying systems, including power winches, drags, elevators, hoists, conveyors, transporters, travellers, cranes, buckets forming a connected part of any such system, and any weighing machines used in connection therewith; magnetic separators; driers; breakers; pulverisers; bunkers; gasholders; tanks.

Appendix II.

(2) Any of the following machinery and plant which is used or intended to be used mainly or exclusively as part of or in connection with or as an accessory to any of the machinery and plant falling within Class 1 (*a*) or Class 1 (*b*) :—

(i) Foundations, settings, gantries, supports, platforms and stagings for machinery and plant ;
(ii) Steam-condensing plant, compressors, exhausters, storage cylinders and vessels, fans, pumps and ejectors ; ash-handling apparatus ;
(iii) Travellers and cranes ;
(iv) Oiling systems ; earthing systems ; cooling systems ;
(v) Pipes, ducts, valves, traps, separators, filters, coolers, screens, purifying and other treatment apparatus, evaporators, tanks, exhaust boxes and silencers, washers, scrubbers, condensers, air heaters, and air saturators.
(vi) Shafting supports, belts, ropes, and chains.
(vii) Cables, conductors, wires, pipes, tubes, conduits, casings, poles, supports, insulators, joint boxes and end boxes.
(viii) Instruments and apparatus attached to the machinery and plant, including meters, gauges, measuring and recording instruments, automatic controls, temperature indicators, and alarms and relays.

CLASS 2.

Lifts and elevators mainly or usually used for passengers.

CLASS 3.

Railway and tramway lines and tracks.

CLASS 4.

The following parts of a plant or a combination of plant and machinery whenever and only to such extent as any such part is, or is in the nature of, a building or structure :—

Acid concentrators ;
Bins and hoppers ;
Blast furnaces ;
Bunkers ;
Burners, forges, furnaces, kilns, ovens, and stoves ;
Chambers for :—
  Absorption of gases or fumes ;
  Aerographing and spraying ;
  Bleaching ;
  Chemical reaction ;
  Conditioning or treatment ;
  Cooling ;
  Drying ;
  Dust or fume collecting ;
  Fibre separation (wool carbonising);
  Fuming ;
  Impregnating ;
  Refrigerating ;
  Regenerating ;
  Sandblasting ;
  Sterilising ;
  Sulphuric acid.
Chimneys ;
Coking ovens ;
Condensers and scrubbers :—
  Acid ;
  Alkali ;
  Gas ;
  Oil ;
  Tar.
Conveyor gantries ;
Cooling ponds ;
Crane gantries ;
Cupolas ;
Economisers ;
Elevators and hoists ;
Evaporators ;
Fan drifts ;
Floating docks and pontoons, with any bridges or gangways not of a temporary nature used in connection therewith ;
Flues ;
Flumes and conduits ;
Foundations, settings, gantries, supports, platforms, and stagings for plant and machinery.
Gas :—
  Holders ;
  Producers and generators ;
  Purifiers and cleansers.

- Headgear :—
  - Mine, quarry, and pit;
  - Well.
- Hydraulic accumulators.
- Pits, beds, and bays :—
  - Casting ;
  - Cooling ;
  - Drop ;
  - Inspection or testing ;
  - Liming, soaking, tanning, or other treatment ;
  - Settling.
- Racks ;
- Refuse destructors and incinerators ;
- Retorts ;
- Ship construction and repair :—
  - Slipways ;
  - Uprights ;
  - Cradles ;
  - Grids.
- Silos ;
- Stages, staithes, and platforms for loading, unloading, and handling material ;
- Stills ;
- Superheaters ;
- Tanks ;
- Towers for :—
  - Absorption of gases or fumes ;
  - Chemical reaction ;
  - Cooling ;
  - Oil refining and condensing ;
  - Treatment ;
  - Water.
- Transporter gantries ;
- Transversers and turntables ;
- Vats ;
- Weighbridges ;
- Windmills ;
- Wireless masts.

S. R. & O., 1928, No. 609.

RATING AND VALUATION, ENGLAND.

THE RATING AND VALUATION ACT (SUPERANNUATION OF TRANSFERRED OFFICERS) ORDER, 1928, DATED AUGUST 8, 1928, MADE BY THE MINISTER OF HEALTH UNDER SECTION 51 (1) OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), WITH RESPECT TO THE APPLICATION OF THE POOR LAW OFFICERS' SUPERANNUATION ACT, 1896 (59 & 60 VICT. C. 50), TO TRANSFERRED OFFICERS.

The Minister of Health, in pursuance of the powers given to him by section 51 (1) of the Rating and Valuation Act, 1925, and of all other powers enabling him in that behalf, hereby orders as follows :—

1. In this Order, unless the context otherwise requires—

" the Act of 1925 " means the Rating and Valuation Act, 1925 ;

" the Act of 1896 " means the Poor Law Officers' Superannuation Act, 1896 ;

" Rating Act Authority " means a Rating Authority, Assessment Committee or County Valuation Committee ;

" remuneration " includes salary, wages and emoluments ;

" transferred officer " means an officer who by section 48 of the Act of 1925 was transferred, or by virtue of the Rating and Valuation Act (Transfer of Officers) Order, 1927, is deemed to have been transferred, to a Rating Act Authority, and " transferred " and " transferred office " have corresponding meanings.

2. In any case where the annual contributions required by the Act of 1896 have been made by a transferred officer, the provisions of that Act shall apply as respects the transferred office subject to the following modifications :—

Authorities.

(1) References in the Act of 1896 to Guardians shall be construed as references to the Rating Act Authority to whom the officer was transferred.

Calculation of Superannuation Allowances.

(2) For the purpose of calculating under section 3 of the Act of 1896 the amount of any superannuation allowance payable—

(*a*) by a Rating Act Authority to a transferred officer who ceases to hold office under such authority within five years after the date of transfer, or

(*b*) by a board of guardians to a transferred officer who continued to hold office under that board after the date of transfer but ceases to hold such office within five years after that date,

account shall be taken of so much only of his remuneration before the date of transfer as was properly attributable—

(*a*) in the first case mentioned, to the duties in respect of which he was transferred to that Rating Act Authority, and

(*b*) in the second case mentioned, to duties in respect of which he was not transferred to any Rating Act Authority.

(3) For the purposes of the preceding paragraph an officer's remuneration shall be apportioned, when necessary, in accordance with the following principles :—

(i) If before the date of transfer he was performing for a board of guardians duties in respect of which he has been transferred to a Rating Act Authority and also other duties, and his remuneration (or any part thereof) was not specifically apportioned between his various duties, such unapportioned remuneration (or part) shall be fairly and equitably apportioned as between the duties in respect of which he was, and the duties in respect of which he was not, transferred.

(ii) In the case of an officer transferred from a board of guardians to two or more Rating Act Authorities—

(*a*) remuneration in respect of transferred duties which was chargeable to any parish in the Union shall be deemed to be attributable to the duties in respect of which he was transferred to the Rating Act Authority whose area comprises that parish ; and

(*b*) remuneration in respect of transferred duties which was chargeable to the Union as a whole shall be apportioned amongst the Rating Act Authorities in proportion to the rateable values, on the date of transfer, of the portions of the Union comprised in the areas of those authorities respectively.

Contributions Returnable on Loss of Office.

(4) Where a transferred officer ceases to hold office in circumstances which make section 8 of the Act of 1896 operative, the amount payable to him by way of return of contributions (*a*) by a Rating Act Authority, or (*b*) by a board of guardians, shall comprise all contributions paid by him to that authority or board after the date of transfer, and all contributions made by him before the date of transfer so far as they were made in respect of remuneration properly attributable—

(*a*) in the case first mentioned, to duties in respect of which he was transferred to that Rating Act Authority ; and

(*b*) in the second case mentioned, to duties in respect of which he was not transferred to any Rating Act Authority.

(5) For the purposes of the preceding paragraph an officer's remuneration shall be apportioned, when necessary, in accordance with the same principles as are made applicable by this Order to the calculation of a superannuation allowance.

(6) A transferred officer who on relinquishment of office becomes entitled to compensation under the Act of 1925, shall be deemed to lose his office in circumstances which make section 8 of the Act of 1896 operative.

Expenses.

(7) Any expenses incurred by a Rating Act Authority under the Act of 1896 in respect of a transferred officer shall be defrayed in the same manner as if they were expenses incurred under the Act of 1925, and the contributions under the Act of 1896 of any transferred officer shall from and after the date of transfer be applied in aid of the rate out of which such expenses are payable.

Suspension of Superannuation Allowance.

(8) Section 6 of the Act of 1896 shall be modified so as to read as follows :—

> "6. Where a person in receipt of a superannuation allowance or superannuation allowances under this Act is appointed to any office or employment under any authority to whom this Act applies or under any rating authority, assessment committee or county valuation committee, such allowance or allowances shall cease to be paid to him so long as he continues to hold such office or employment if the salary or emoluments of such office or employment are equal to or in excess of the amount of such allowance or allowances; if they are not, then only so much of such allowance or allowances shall be paid, so long as he holds such office or employment, as will make up the deficiency, and in such last mentioned case, if the person is entitled to allowances from two or more authorities, such authorities shall contribute to the deficiency in proportion to the amounts of the respective allowances granted by them.
>
> Any such person ceasing to hold such office or employment shall be entitled to revert to and to receive the full amount of his original superannuation allowance or allowances from the authority or authorities who granted it or them."

3. This Order may be cited as the Rating and Valuation Act (Superannuation of Transferred Officers) Order, 1928, and shall have effect as from the 1st day of April, 1927.

Given under the Official Seal of the Minister of Health this Eighth day of August, in the year One thousand nine hundred and twenty-eight.

(L.S.) H. W. S. FRANCIS,
Assistant Secretary, Ministry of Health.

S. R. & O., 1928, No. 627.

VALUATION, ENGLAND.

THE RATING AND VALUATION (APPORTIONMENT) ACT (SPECIAL LIST) RULES, 1928, DATED AUGUST 20, 1928, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90) (AS APPLIED BY SECTIONS 7 (1) (*c*) AND 10 (2) OF THE RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 GEO. 5, C. 44) FOR PRESCRIBING THE FORMS OF NOTICES, CLAIMS AND LISTS TO BE USED FOR THE PURPOSES OF THE FIRST SCHEDULE TO THE LAST MENTIONED ACT AND THE DATES TO BE OBSERVED IN CONNECTION WITH THE PREPARATION AND APPROVAL OF LISTS UNDER THAT SCHEDULE (*a*).

Whereas by the First Schedule to the Rating and Valuation (Apportionment) Act, 1928 (hereinafter referred to as "the Act of 1928") it is required that certain notices, claims, preliminary draft special lists and draft special lists to be given and made thereunder shall follow prescribed forms and that the taking of certain steps in connection with the preparation and approval of such lists and with appeals therefrom shall be regulated by prescribed dates; and by section 10 (2) of the said Act it is provided that that Act shall be construed as one with the principal Act and that the expression "prescribed" shall mean prescribed by rules made under the principal Act:

And whereas by the said Schedule it is further provided that all the provisions of the principal Act as to the preparation, deposit, revision and approval of valuation lists made thereunder shall (subject to certain modifications) apply as respects the draft special lists and special lists to be made under the Act of 1928, and that the special list made thereunder for any rating area shall (subject to the provisions of the Schedule) for the purposes of the principal Act and of the Act of 1928 be deemed to form part of the valuation list for that area:

(*a*) These Rules have been amended by Amending Rules of January 30th and April 12th, 1929, *post*, pp. 3726, 3727.

Appendix II.

And whereas by section 1 (2) of the Act of 1928 the expression "the principal Act" means, in relation to places outside London, the Rating and Valuation Act, 1925, as amended by any subsequent enactment, and in relation to London, the Valuation (Metropolis) Act, 1869, as amended by any subsequent enactment (including the Act of 1928):

And whereas by sections 21, 29 and 58 of the Rating and Valuation Act, 1925 (which sections, by virtue of section 7 (1) (*c*) of the Act of 1928, apply to London as if enacted in the Valuation (Metropolis) Act, 1869), provision is made with respect to the insertion in valuation lists of such particulars as to hereditaments and values, and the recording of such particulars as to totals of values, as may be prescribed, and it is further provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe anything which by that Act is to be prescribed and the form of any rate, demand note, valuation list, statement, return or other document whatsoever which is required or authorised to be used under or for the purposes of that Act:

Now, therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the recited enactments and of all other powers enabling him in that behalf, hereby makes the following rules:—

1.—(1) These Rules may be cited as the Rating and Valuation (Apportionment) Act (Special List) Rules, 1928, and shall come into operation on the date hereof.

(2) In these Rules—

"The Act of 1928" means the Rating and Valuation (Apportionment) Act, 1928;

"Agricultural hereditament," "agricultural land" and "agricultural buildings" have the meanings assigned to them respectively by section 2 of the Act of 1928;

"Woodlands" means land used for a plantation or a wood or for the growth of saleable underwood;

"Industrial hereditament" and "freight-transport hereditament" have the meanings assigned to them respectively by sections 3 and 5 of the Act of 1928;

"Parish" includes any part of a parish being either a contributory place or an area otherwise subject to separate or differential rating;

"Valuation List" means, in the case of any rating area, the first new Valuation List made for that area under the Rating and Valuation Act, 1925, or, until such list has been approved, the draft of such list.

2. The notice which every rating authority is required by paragraph 1 of the First Schedule to the Act of 1928 to publish as soon as practicable after the passing of the Act shall be in the Form A set out in the Schedule hereto or in a form substantially to the like effect (*a*).

3. The claim which the occupier of any hereditament who claims that it is an industrial hereditament or a freight-transport hereditament is directed by paragraph 1 of the First Schedule to the Act of 1928 to send to the rating authority shall be in that one of the Forms B and C set out in the Schedule hereto which is appropriate to the hereditament in question or in a form substantially to the like effect; and the particulars contained in the appropriate form shall be deemed to be the prescribed particulars for the purposes of such claim (*b*).

4. The preliminary draft special list which every rating authority is required by paragraph 2 of the First Schedule to the Act of 1928 to prepare shall be in the Form D set out in the Schedule hereto or in a form substantially to the like effect.

The draft special list which every rating authority is required by paragraph 5 of the First Schedule to the Act of 1928 to prepare shall also be in the said form (with the omission of the word "preliminary") or in a form substantially to the like effect.

(*a*) This form is not printed as the necessity for it has now expired.

(*b*) See note (*a*), *supra.* As to the forms to be now used for claiming the insertion of a hereditament in one of the derated classes, see the R. & V. Acts (Forms of Proposal and Claim) Rules, 1929, *post*, p. 3729.

5. The prescribed time or date for the purpose of any proceeding specified in the first column of the Time Table set out in the Schedule hereto shall be that specified in the second column of such Time Table.

6. Where a rating area comprises two or more parishes (as defined in Rule 1), each of the three Parts of the preliminary draft special list and of the draft special list shall be subdivided into parochial sections. Such parochial sections shall be arranged in the same sequence as in the Valuation List, and at the end of each section there shall be left such blank space as may be estimated to be necessary for the insertion of particulars relating to new hereditaments.

In the case of Parts I. and II. of the said lists the hereditaments falling to be entered in any parochial section thereof shall be arranged therein in such order as the rating authority think convenient:

Provided that, where in pursuance of section 3 (3) of the Act of 1928 two or more hereditaments in the same occupation and either within the same curtilage or contiguous to one another are, for certain purposes of that section and of section 4, treated as if they formed parts of a single hereditament, then, if those hereditaments are situate in the same parish, they shall be entered consecutively and bracketed together, and, if they are situate in different parishes, a marginal note drawing attention to the facts shall be entered in column 1 against each of the hereditaments.

In the case of Part III. of the said lists, the hereditaments falling to be entered in any parochial section shall be arranged therein in four separate groups, viz.—

(A) Railway hereditaments,
(B) Canal hereditaments,
(C) Dock hereditaments, and
(D) Composite hereditaments.

7. A rating authority in preparing a preliminary draft special list or a draft special list and an assessment committee in revising and approving a draft special list shall comply with the following directions as to the entries to be made in the respective columns of those lists:—

GENERAL.—PARTS I., II. AND III.

Columns 1–7.—The headings to these columns shall be construed in the same manner as the headings to the corresponding columns in a Valuation List, and entries shall be made in the columns accordingly.

PART I.—AGRICULTURAL HEREDITAMENTS.

Columns 8*a*, 9*a and* 10*a*.—The net annual value of the hereditament shall be entered in that column which, according to the heading thereof and to the definition of " woodlands " contained in Rule 1, is appropriate to such hereditament.

Columns 8*b*, 9*b and* 10*b*.—No entry shall be made in any of these columns (*a*).

PART II.—INDUSTRIAL HEREDITAMENTS.

Column 8.—In the case of a hereditament assessed as " land covered with water " the letter " W " shall be entered in this column immediately before the net annual value of the hereditament.

Columns 9*a and* 10*a*.—If the hereditament is, in accordance with the provisions of section 4 of the Act of 1928, deemed to be used wholly for industrial purposes, its net annual value (as appearing in column 8) shall be entered in column 9*a*; in other cases such value shall be apportioned in accordance with those provisions and the apportioned amounts entered in columns 9*a* and 10*a* respectively.

Columns 9*b*, 10*b and* 11.—No entry shall be made in any of these columns (*a*).

PART III.—FREIGHT TRANSPORT HEREDITAMENTS.

Column 8.—Where a hereditament is not used for more than one of the named transport purposes and is entered accordingly under one of the subheadings (A), (B) and (C) referred to in Rule 6, no entry need be made in column 8.

Where a hereditament is used for more than one of those purposes and is entered accordingly under subheading (D) referred to in Rule 6, the values falling to be

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(*a*) See Amending Rules of April 12th, 1929, *post*, p. 3727.

Appendix II.

entered in columns 10*a*, 10*b* and 11*a* shall be apportioned between user for the several purposes, and the amount apportioned to each shall be entered upon a separate line. In any such case the nature of the purposes to which each separate line relates shall be indicated by the appropriate word—railway, canal or dock—in column 8.

Columns 10*a and* 10*b*.—If the rateable value under the Rating and Valuation Act, 1925, of a hereditament, or of any part thereof, would in accordance with the provisions of that Act or of a scheme made thereunder, or of a local Act, be calculated by making a deduction from the net annual value, the net annual value of the hereditament or of that part (as the case may be) shall be entered in column 10*a*, and in column 10*b* there shall be entered the rateable value of the hereditament or of that part (as the case may be) calculated in accordance with the said provisions.

Columns 11*a and* 12*a*.—If the rateable value of a hereditament, or of any part thereof, as ascertained in accordance with the Rating and Valuation Act, 1925, would be the same as the net annual value thereof, the net annual value of the hereditament or of that part (as the case may be) shall, in so far as it is attributable to user for transport purposes, be entered in column 11*a*, and shall, in so far (if at all) as it is attributable to user for non-transport purposes, be entered in column 12*a*.

Columns 10*c*, 11*b*, 12*b*, and 13.—No entry shall be made in any of these columns (*a*).

8. Subject to the provisions of paragraph 7 (*b*) of the First Schedule to the Act of 1928, the assessment committee in revising a draft special list shall give effect to their decisions by inserting or deleting any hereditament which in their opinion ought to have been inserted or omitted by the rating authority or by amending the particulars relating to any hereditament as inserted by the rating authority, and after such revision shall approve the list in the same manner as if it were a valuation list.

9. A rating authority and an assessment committee shall comply with the following directions as to the method of making corrections, insertions, alterations or amendments in a draft special list or a special list—

(i) a correction, insertion, alteration or amendment, if made before approval of the list, shall be made in ink of the same colour as that used in the preparation of the list, and if made after approval of the list shall be made in ink of a different colour;

(ii) a line shall be ruled through any words or figures which require to be omitted, or for which other words or figures are to be substituted, in such manner as to leave legible the original entries;

(iii) every correction, insertion, alteration or amendment shall be authenticated by the responsible officer, whether of the rating authority or assessment committee, having for the time being the custody of the list, and such officer shall enter the date and his initials accordingly in the column provided for that purpose.

10 (*a*). Immediately before the approval of a special list the entries as to values in columns 7, 8*a*, 9*a* and 10*a* of Part I. and in columns 8, 9*a* and 10*a* of Part II. shall be totalled at the foot of each page of the list, and the totals for each page shall be carried to a summary or summaries so arranged as to show, in respect of (*a*) the rating area as a whole, and (*b*) each parish (as defined in Rule 1), the totals of all the entries in each of the said columns (distinguishing the totals in Part I. from the totals in Part II.), and also, in the case of column 8 of Part II. the total of the entries therein which are marked by the letter "W."

In the case of Part III. of the list, such entries shall be made in the summary or summaries as will show, in respect of (*a*) the rating area as a whole, and (*b*) each parish (as defined in Rule 1), the totals of the entries as to values in columns 9 and 12*a*, and also the totals of the entries as to values in columns 10*a*, 10*b*, and 11*a*, distinguishing in these cases the totals of values attributable to (i) user for railway transport purposes, (ii) user for canal transport purposes, and (iii) user for dock purposes, respectively. For the purposes of such entries, any values entered in columns 10*a*, 10*b*, and 11*a* under sub-heading (D) shall be aggregated respectively with the values entered under that one of the subheadings (A), (B) and (C) which is appropriate thereto.

11. All corrections, insertions, alterations and amendments made in a special list after such list has been approved (including such as are made by direction of a

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(*a*) See Amending Rules of April 12th, 1929, *post*, p. 3727.

Court of Quarter Sessions) shall be recorded in the minutes of the assessment committee, and the committee shall cause the necessary net additions or subtractions to be made to or from the relevant totals appearing in the summaries referred to in the last preceding rule.

12. The copy of the deposited draft special list transmitted to an assessment committee in accordance with paragraph 5 of the First Schedule to the Act of 1928 shall be retained by the committee, who shall cause the entries therein to be corrected from time to time so that such copy shall agree with the special list.

13. These Rules shall apply to London subject to the following modifications:—

(1) "Valuation List" means the Valuation List made under the Valuation (Metropolis) Act, 1869; and

"Net annual value" has the meaning assigned to it by section 7 (1) (*a*) of the Act of 1928.

(2) In column 8 of Part II. of a preliminary draft special list or draft special list it shall not be necessary to distinguish hereditaments assessed as "land covered with water," nor shall it be necessary to total separately entries relating to such hereditaments.

(3) Part III. of a preliminary draft special list or draft special list shall be in the Form E set out in the Schedule hereto; and entries therein shall be made in accordance with the following directions:—

Column 8.—Where a hereditament is used for more than one of the named transport purposes and is entered accordingly under one of the sub-headings (A), (B) and (C), no entry need be made in column 8.

Where a hereditament is used for more than one of those purposes and is entered accordingly under subheading (D), the value falling to be entered in column 10*a* shall be apportioned between user for the several purposes and the amount apportioned to each shall be entered upon a separate line. In any such case the nature of the purposes to which each separate line relates shall be indicated by the appropriate word—railway, canal or dock—in column 8.

Columns 10*a and* 11*a*.—The net annual value of the hereditament shall, in so far as it is attributable to user for transport purposes, be entered in column 10*a*, and shall, in so far (if at all) as it is attributable to user for non-transport purposes, be entered in column 11*a*.

Columns 10*b*, 11*b and* 12.—No entry shall be made in any of these columns.

(4) (*c*) For the second paragraph of Rule 10 the following paragraph shall be substituted:—

"In the case of Part III. of the list, such entries shall be made in the summary or summaries as will show, in respect of (*a*) the rating area as a whole and (*b*) each parish (as defined in Rule 1), the totals of the entries as to values in columns 9 and 11*a*, and also the totals of the entries as to values in column 10*a*, distinguishing in this case the totals of values attributable to (i) user for railway transport purposes, (ii) user for canal transport purposes, and (iii) user for dock purposes, respectively. For the purposes of such entries, any values entered in column 10*a* under subheading (D) shall be aggregated respectively with the values entered under that one of the subheadings (A), (B) and (C) which is appropriate thereto."

THE SCHEDULE.

FORM A. (*a*)

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FORM B. (*b*)

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FORM C. (*b*)

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(*a*) See note (*a*), *ante*, p. 3712.
(*b*) See note (*b*), *ante*, p. 3712.
(*c*) See note (*a*), *ante*, p. 3714.

Appendix II.

FORM D.

Preliminary Draft Special List.

PART I.

Agricultural Hereditaments (a).

Assessment Number.	Name of Occupier.	Name of Owner.	Description of Property.	Name or situation of Property.	Extent.	Values.							Date of any amendment authorised by the Assessment Committee, and initials of responsible officer.	Provisional conclusions of the Revenue Officer where these differ from those of the Rating Authority.			Remarks (if any).	
						Gross value.	Net annual and rateable values.							Whether the hereditament is an agricultural hereditament.	Gross value.	Net annual value.	By Rating Authority.	By Revenue Officer.
							Agricultural land.				Agricultural buildings.							
							Woodlands.		Other agricultural land.									
							Net annual value.	Rateable value.	Net annual value.	Rateable value.	Net annual value.	Rateable value.						
1.	2.	3.	4.	5.	6.	7.	8a.	8b.	9a.	9b.	10a.	10b.	11.	12a.	12b.	12c.	13a.	13b.

(a) In valuation lists subsequent to the first list under the 1925 Act, no entries will be made as to agricultural hereditaments (L. G. A., 1929, s. 67 (2), *ante*, p. 1932).

Appendix II.

FORM D—*contd.*

Preliminary Draft Special List—contd.

PART II.

Industrial Hereditaments.

						Values.								Provisional conclusions of the Revenue Officer where these differ from those of the Rating Authority.				Remarks (if any).	
Assessment Number.	Name of Occupier.	Name of Owner.	Description of Property.	Name or situation of Property.	Extent.	Gross value of the hereditament (where required to be ascertained).	Net annual value of the hereditament. (Distinguish by the letter "W" any hereditament assessed as land covered with water.)	Net annual value (as in column 8) and rateable value apportioned between Industrial Purposes and Non-Industrial Purposes.				Rateable value of the hereditament (*i.e.* total of sums in columns 9b and 10b).	Date of any amendment authorised by the Assessment Committee, and initials of responsible officer.	Whether the hereditament is wholly or partly, or is not, an industrial hereditament.	Gross value where required to be ascertained.	Apportioned Net annual value.		By Rating Authority.	By Revenue Officer.
								Industrial Purposes.		Non-Industrial Purposes.						Industrial Purposes.	Non-Industrial Purposes.		
								Net annual value.	Rateable value.	Net annual value.	Rateable value.								
1.	2.	3.	4.	5.	6.	7.	8.	9a.	9b.	10a.	10b.	11.	12.	13a.	13b.	13c.	13d.	14a.	14b.

FORM D—*contd.*

Preliminary Draft Special List—contd.

PART III. (OUTSIDE LONDON).

Freight-Transport Hereditaments.

Assessment Number.	Name of Occupier.	Name of Owner.	Description of Property.	Name or situation of Property.	Extent.	Values.											Date of any amendment authorised by the Assessment Committee, and initials of responsible officer.	Provisional conclusions of the Revenue Officer where these differ from those of the Rating Authority.
						Gross value of the hereditaments (where required to be ascertained).	Whether Railway, Canal or Dock.	Net annual value of the hereditament.	Net annual value (as in column 9) and rateable value apportioned between transport purposes and non-transport purposes.							Rateable value of the hereditament (*i.e.* total of sums in columns 10c, 11b and 12b).		
									Transport Purposes.					Non-transport Purposes.				
									That part of the hereditament of which the rateable value, as calculated in accordance with the Rating and Valuation Act, 1925, or any scheme made thereunder, or any local Act, differs from the net annual value.			Any other part of the hereditament, so far as used for transport purposes.		Any part of the hereditament, so far as used for purposes not being transport purposes.				
									Net annual value.	Rateable value, as calculated in accordance with the Rating and Valuation Act, 1925, or any scheme made thereunder, or any local Act.	Rateable value.	Net annual value.	Rateable value.	Net annual value.	Rateable value.			
1.	2.	3.	4.	5.	6.	7.	8.	9.	10a.	10b.	10c.	11a.	11b.	12a.	12b.	13.	14.	15.

TIME TABLE.

Proceeding.	*Prescribed time or date.*
Time within which claims must be sent to the Rating Authority. (Paragraph 1 of Schedule I. of the Act of 1928) . .	Before the 16th October, 1928.* (*a*)
Date on or before which a copy of the preliminary draft special list or of the final instalment thereof, must be sent to the revenue officer. (Paragraph 3 of Schedule I. of the Act of 1928) . . .	31st January, 1929.* (*a*)
Date on or before which the draft special list, or the final instalment thereof, must be prepared and deposited and a copy thereof transmitted to the Assessment Committee and to the revenue officer. (Paragraph 5 of Schedule I. of the Act of 1928)	1st May, 1929.
Date on or before which the special list must be finally approved by the Assessment Committee and sent by them to the Rating Authority. (Paragraph 6 of Schedule I. of the Act of 1928) . .	31st July, 1929.
Date after which London Quarter Sessions can hear Appeals against decisions on objections to special lists. (Paragraph 7 (i) of Schedule I. of the Act of 1928) .	31st August, 1929.

Given under the Official Seal of the Minister of Health this twentieth day of August, in the year One thousand nine hundred and twenty-eight.

(L.S.) R. B. CROSS,

Assistant Secretary, Ministry of Health.

* In the case of Railway Companies, Canal Companies and statutory Dock Authorities, claims in respect of freight-transport hereditaments may be submitted at any date before the 1st February, 1929, and the latest date for the transmission to the revenue officer of the relevant part of a preliminary draft special list relating to hereditaments which are the subject of such claims shall be the 31st March, 1929.

S. R. & O., 1929, No. 11.

RATING, ENGLAND.

FORMS OF PRECEPT.

THE RATING AND VALUATION ACT (FORMS OF PRECEPT—COUNTY COUNCILS) RULES, 1929, DATED JANUARY 18, 1929, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING FORMS OF PRECEPTS TO BE USED UNDER THE ACT. (*b*)

Whereas by section 9 of the Rating and Valuation Act, 1925, provision is made with respect to precepts to be issued to rating authorities by councils of counties in respect of any period beginning on or after the first day of April, 1929;

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe the form of any return or other document whatsoever which is required or authorised to be used under or for the purposes of the Act:

(*a*) See Amending Order Rules of 30th January, 1929, *post*, p. 3726.

(*b*) These Rules are now repealed. See the Rules of 5th February, 1930, *post*, p. 3927.

Appendix II.

Now therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following Rules :—

1.—(1) These Rules may be cited as the Rating and Valuation Act (Forms of Precept—County Councils) Rules, 1929, and shall come into operation on the date hereof.

(2) These Rules shall not apply to any precept issued by the London County Council.

2. Every precept issued by a county council under section 9 (2) of the Rating and Valuation Act, 1925, in respect of any period beginning on or after the first day of April, 1929, shall be in the form set out in the Schedule hereto which is appropriate to the rating authority concerned, or in a form substantially to the like effect.

3. A county council shall specify in every precept issued by them in respect of any period beginning on or after the said first day of April—

(*a*) the rate in the pound which they require the rating authority to levy as part of the general rate in respect of (i) each service or group of services administered by the county council for which a separately balanced account is kept, and (ii) such other of their principal services as they may think fit ;

(*b*) the rate in the pound which they require the rating authority to levy as an additional item of the general rate in respect of each part of the rating area on which any expenses are chargeable separately, indicating the part so charged, and the purpose of the charge ; and

(*c*) in the case of an amount chargeable on the rating area or any part thereof otherwise than by a rate of a specified amount in the pound, the amount and purpose of the charge and the area so charged.

SCHEDULE.

FORM A.

Form of Precept. County Councils.

(Boroughs and Urban District Councils.)

RATING AND VALUATION ACT, 1925.

*Administrative County of*________________

To the________, being the Rating Authority for the Borough (or Urban District) of________

The Council of the above-mentioned County hereby give you notice that in respect of the [half] year beginning on the________day of________19__ they will require from you the proceeds of the rates specified on the back hereof, subject to such adjustment, by way of addition to those rates, as may be necessary to comply with the provisions of Section 9 (2) (c) of the above-mentioned Act ;

And they do accordingly hereby require you to levy the said rates as part of the general rate, or as additional items of the general rate, as the case may require, and to make payment on account thereof to (state name and address of person to whom payment is to be made) as follows :—

£________on or before the________day of________19__

£________on or before the________day of________19__

and the balance thereof within 14 days after the date on which the total amount due shall have been ascertained in accordance with the provisions of the Rating and Valuation Act, 1925, and of the Rules made thereunder.

* [And they do also give you notice that in respect of the above-mentioned period they will require from you the following sums of money,—

(state amount, purpose, and area on which chargeable)

and they do hereby require you to pay the said sums to (state name and address of person to whom payment is to be made) on or before the________day of________19——]

Dated this________day of________, 19__ .

(Signature)________________

Clerk of the County Council.

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* The words within brackets marked * may be omitted where there are no sums leviable by the County Council otherwise than on a poundage basis.

[BACK.]

Rates to be levied on the whole of the rating area.

	Amount in the Pound.	
For General County Purposes :—	*s.* *d.*	*s.* *d.*
For other County Purposes :—	*s.* *d.*	
	Total .	

* *Rates to be levied on part of the rating area.*

Part of rating area chargeable.	Purpose.	Amount in the Pound.
		s. *d.*

* Omit if not required.

FORM B.

Form of Precept. County Councils.

(Rural District Councils.)

RATING AND VALUATION ACT, 1925.

Administrative County of ____________

To the ____________, being the Rating Authority for the Rural District of ____________

The Council of the above-mentioned County hereby give you notice that in respect of the [half] year beginning on the ________ day of ____________ 19__ they will require from you the proceeds of the rates specified under (1) on the back hereof ;

And they do accordingly hereby require you to levy the said rates as part of the general rate, or as additional items of the general rate, as the case may require, and to make payment on account thereof to (state name and address of person to whom payment is to be made) as follows :—

£ ________ on or before the ________ day of ____________ 19__

£ ________ on or before the ________ day of ____________ 19__

and the balance thereof within 14 days after the date on which the total amount due shall have been ascertained in accordance with the provisions of the Rating and Valuation Act, 1925, and of the Rules made thereunder.

Appendix II.

* [And they do also give you notice that in respect of the above-mentioned period they will further require from you the sums of money specified under (2) on the back hereof, chargeable on each area mentioned and for the purposes mentioned ; and they do hereby require you to pay the said sums to the above-mentioned person on or before the ______ day of ______ 19___]

Dated this ______ day of ______, 19___

(Signature) ________________

Clerk of the County Council.

* The words within brackets marked * may be omitted where there are no sums leviable by the County Council otherwise than on a poundage basis.

[BACK.]

(1) *Rates to be levied on the whole of the rating area.*

	Amount in the Pound.	
	s. d.	s. d.
For General County Purposes :—		
	s. d.	s. d.
For other County Purposes :—		
	Total .	

Rates to be levied on parts of the rating area.

Part of rating area chargeable.	Purpose.	Amount in the Pound.
		s. d.

(2) *Amounts required.*

Parish or other Area chargeable.	Purpose.	Amount.
		£ s. d.

Given under the Official Seal of the Minister of Health this eighteenth day of January, in the year One thousand nine hundred and twenty-nine.

(L.S.) R. B. CROSS,
Assistant Secretary, Ministry of Health.

S. R. & O., 1929, No. 12.

RATING, ENGLAND.

PRODUCT OF RATES AND PRECEPTS.

THE RATING AND VALUATION ACT (PRODUCT OF RATES AND PRECEPTS) RULES, 1929, DATED JANUARY 18, 1929, MADE BY THE MINISTER OF HEALTH UNDER SECTIONS 9 AND 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING THE MANNER IN WHICH THE PRODUCT OF A RATE OF A PENNY IN THE POUND IS TO BE ESTIMATED AND CALCULATED FOR THE PURPOSES OF THAT ACT AND THE AMOUNT DUE UNDER A PRECEPT ISSUED BY A PRECEPTING AUTHORITY TO A RATING AUTHORITY IS TO BE ASCERTAINED (*a*).

Whereas by sub-section (2) of section 9 of the Rating and Valuation Act, 1925, every board of guardians and every council of a county is required in any precept issued in respect of any period beginning on or after the 1st day of April, 1927, or on or after the 1st day of April, 1929, respectively, to state the amount in the pound which they require the rating authority to levy for their purposes, and by sub-section (3) of the said section the provisions of the said sub-section (2) may be applied to precepts issued by any other authority ;

And whereas by the said sub-sections every rating authority is required to transmit to every authority having power to issue to that rating authority precepts to which sub-section (2) for the time being applies an estimate of the amount, calculated in the prescribed manner, which would be produced in the next financial year by a rate of a penny in the pound levied in the rating area of that authority, and it is further provided that the amount due under any precept so issued shall be ascertained in the prescribed manner ;

And whereas the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1926, relate only to precepts issued by boards of guardians ;

And whereas it is expedient that rules should be issued which will be applicable to precepts issued by boards of guardians and by councils of counties, and also to precepts issued by any other authority to whose precepts the provisions of the said sub-section (2) have been applied ;

And whereas it is provided by sub-section (4) of the said section that rules made for the purposes of that section shall make provision with respect to certain specified matters and to any other matters for which it may appear necessary to make provision in order to carry the said section into effect ;

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities, with whom consultation appears to him to be desirable, may by rules prescribe anything which by the Act is to be prescribed :

Now, therefore, the Minister of Health, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said sections 9 and 58, and of all powers enabling him in that behalf, hereby makes the following Rules :—

1.—(1) These Rules may be cited as the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1929, and shall come into operation on the date hereof and shall have effect for the purposes of any precept issued by a precepting authority in respect of a period beginning on or after the 1st day of April, 1929.

(2) In these Rules, unless the context otherwise requires—

" The Act " means the Rating and Valuation Act, 1925 ;

" Rate " means a general rate :

(*a*) See as to this Order the notes to s. 9 of the R. & V. Act, 1925, at p. 1655, *ante*.

Appendix II.

Provided that, in relation to any period preceding the levy of a general rate, references to rates and to arrears of rates shall be construed as references to the rates in lieu of which a general rate is or will be levied and to arrears of such rates;

"Precepting authority" means the council of a county, a board of guardians, and any other authority issuing precepts to which the provisions of subsection (2) of section 9 of the Act for the time being apply;

"Product of a penny rate" means the amount produced by a rate of one penny in the pound;

"Poundage" means in relation to any rate the amount assessed by that rate (including any additional item thereof) in respect of each pound of rateable value;

"Gross rate income" means in relation to a rating area, or part of a rating area, and in relation to a financial year, the total of the gross amounts appearing in the rate book as assessed in respect of hereditaments in that area, or part of an area, by the rate or rates (including additional items) made in respect of that year, or any portion thereof, increased by—

(*a*) the amounts of any payments receivable in respect of that year under section 2 (7) of the Act, or under section 133 of the Lands Clauses Consolidation Act, 1845, as the case may be, and of any contributions made by the Crown; and

(*b*) any amounts found during that year to be recoverable in respect of rates previously written off as irrecoverable;

"Cost of collection" means—

(i) in relation to a rating area as a whole, the net cost of making, collecting and recovering rates during a financial year, including a proper proportion of such expenses as are attributable in part to the matters aforesaid and in part to the making, collection or recovery of special rates, or to other matters, but not including any proportion of any allowances made to owners or occupiers, or any expenses incurred in connection with the preparation of valuation lists; and

(ii) in relation to a part of a rating area, the sum which bears to the cost of collection in the rating area the same proportion as the total rateable value of that part of the area bears to the total rateable value of the whole area at the commencement of the financial year;

"Loss on collection" means, in relation to a rating area or part of a rating area, and in relation to a financial year, the total amount written off during that year in the rate book as irrecoverable in respect of hereditaments in that area or part, whether in respect of a current rate or in respect of arrears of any previous rate, exclusive of any allowances made to owners or occupiers under section 8 of the Act, but including all other allowances, commissions, and abatements;

"Precept" means a precept which requires a rating authority to levy a rate of a specified poundage;

"Financial officer" means the chief officer charged with the duty of keeping the accounts of a rating authority.

2. The financial officer of every rating authority shall as soon as may be after the close of a financial year calculate in accordance with the directions hereinafter contained the product of a penny rate during that year in the rating area and, where a precept is issuable by a precepting authority in respect of a portion only of the rating area, the product of a penny rate during that year in such portion.

3. Subject as hereinafter provided, the product of a penny rate in any rating area or in any portion thereof, as the case may be, shall be calculated by deducting from the gross rate income of the financial year the cost of collection and the loss on collection, and by dividing the remainder (which sum is hereinafter referred to as "the total rate product") by the number of pence representing the total poundage of the rate or rates:

Provided that if the poundage of the rate or rates of the financial year is not the same throughout the area or portion, as the case may be, the financial officer shall in the first instance calculate the product of a penny rate separately for each part in which a different poundage has been levied, and the product of a penny rate in the area or portion shall be taken to be the sum of the products of penny rates in the several parts comprised therein ;

Provided also that, in any rating area in which the arrears outstanding on the 1st day of April, 1927, of rates in lieu of which a general rate is or will be levied, exceeded five per cent. of the total gross rate income, derived from such rates, of the financial year commencing on that date, the amount to be deducted under this rule from the total gross rate income of any financial year in respect of such losses on collection as are referable to the arrears above-mentioned shall be reduced by such sum (if any) as the district auditor may determine, having regard to the value which, in his opinion, attached to those arrears at the said date.

4. Subject as hereinafter mentioned, the amount due under a precept shall be taken to be the product of a penny rate in the rating area, or in that portion thereof which is included in the area of the precepting authority, as the case may be, multiplied by the number of pence specified in the precept :

Provided that in the case of an urban rating area, or portion of an urban rating area, the amount due as aforesaid shall, in accordance with the provisions of section 9 (2) (*c*) of the Act, be increased by a sum equal to that by which it would have been increased if no relief from rating had been given to any such hereditaments as are specified in class (3) of Part II. of the Second Schedule to the Act, whether such relief be given under the Act, or under a local Act passed before the first day of April, 1927.

5. The financial officer of every rating authority shall as soon as may be after the close of a financial year ascertain, in accordance with the provisions of the last preceding Rule, the total amount due in respect of that financial year under the precepts issued by a precepting authority to the rating authority ; and, if the total amount so ascertained to be due exceeds the aggregate of the instalments required by such precepts to be paid on account thereof, the rating authority shall, save as hereinafter provided, forthwith pay the balance to the precepting authority :

Provided that the rating authority, subject to their obligation to pay in full the aggregate of the instalments required by the precepts, may defer payment of any sum not exceeding that which bears to the total amount due under the precepts the same proportion as the amount of arrears carried forward at the close of the financial year to which the precepts relate and for the time being still outstanding bears to the total rate product for that financial year.

6.—(1) The estimate of the product of a penny rate in the next ensuing financial year which a rating authority is required to transmit to a precepting authority before the first day of February in each calendar year shall be made in accordance with the principles of these Rules as to the method of ascertaining the product of a penny rate ; and in the case of an urban rating area, or portion of an urban rating area, shall include an estimate of the sum by which the product of a penny rate would be increased if no relief from rating were given (whether under the Act or under a local Act) to such hereditaments as are specified in class (3) of Part II. of the Second Schedule to the Act.

(2) The financial officer in so framing the estimate shall take the latest ascertained figures available for the rating area or portion thereof, as the case may be, and shall modify those figures to such extent as appears to him to be necessary having regard to any alteration in total rateable value which may reasonably be anticipated and to any other material circumstances.

7. There shall be included in the accounts to be submitted by a rating authority to the district auditor the calculations required by these Rules for the determination of the product of a penny rate in the rating area, or in any part thereof during the financial year and of the amount due under any precept issued to the authority in respect of that year, or any part thereof ; and the auditor's certificate allowing the accounts shall be construed as a certificate that, subject to any amendments made by him, such calculations have been properly and correctly made, and any necessary consequential adjustments shall be made in the accounts between the rating authority and the precepting authority.

8. The Rating and Valuation Act (Product of Rates and Precepts) Rules, 1926, shall continue to apply to any precept issued in respect of any period ending on or before the 31st day of March, 1929, but subject to such continued application those Rules are hereby rescinded.

Given under the Official Seal of the Minister of Health, this eighteenth day of January, in the year One thousand nine hundred and twenty-nine.

(L.S.) R. B. CROSS,
Assistant Secretary, Ministry of Health.

S. R. & O., 1929, No. 65.

VALUATION, ENGLAND.

THE RATING AND VALUATION (APPORTIONMENT) ACT (SPECIAL LIST) (AMENDMENT) RULES, 1929, DATED JANUARY 30, 1929, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90) AS APPLIED BY SECTIONS 7 (1) (*c*) AND 10 (2) OF THE RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 GEO. 5, C. 44).

Whereas by the Rating and Valuation (Apportionment) Act (Special List) Rules, 1928 (hereinafter referred to as " the Rules of 1928 "), the Minister of Health in pursuance of the powers conferred upon him by the Rating and Valuation Act, 1925, and the Rating and Valuation (Apportionment) Act, 1928 (hereinafter referred to as " the Act of 1925 " and " the Act of 1928 " respectively), prescribed, *inter alia*, certain times or dates to be observed in connection with the preparation and approval of lists under the First Schedule to the Act of 1928 ;

And whereas circumstances have arisen which render it desirable that certain of the times or dates so prescribed should be varied :

Now therefore, the Minister of Health by virtue of the powers conferred upon him by the Act of 1925 and the Act of 1928 and of all other powers enabling him in that behalf hereby makes the following Rules :—

1. These Rules may be cited as the Rating and Valuation (Apportionment) Act (Special List) (Amendment) Rules, 1929, and shall come into operation on the date hereof.

2. Notwithstanding anything contained in the Rules of 1928 the prescribed time or date for the purpose of the proceedings specified in the first column of the Schedule hereto shall be that specified in the second column of that Schedule.

3. Nothing in these Rules shall affect the prescribed time or date for any proceeding other than those specified in the Schedule hereto.

SCHEDULE.

Proceeding.	Prescribed Time or Date.
Time within which claims must be sent to the Rating Authority (Paragraph 1 of Schedule 1 of the Act of 1928).	Before the 1st April, 1929.
Date, on or before which a copy of the preliminary draft special list or of the final instalment thereof, must be sent to the Revenue Officer (Paragraph 3 of Schedule 1 of the Act of 1928).	15th April, 1929.

Given under the Official Seal of the Minister of Health, this thirtieth day of January, in the year One thousand nine hundred and twenty-nine.

(L.S.) R. B. CROSS,
Assistant Secretary, Ministry of Health.

S. R. & O., 1929, No. 244.

VALUATION, ENGLAND.

THE RATING AND VALUATION (APPORTIONMENT) ACT (SPECIAL LIST) (AMENDMENT) (NO. 2) RULES, 1929, DATED APRIL 12, 1929, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90) AS APPLIED BY SECTIONS 7 (1) (C) AND 10 (2) OF THE RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 GEO. 5, C. 44).

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Whereas by the Rating and Valuation (Apportionment) Act (Special List) Rules, 1928 (hereinafter referred to as " the Rules of 1928 ") which were amended by the Rating and Valuation (Apportionment) Act (Special List) (Amendment) Rules, 1929, the Minister of Health in pursuance of the powers conferred upon him by the Rating and Valuation Act, 1925, and the Rating and Valuation (Apportionment) Act, 1928 (hereinafter referred to as " the Act of 1925 " and " the Act of 1928 " respectively) required *inter alia* that a rating authority in preparing a preliminary draft special list or a draft special list and an assessment committee in revising and approving a draft special list should comply with certain directions as to the entries to be made in the respective columns of those lists and further directed that no entries should be made in certain columns of the said lists:

And whereas it is now necessary that appropriate entries should be made in the columns last mentioned in accordance with the provisions of the Local Government Act, 1929:

Now therefore, the Minister of Health, by virtue of the powers conferred upon him by the Act of 1925 and the Act of 1928 and of all other powers enabling him in that behalf hereby makes the following rules :—

1. These Rules may be cited as the Rating and Valuation ((Apportionment) Act (Special List) (Amendment) (No. 2) Rules, 1929, and the Rules of 1928, the Rating and Valuation (Apportionment) Act (Special List) (Amendment) Rules, 1929, and these rules may be cited together as the Rating and Valuation (Apportionment) Act (Special List) Rules, 1928 and 1929.

2. These Rules shall come into operation on the date hereof.

3. These Rules shall be construed as one with the Rules of 1928 as amended by the Rating and Valuation (Apportionment) Act (Special List) (Amendment) Rules, 1929.

4. So much of the Rules of 1928 as directs that no entry shall be made in any column of the preliminary draft special list or draft special list shall cease to have effect.

5. The rating authority or, in the case of a draft special list or an instalment thereof which has been deposited, the assessment committee shall, whenever the net annual value of a hereditament has been entered in the draft special list, comply with the following directions :—

(i) In the case of every agricultural hereditament the word " nil " shall be entered in the column headed " rateable value " which is appropriate to the hereditament.

(ii) In the case of every industrial or freight-transport hereditament the rateable value calculated in the manner provided by sub-section (1) of section 68 of the Local Government Act, 1929, shall be entered in the appropriate columns of the draft special list.

6. Rules 10 and 13 (4) of the Rules of 1928 (which relate to totals and summaries) shall be modified as follows :—

(*a*) any reference in the first paragraph of Rule 10 to columns 8, 9*a* and 10*a* of Part II. of the special list shall be construed as including a reference to columns 9*b*, 10*b* and 11 of that Part;

(*b*) any reference in the second paragraph of Rule 10 to columns 9 and 12*a* of Part III. of the special list shall be construed as including a reference to columns 12*b* and 13 of that Part; and any reference in that paragraph to columns 10*a*, 10*b* and 11*a* shall be construed as including a reference to columns 10*c* and 11*b* of that Part; and

(*c*) any reference in Rule 13 (4) to columns 9 and 11*a* of Part III. of the special list shall be construed as including a reference to columns 11*b* and 12 of that Part; and any reference to column 10*a* shall be construed as including a reference to column 10*b* of that Part.

Given under the official seal of the Minister of Health this twelfth day of April, in the year One thousand nine hundred and twenty-nine.

(L.S.) R. B. CROSS,
Assistant Secretary, Ministry of Health.

S. R. & O., 1929, No. 427.

RATING, ENGLAND.

THE RATING AND VALUATION ACT (ESTIMATES OF RELIEF TO RATES) ORDER, 1929, DATED JUNE 6, 1929, MADE BY THE MINISTER OF HEALTH UNDER SECTION 69 (2) OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90).

Whereas by section 69 (2) of the Rating and Valuation Act, 1925 (in this order referred to as " the Act of 1925 ") it is provided that for the purposes of the Agricultural Rates Acts, 1896 and 1923, and the Tithe Rent Charge (Rates) Act, 1899, the rates in respect of which relief is given under those Acts shall in an urban rating area be taken to be such part of the general rate levied for that area as is estimated by the Minister of Health to be levied in substitution for the rates in respect of which such relief was given at the date of the passing of the Act of 1925:

And whereas by an order dated the 4th day of December, 1928, the Minister of Health, in relation to any urban rating area, or part of an urban rating area, for which a percentage deduction had been determined in accordance with the provisions of Part III. of the Second Schedule to the Act of 1925, estimated, subject as in the order provided and to any further or amending estimate which he might thereafter make, the part of the general rate which is levied in substitution for rates in respect of which relief was given as aforesaid at the date of the passing of the Act of 1925:

And whereas it is expedient that further provision should be made as hereinafter mentioned:

Now therefore, the Minister of Health, by virtue of the powers conferred upon him by the said section 69, and of all powers enabling him in that behalf, hereby makes the following order:—

1. This Order may be cited as the Rating and Valuation Act (Estimates of Relief to Rates) Order, 1929.

2. The above cited Order dated the 4th day of December, 1928, is hereby rescinded.

3. The Minister of Health, subject as hereinafter provided and subject to any further or amending estimate which he may hereafter make, estimates that in any urban rating area, or part of an urban rating area, for which a percentage deduction has been determined in accordance with the provisions of Part III. of the Second Schedule to the Act of 1925,—

(1) the part of the general rate which is levied in substitution for rates in respect of which relief was given under the Agricultural Rates Acts, 1896 and 1923, at the date of the passing of the Act of 1925, is such part of the rate as bears to the whole rate the same proportion as seventy-five reduced by an amount equal to the amount of the percentage deduction determined for the area, or for the part of the area, bears to seventy-five: Provided that this estimate shall not apply for the purposes of the Agricultural Rates Act, 1923, in the case of any rating area or part of a rating area in which a partial consolidation of rates was authorised by a local Act passed before the commencement of the Act of 1925, or for which different percentage deductions have been determined in accordance with the provisions of Part III. of the Second Schedule to the Act of 1925, for different classes of hereditaments: and

Appendix II.

(2) the poundage of the part of the general rate which is levied in substitution for rates in respect of which relief was given under the Tithe Rent Charge (Rates) Act, 1899, at the date of the passing of the Act of 1925, is such part of the total poundage of the rate as bears to that total the same proportion as three hundred reduced by an amount equal to four times the amount of the percentage deduction determined for the area, or for the part of the area, bears to three hundred reduced by an amount equal to three times the amount of the percentage deduction determined for the area, or for the part of the area, as the case may be: Provided that in the case of any rating area or part of a rating area for which different percentage deductions have been determined for different classes of hereditaments, the deduction to be taken into account in using the estimate for the purposes of the Tithe Rent Charge (Rates) Act, 1899, shall be the deduction so determined in respect of tithes.

Given under the official seal of the Minister of Health, this Sixth day of June, in the year one thousand nine hundred and twenty-nine.

(L.S.) R. B. CROSS,
Assistant Secretary, Ministry of Health.

THE RATING AND VALUATION ACTS (FORMS OF PROPOSAL AND CLAIMS) RULES, 1929.

PROVISIONAL REGULATIONS, DATED SEPTEMBER 17, 1929, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), AS APPLIED BY SECTION 10 (2) OF THE RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 GEO. 5, C. 44), AND SECTION 70 OF THE LOCAL GOVERNMENT ACT, 1929 (19 GEO. 5, C. 17), FOR PRESCRIBING CERTAIN FORMS OF PROPOSAL AND CLAIM TO BE USED AFTER THE 1ST DAY OF OCTOBER, 1929.

Whereas by subsection (2) of section 70 contained in Part V. of the Local Government Act, 1929 (hereinafter referred to as "the Act of 1929") it is provided that as from the appointed day, no proposal for the amendment of a valuation list on the ground that a hereditament ought to be shown therein as an industrial or freight transport hereditament or ought to be omitted therefrom (or, while the first new valuation list is in force, shown therein) as being an agricultural hereditament shall be made under section 37 of the Rating and Valuation Act, 1925, by any person except the owner or occupier of the hereditament, and every such proposal shall contain such particulars as may be prescribed;

And whereas by subsection (4) of the said section 70 it is provided that notwithstanding anything in the Rating and Valuation (Apportionment) Act, 1928, no hereditament shall, for the purposes of any valuation list which will come into force after the appointed day, be treated as an agricultural, industrial or freight transport hereditament unless it was so treated for the purposes of the last preceding valuation list except upon a claim that it ought to be so treated being made to the rating authority by the owner or occupier of the hereditament in a prescribed form, which shall be supplied by the rating authority on the demand of the owner or occupier of any hereditament in their area;

And whereas the appointed day for the purposes of the said section is the first day of October, 1929;

And whereas by section 84 of the Act of 1929 it is provided that Part V. of that Act, the Rating and Valuation (Apportionment) Act, 1928, and the Rating and Valuation Act, 1925, shall be construed as one and cited together as the Rating and Valuation Acts, 1925 to 1929;

And whereas by section 58 of the Rating and Valuation Act, 1925, it is provided that the Minister of Health may after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable may by rules prescribe anything which by the Act is to be prescribed:

Now therefore the Minister of Health hereby certifies under section 2 of the Rules

Appendix II. Publication Act, 1893, that on account of urgency the following Regulations should come into force immediately, and after such consultation as is mentioned above, by virtue of the powers conferred upon him by section 58 of the Rating and Valuation Act, 1925, section 10 of the Rating and Valuation (Apportionment) Act, 1928, and section 70 of the Act of 1929, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

(1) These Regulations may be cited as the Rating and Valuation Acts (Forms of Proposal and Claim) Rules, 1929, and shall come into operation on the date hereof, but shall not apply in relation to London.

(2) As from the first day of October, 1929, every proposal made under section 37 of the Rating and Valuation Act, 1925, for the amendment of a valuation list on the ground that a hereditament ought to be shown therein as an industrial or freight transport hereditament or ought to be omitted therefrom (or, while the first new valuation list is in force, shown therein) as being an agricultural hereditament and every claim made by an owner or occupier under sub-section (4) of section 70 of the Act of 1929 that a hereditament ought to be treated as an agricultural, industrial or freight-transport hereditament, shall be in the appropriate form A, B, or C set out in the Schedule hereto, or in a form substantially to the like effect.

SCHEDULE.

FORM A.—RATING AND VALUATION ACTS, 1925 TO 1929.

Proposal made under section 37 of the Rating and Valuation Act, 1925, for the amendment of the valuation list for the time being in force, on the ground that a hereditament is an agricultural hereditament, *or*

Claim that a hereditament ought to be treated as an agricultural hereditament.

To the Rating Authority for the {County Borough / Borough / Urban District / Rural District} of ....

I/We ....being the occupier/s (or owner/s) of the hereditament described in the schedule hereto [make under the Rating and Valuation Acts, 1925 to 1929, a proposal for the amendment of the valuation list in force, on the ground that the said hereditament is] [*or* claim that the said hereditament ought to be treated as] an agricultural hereditament within the meaning of the said Acts.

Signature ....

* (Capacity in which person signing makes the requisition.)

....

Date ....

Address ....

....

NOTES.

The expression "agricultural hereditament" means any hereditament being agricultural land or agricultural buildings.

The expression "agricultural land" means any land used as arable meadow or pasture ground only, land used for a plantation or a wood or for the growth of saleable underwood, land exceeding one-quarter of an acre used for the purpose of poultry farming, cottage gardens exceeding one-quarter of an acre, market gardens, nursery grounds, orchards or allotments, including allotment gardens within the meaning of the Allotments Act, 1922, but does not include land occupied together with a house as a park, gardens (other than aforesaid), pleasure grounds, or land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a race-course; and for the purpose of this definition the expression "cottage garden" means a garden attached to a house occupied as a dwelling by a person of the labouring classes.

The expression "agricultural buildings" means buildings (other than dwelling-houses) occupied together with agricultural land or being or forming part of a market garden, and in either case used solely in connection with agricultural operations thereon.

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* For example as occupier or owner or as secretary or other authorised officer acting on behalf of a company being the occupiers or owners.

SCHEDULE.

Where the buildings or land extend into two or more parishes—even if the parishes are in the same rating area—separate particulars are to be given as to the parts in each parish.

1. Name, situation and description of the buildings or land..

....

2. Name of occupier ....

3. Name and address of owner if other than occupier ....

....

4. Grounds on which it is considered that the hereditament is an agricultural hereditament (*e.g.*, used as an allotment, nursery grounds, etc.). ....

....

FORM B.—RATING AND VALUATION ACTS, 1925 TO 1929.

Proposal made under section 37 of the Rating and Valuation Act, 1925, for the amendment of the valuation list for the time being in force, on the ground that a hereditament is an industrial hereditament *or*

Claim that a hereditament ought to be treated as an industrial hereditament.

To the Rating Authority for the {County Borough / Borough / Urban District / Rural District} of ....

I/We ....being the occupier/s (or owner/s) of the hereditament described in the schedule hereto [make under the Rating and Valuation Acts, 1925 to 1929, a proposal for the amendment of the valuation list in force, on the ground that the said hereditament is] [*or* claim that the said hereditament ought to be treated as] an industrial hereditament within the meaning of the said Acts.

Signature ....

* (Capacity in which person signing makes the requisition.)

....

Date ....

Address ....

....

SCHEDULE [TO FORM B].

Where the factory, workshop, mine, or mineral railway extends into two or more parishes—even if the parishes are in the same rating area—separate particulars are to be given as to the parts in each parish. A definite reply should be given to each question unless the question is inapplicable.

1. Name and situation and description of the factory, workshop, mine, or mineral railway

....

2. Name of occupier ....

3. Name and address of owner, if other than occupier ....

....

4. In the case of a factory or workshop state nature of the industry carried on...............

....

5. Is it claimed that the above described factory, workshop, mine or mineral railway is occupied and used—
   (*a*) wholly as an industrial hereditament ?..
   (*b*) partly as an industrial hereditament ?..

6. For the purposes of any necessary apportionment of value under section 4 of the Rating and Valuation (Apportionment) Act, 1928, between use for industrial and non-industrial purposes, state :—

---

* For example as occupier or owner or as secretary or other authorised officer acting on behalf of a company being the occupiers or owners.

(i) in the case of a factory or workshop, whether any, and, if so, what part is used for any of the following purposes :—

(*a*) as a sleeping room or dwelling-house ....

(*b*) as a retail shop ....

(*c*) as an office ....

(*d*) as a sale-room or show room..........

(*e*) as a warehouse or store (other than a building or space used only for storing raw materials to be worked up on the premises, goods manufactured thereon and awaiting despatch, or spare plant, machinery and equipment for use thereon).

(*f*) as a garage, cart-shed, or stable..........

(*g*) for any purpose (not mentioned above) which is not a purpose of the manufacturing process or handicraft carried on in the factory or workshop ....

(ii) in the case of a mine whether any, and, if so, what, part of the hereditament—

(*a*) constitutes a factory or workshop within the meaning of the Factory and Workshop Acts ....

(*b*) is, under the enactments relating to the regulation of mines, deemed not to form part of the mine..........

(iii) in a case where it is claimed that the premises are used partly (but not wholly) for industrial purposes, whether it is considered that the net annual value attributable to the user for non-industrial purposes does not exceed ten per cent. of the net annual value attributable to the user for industrial purposes ....

7. Are the premises—

(i) occupied by the owner ?.......... or

(ii) held under lease or tenancy ? ....

In the latter case state—

(*a*) rent ....

(*b*) date of commencement of lease (if any), or date when rent fixed..........

(*c*) term for which lease granted..........

(*d*) whether the rent includes rates or water rates or covers any other services—the nature and value of any such services to be specified..........

(*e*) any consideration other than rent (for example, money premium, surrender of any existing lease, or agreement to lay out money for the improvement of the property)..........

(*f*) amount of ground rent, where ground rent only is paid ....

8. Is any part of the premises let off ? If so, give particulars as to that part, and amount of rent and other receipts obtained in respect thereof ....

FORM C.—RATING AND VALUATION ACTS, 1925 TO 1929.

Proposal made under section 37 of the Rating and Valuation Act, 1925, for the amendment of the valuation list for the time being in force on the ground that a hereditament is a freight transport hereditament, *or*

Claim that a hereditament ought to be treated as a freight transport hereditament.

To the Rating Authority for the {County Borough / Borough / Urban District / Rural District} of ....

I/We .... being the occupier/s (or owner/s) of the hereditament described in the schedule hereto [make under the Rating and Valuation Acts, 1925 to 1929, a proposal for the amendment of the valuation list in force on the ground that the said hereditament is] [*or* claim that the said hereditament ought to be treated as] a freight-transport hereditament within the meaning of the said Acts.

Signature ....

* (Capacity in which person signing makes the requisition.)

....

Date ....

Address ....

....

---

* For example as occupier or owner or as secretary or other authorised officer acting on behalf of a company being the occupiers or owners.

SCHEDULE [to Form C].

Parish in which the hereditament is situate.	Description of the hereditament.	State— (i) whether the transport purposes for which the hereditament is occupied and used are *wholly* (*a*) "railway transport purposes"; (*b*) "canal transport purposes"; or (*c*) "dock purposes" (as those purposes are defined in section 5 (2) of the Rating and Valuation (Apportionment) Act, 1928); (ii) whether the hereditament is used for two or more of those purposes; (iii) whether the hereditament is also used for non-transport purposes.	If any part of the hereditament is occupied and used for the purposes of a dwelling-house, hotel, or place of public refreshment, or (not being actually occupied and used for transport purposes) is so let out as to be capable of separate assessment, give sufficient particulars to enable the part to be identified.	If, in the case of a hereditament occupied and used for canal transport purposes as part of a canal undertaking or occupied and used for dock purposes as part of a dock undertaking, any part of the hereditament is a building, yard, or other place primarily occupied and used for warehousing merchandise not in the course of being transported, give sufficient particulars to enable the part to be identified.	State in the columns below the percentage of the net annual value of the hereditament which is claimed to be attributable to its user for transport purposes and non-transport purposes (if any), respectively. (In the case of composite hereditaments, give the information for each transport purpose on a separate line.)		
					Transport purposes.		Non-transport purposes.
					That part of the hereditament of which the rateable value, as calculated in accordance with the Rating and Valuation Act, 1925, or any scheme made thereunder, or any Local Act, differs from the net annual value.	Any other part of the hereditament, so far as used for transport purposes.	Any part of the hereditament, so far as used for purposes not being transport purposes.
					Percentage of total net annual value.	Percentage of total net annual value.	Percentage of total net annual value.
1.	2.	3.	4.	5.	6a.	6b.	6c.

Appendix II.

Given under the Official Seal of the Minister of Health this seventeenth day of September, in the year one thousand nine hundred and twenty-nine.

(L.S.) A. B. MACLACHLAN,
Assistant Secretary, Ministry of Health.

ROADS.

See also "LOCAL GOVERNMENT," *ante*, p. 3474.

S. R. & O. 1920, No. 200.

THE MINISTRY OF TRANSPORT (PRELIMINARY PROCEDURE) RULES, 1920, DATED FEBRUARY 5TH, 1920, MADE BY THE MINISTER OF TRANSPORT UNDER SECTION 29 OF THE MINISTRY OF TRANSPORT ACT, 1919.

The following rules are made by virtue of the power in that behalf conferred by section 29 of the Ministry of Transport Act, 1919 (9 & 10 Geo. 5, c. 50), and shall be complied with in respect of any Order or Order in Council which proposes to authorise the compulsory acquisition or use of lands or easements, or the breaking up of roads, or the construction of works (in these rules referred to as the "proposed Order").

Notices by Advertisement and to Parties Interested.

1. Public notice shall be given of the proposed Order, stating its objects and, in cases where the proposed Order will authorise the compulsory acquisition of lands or the construction of works, describing the lands to be taken and the works to be made, and stating all the counties, and in England and Wales and Ireland the boroughs, urban and rural districts, and in Scotland the burghs and, if the county is divided into districts the district of the county in which such lands or any part thereof are situate, or in which the works or any part thereof may be made, and such notice shall also specify the manner in which and the date by which objections may be made to the proposed Order.

2. Where the work proposed is a tramway or light railway and involves the laying of rails on streets or roads so that for a distance of thirty feet or upwards there shall be a less space than 9 feet and 6 inches, or, if vehicles adapted for use on railways are to be run thereon, 10 feet and 6 inches between the outside of the footpath and the nearest rail of the tramway or light railway, the notice shall describe such places. The notice shall also specify the gauge to be adopted and the motive power to be employed.

3. The notice shall be published once in the London, Edinburgh, or Dublin Gazette as the case may require and also as follows, namely :—

In the case of a proposed Order relating specially to any particular borough or urban district, once in some newspaper published or circulating in that borough or district.

In the case of any other Order, once in some newspaper published or circulating in each of the counties in which any lands may be taken or used compulsorily or any works may be constructed and, where the proposed Order relates to an existing undertaking, once in some newspaper published or circulating in the county in which the principal office of that undertaking is situate.

Every publication in a newspaper under this rule shall be made within 7 days of the publication in the Gazette of the notice for the proposed Order.

4. Within 7 days after the date of the first publication of the notice of the proposed Order a notice in writing shall be sent by registered post to the owner, lessee and occupier (which expression where used in these rules shall mean a ratepayer and any person who, not being a ratepayer, has an interest in the property not less than that of a quarterly tenant) of all lands which may be taken or used compulsorily under the proposed Order specifying the lands to be taken and the purposes for which they are intended to be used.

5. Where the works to be constructed comprise any tramway, or light railway in a street or road, notice in writing shall in like manner be sent to the owner, lessee and occupier of every house, shop or trade premises abutting upon any part of the street or road where for a distance of 30 feet or upwards a less space than 9 feet and 6 inches will intervene between the outside of the footpath and the nearest rail of the tramway, or light railway, or, if it is intended to run thereon vehicles adapted for use on railways, a less space than 10 feet and 6 inches will so intervene.

6. In any case where under the proposed Order water may be abstracted from any stream for the purpose of any canal or navigation, notice in writing shall in like manner be given to the owners, lessees and occupiers of all mills and manufactories or other works using the waters of such stream and situate within 20 miles (measured along the course of the stream) below the point of proposed abstraction, or between that point and the point where such stream becomes navigable, whichever is the less distance.

7. Every notice published in the Gazette and newspapers, and every notice sent to any owner, lessee or occupier under these rules, shall state the place or places where plans, sections and books of reference have been deposited for public inspection; and the place or places where copies of the proposed Order will be obtainable; and the manner in which, and the time within which objections to the grant of the powers of the proposed Order may be made in accordance with the provisions of these rules.

Deposit of Plans, etc.

8. Where the proposed Order is intended to authorise the compulsory acquisition or use of lands a plan with a book of reference thereto and where the proposed Order seeks to authorise the construction of works also a section of such works (such plan, section and book of reference being prepared as hereinafter mentioned), shall be deposited for public inspection at the following places:—

At the office of the Clerk of the Peace in England and Wales, of the principal Sheriff Clerk in Scotland, or of the Clerk of the Crown and Peace in Ireland, as the case may be, of every county riding and division in which works may be made or lands taken or used compulsorily.

At the office of every municipal corporation, urban or rural district council in England and Wales and Ireland and of every town council in Scotland in whose district works may be made or lands taken or used compulsorily.

At the office of the parish council (if any), and, if none, with the chairman of the parish meeting, of every rural parish in England and Wales in which works may be made or lands taken and used compulsorily.

9. Where any tidal lands within the ordinary spring tides are affected a copy of such plans, section, and book of reference, together with an ordnance map on a scale of not less than 1 inch to the mile, on which the work affecting tidal lands shall be accurately laid down, shall be deposited at the marine department of the Board of Trade, and on such copy of the plans all tidal waters shall be coloured blue, and if any bridge across tidal waters is proposed to be authorised the dimensions as regards span and headway of the nearest bridges (if any) across such tidal waters above and below the proposed bridge shall be marked thereon.

10. Where the works intended to be authorised under any proposed Order are to be situate on the banks, bed or foreshore of any river, a copy of so much of the plans and sections as relates to such river shall be deposited with the Minister of Agriculture and Fisheries, with the secretary for Scotland, or with the Irish Office and Department of Agriculture and Technical Instruction for Ireland, as the case may require, and if there be a Board of Conservators for the river, at the office of that Board.

11. Where power is sought under any proposed Order to take a churchyard, burial ground, or cemetery, or any part thereof, or to disturb the bodies interred therein, or where power is sought to take any common or commonable land, a copy of so much of the plans, sections, and book of reference as relates to such churchyard, burial ground or cemetery, or common or commonable land, shall be deposited at the Home Office, or if, in Scotland at the office of the Secretary for Scotland,

Appendix II.

and a copy of so much of the plans, sections, and book of reference as relates to such common or commonable land, shall be deposited with the Minister of Agriculture and Fisheries, or if in Scotland at the office of the Board of Agriculture for Scotland.

12. Wherever any plans, sections, maps, and books of reference are required by these rules to be deposited, a copy of the notice for the proposed Order as published or proposed to be published in the Gazette shall be deposited therewith.

13. Every deposit of plans, sections, maps, or books of reference required by these rules shall be made on or before the date of the first publication of the notice for the proposed Order.

Mode of Application.

14. The application for the proposed Order must be made by memorial signed or sealed by the applicants and addressed to the Minister of Transport, stating the parties upon whom the powers of the proposed Order will be conferred and the date or dates on which and the newspapers in which the notices for the proposed Order have been or are intended to be published.

The memorial must be lodged on or before the date of the first publication of the notice for the proposed Order, and must be accompanied by—

(*a*) Six printed copies of the proposed Order. The Order must be printed on one side only of the paper, and each schedule annexed must begin a new page, and the names and addresses of the solicitors and agents (if any) must appear on the outside of the proposed Order.

(*b*) Six copies of the plans, sections, and book of reference, of the notice as published or proposed to be published, of the estimate of expense, and of an ordnance map on a scale of 6 inches to the mile in the case of a tramway or light railway in a street or road or trolley vehicle system and of 1 inch to the mile in the case of other works, with the line of tramway, light railway or trolley vehicle system or works laid down thereon, or (if lands only are to be acquired) on a scale of 6 inches to the mile with the situation and extent of the lands marked thereon.

(*c*) A fee of £50 by cheque payable to the secretary of the Ministry of Transport to cover the ordinary expenses of settling the Order. (This fee will not necessarily cover the cost of inquiries or other matters arising out of the application.)

Deposit of Copies of the Proposed Order.

15. Not later than the seventh day after the first publication of the notice for the proposed Order a printed copy of the proposed Order shall be deposited for public inspection at the offices at which the plans, sections, and book of reference were deposited for public inspection in conformity with these rules, and printed copies of the proposed Order shall be placed on sale at the place or places mentioned in the notices for the proposed Order at a reasonable price not exceeding (without permission of the Minister of Transport) one shilling per copy.

16. Within the same period two printed copies of the proposed Order shall be deposited as follows :—

At the Private Bill Office of the House of Commons and at
    The Parliament Office of the House of Lords and
With His Majesty's Treasury and
    The General Post Office.
If the same relates to England and Wales with
    The Home Office and
    The Ministry of Health.
If the same relates to Scotland with
    The Secretary for Scotland.
If the same relates to Ireland with
    The Irish Office.
If the same relates to tidal lands within the ordinary spring tides or to tidal waters with
    The Marine Department, Board of Trade.

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If the same authorises abstraction of water from a stream for the purpose of a canal or navigation with
The Minister of Agriculture and Fisheries and
The Conservators (if any) of the river affected.
If the same authorises the acquisition of common or commonable lands with the Minister of Agriculture and Fisheries or (if in Scotland) with the Board of Agriculture for Scotland.
If the same affects Crown Property with
The Commissioners of [Crown Lands] (a) and
The Commissioners of Works or (if in Ireland) the Commissioners of Public Works in Ireland.
If the same affects the Duchies of Cornwall or Lancaster with
The Office of the Duchy affected.
If the same proposes the construction of any work in the county of London with
The London County Council
If the same involves interference with roads (otherwise than for works shown on the plans and sections) with
Every road authority affected.

Estimate of Expense.

17. An estimate of the expense of any works to be authorised by the proposed Order shall be made and signed by the person making the same, and if the works include any railway, tramway, light railway, tramroad, trolley vehicle system, canal, dock or harbour, the estimate of the expense thereof shall be in the appropriate form set out in the appendix to these rules or as near thereto as circumstances permit.

Form and Contents of Plans, Sections, and Book of Reference.

18. The plans and sections and the book of reference to the plans shall be in the same form and contain the same information as would be required by the Standing Orders of the House of Commons relative to Private Bills, had the powers sought by the proposed Order been contained in a Private Bill presented to Parliament.

Objections and Procedure thereon.

19. Any person desirous of objecting to a proposed Order must do so by a memorial addressed to the Minister and printed or type-written on one side only of foolscap paper.

20. Any memorial objecting to a proposed Order must be sent by registered post addressed to the Secretary, Ministry of Transport, 6, Whitehall Gardens, London, S.W.1, and posted not later than the 28th day after the date on which the last publication of the notice for the Order shall have appeared in the newspapers.

21. Every such memorial shall be sealed or signed by the party objecting or by some responsible and duly authorised person on his behalf. It shall state the interest of the party objecting in the subject matter of the proposed Order, and shall state concisely the objections to the proposed Order.

22. Should the Minister decide to hold an inquiry into the merits of any proposed Order, not less than ten clear days' previous notice in writing addressed to the parties applying for the proposed Order or their agents, and to the parties objecting to the proposed Order or their agents, shall be given of the time and place of any such inquiry.

(a) Words in square brackets substituted for " Woods " in pursuance of the Forestry (Title of Commissioners of Woods) Order, 1924.

Miscellaneous.

23. The proposed Order when deposited at the Ministry of Transport must be accompanied by a copy of every private or local Act, charter, deed or other document of like nature referred to in the Order, or which may be directly affected by any of the provisions thereof, and in the case of a limited company by a printed copy of the memorandum and articles of association and of any registered special resolution and in the case of any other company, by the deed, instrument or Act incorporating the company.

24. Proof of compliance with these rules will require to be given within such time after the deposit of the proposed Order as the Minister of Transport may fix, but not less than six days' notice will be given of the time and place at which such proof must be produced. Proof will also be required that the provisions of Standing Order 39 of the Standing Orders of both Houses of Parliament have been complied with.

All such proofs of compliance must be given by statutory declaration.

25. Where a proposed Order is submitted by a local authority, proof will by required that such proposed Order has been submitted in pursuance of a resolution passed at a special meeting of the local authority held after 10 days' previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given.

26. When a proposed Order has been approved by the Minister, a notice of the approval of the same shall be published as an advertisement once in the London, Edinburgh, or Dublin Gazette, as the case may be, and once in each newspaper in which the original advertisement of the proposed Order was published. The notice shall give the name of the office where printed copies of the proposed Order are on sale at a reasonable price not exceeding (without permission of the Minister of Transport) one shilling per copy.

27. When a proposed Order has been approved and before it is made, a copy of the Gazette and of each local newspaper containing the notices of the approval of the Order shall be deposited at the Ministry of Transport.

APPENDIX.

* * * * * *

S. R. & O., 1924, No. 1462.

ROAD VEHICLES.

THE ROAD VEHICLES (REGISTRATION AND LICENSING) REGULATIONS, 1924, DATED DECEMBER 23, 1924, MADE BY THE MINISTER OF TRANSPORT (*a*).

To the County Councils of the several Administrative Counties in Great Britain.

To the Councils of the several County Boroughs in England and Wales and of the Royal Parliamentary and Police Burghs concerned in Scotland.

And to all others whom it may concern.

The Minister of Transport under the powers conferred on him under or by virtue of the Motor Car Acts, 1896 and 1903, section 13 of the Finance Act, 1920, the Roads Act, 1920, and the Order in Council made thereunder, and section 22 of the Finance Act, 1921, sections 14 and 15 of the Finance Act, 1922, section 10 of the Finance Act, 1923, and section 18 of the Finance Act, 1924, and any and every other power him hereunto enabling, hereby without prejudice to any further exercise

(*a*) The only part of these Regulations it has been thought necessary to set out, is that dealing with the closing of highways to specified forms of traffic. The remainder of the Regulations dealing with the licensing and registration of motor cars and the Road Vehicles (Registration and Licensing) Order, 1921, have accordingly been omitted as outside the scope of district councils.

of the said powers, makes and prescribes the following Regulations with respect to the licensing and registration of mechanically propelled vehicles, the licensing of carriages and matters incidental to such licensing and registration, that is to say :—

1.—(1) These Regulations may be cited as " The Road Vehicles (Registration and Licensing) Regulations, 1924."

(2) In these Regulations the expression " Council " means County Council as defined in the Roads Act, 1920.

The expression " approved " means approved by the Minister of Transport.

* * * * * *

(3) The Interpretation Act, 1889, shall apply to the interpretation of these regulations in like manner as it applies to the interpretation of an Act of Parliament.

* * * * * *

38.—(1) Applications by a Council under section 7 (4) of the Roads Act, 1920, that the driving of vehicles on any highway may be prohibited or restricted shall be in the approved form and shall be signed by the Clerk to the Council, and shall show that the application is made in pursuance of a resolution passed by the Council or by a Committee of the Council charged with the supervision and control of highways and the traffic thereon.

(2) The notice to be given under section 7 (4) of the Roads Act, 1920, that an Order has been made under that section shall be given by the authority concerned by a notice in the approved form published in the London or Edinburgh Gazette as the case requires and once at least in each of two consecutive weeks in some local newspaper circulating in the district in which the highway to which the Order relates is situate, and by such notice or warning boards or signs erected in such positions on or near the said highway and in such other manner as may be directed by the Order.

(3) No person shall drive or cause to be driven any mechanically propelled vehicle upon any highway with respect to which an Order has been made under section 7 (4) of the Roads Act, 1920, in contravention of such Order.

39. The Clerk of the Council and any other officer authorised by the Council are respectively empowered to perform any duty or exercise any power of the Council for the purpose of carrying these Regulations into effect.

40. These Regulations shall not apply to Northern Ireland.

41. These Regulations shall come into force on the 1st day of January, 1925.

S. R. & O., 1927, No. 21.

THE PRESCRIPTION OF BUILDING LINES ORDER, 1927, DATED 11TH JANUARY, 1927, MADE BY THE MINISTER OF TRANSPORT UNDER S. 5 (1) (*a*) OF THE ROADS IMPROVEMENT ACT, 1925.

Whereas by sub-section (1) of section 5 of the Roads Improvement Act, 1925 (hereinafter referred to as " the empowering enactment ") it is enacted as follows :—

> " Subject to the provisions of this section a county council or other highway authority may by resolution prescribe in relation to either side of any part of a highway maintainable by them a frontage line for building (in this section referred to as " a building line ") :
>
> Provided that—
>
> (*a*) the Minister may by order direct that a building line shall not be prescribed under this section in relation to any class of road classified by him under sub-section (2) of section 17 of the Ministry of Transport Act, 1919, until notification of the building line proposed has been sent to him and his observations with respect thereto have been considered " :

And whereas in the empowering enactment and in this Order the expression " the Minister " means the Minister of Transport.

Now therefore the Minister in exercise of the power given to him by the empowering enactment, and without prejudice to any further exercise of such power, hereby orders as follows :—

1. The Minister directs that a building line shall not be prescribed under the empowering enactment in relation to any road which, at the time when the building line is proposed, is classified by him either as a Class I. road, or as a Class II. road, until notification of the building line proposed has been sent to him and his observations with respect thereto have been considered.

2. This Order shall come into force on the 1st day of February, 1927, and, subject to any variations or amendments which may be made by any further Order, shall remain in force until revoked by the Minister.

* * * * * *

S. R. & O., 1927, No. 57.

THE LONDON TRAFFIC (LIGHTING AND GUARDING OF STREET WORKS) REGULATIONS, 1927, DATED 2ND FEBRUARY, 1927, MADE BY THE MINISTER OF TRANSPORT UNDER THE LONDON TRAFFIC ACT, 1924.

Whereas by section 10 of the London Traffic Act, 1924, and paragraph 19 of the Third Schedule to that Act the Minister of Transport is empowered to make Regulations to have effect in the London Traffic area for the lighting and guarding of street works.

Now therefore in exercise of the powers in that behalf vested in him the Minister of Transport hereby makes the following Regulations :—

1 These Regulations may be cited as the London Traffic (Lighting and Guarding of Street Works) Regulations, 1927, and shall come into force on the 1st March, 1927.

2. The London Traffic (Lighting of Street Works) Regulations, 1925, are hereby revoked.

3. For the purpose of these Regulations the term " night " shall be taken to mean the period between half an hour after sunset and half an hour before sunrise and any period of fog or abnormal darkness and the term " day " shall be taken to mean any time other than night as so defined.

4. When any materials, rubbish or other thing (hereinafter referred to as an obstruction) are placed upon or any opening or excavation (hereinafter referred to as an excavation) is made in the carriageway of any street within the London Traffic area so as to obstruct or endanger the passage of traffic over any part of such carriageway it shall be the duty of the person by whose order or under whose direction such obstruction or excavation exists to—

(*a*) keep any such obstruction which is not readily visible, and any such excavation marked by day by one or more posts carrying red flags or boards with a red ground ; and

(*b*) keep such obstruction or excavation continuously lighted at night by one or more lamps showing a red light ;

and all such posts or lamps shall be placed in such a manner and in such positions as to indicate sufficiently to foot passengers and drivers of vehicles approaching from any direction the position and full extent of the obstruction or excavation.

Provided that, without limitation or restriction of the foregoing provisions, if any such obstruction or excavation exceeds 4 feet in width measured at right angles to any line of traffic or 12 feet in length measured parallel thereto, lamps showing its full width shall be placed at intervals of not more than 4 feet measured at right angles to the line of traffic and lamps showing its full length shall be placed at intervals of not more than 12 feet measured parallel thereto.

5. Nothing in these Regulations shall be deemed to prevent the temporary removal of any lamp or post hereby required where removal is necessary to permit of any

traffic being worked through the part of the carriageway of any street or highway which is obstructed, provided that in any such case any lamps or posts which are so removed shall be replaced immediately after the passage of such traffic, and a person shall be kept in attendance at the point or points of entry of any such traffic and, if necessary, at the point of exit to remove and replace the lamps or posts and to warn approaching traffic.

6. In addition to the foregoing provisions, any person by whose order or under whose direction any such excavation exists of such a nature or in such a position that foot passengers or vehicles are in danger of falling into it, shall provide adequate and effective protection around such excavation, unless such protection would obstruct the passage of vehicles using a tramway or light railway, and in that event it shall not be necessary so to protect the excavation, but instead of so doing there shall be displayed conspicuously not less than 4 feet above the ground close to the excavation a warning notice, or, if the excavation is extensive, warning notices sufficient in number to give adequate warning of the danger.

7. Where an excavation, whether made in connection with a tramway or light railway or otherwise, is not clearly visible for a distance of 25 yards to traffic approaching from any direction on any part of the carriageway of the road in which the excavation exists or of any road entering or intersecting such road, there shall be placed on the kerb, or on the edge of any such road from which the excavation is not so visible on the nearside of traffic approaching the excavation a warning notice or warning notices of the existence of such excavation, and any such notice or notices shall be placed at a distance of 25 yards, or as near thereto as may be practicable, from the excavation ; provided that notwithstanding anything hereinbefore contained in the case of an entering or intersecting road such notice or notices shall be placed at a distance not less than 10 yards from the junction of such road with the road in which the excavation exists.

8. All warning notices required under Regulations 6 and 7 hereof shall have a red ground and shall be clearly visible and legible by day and night and for that purpose shall be adequately lighted by night.

9. No lamp exhibiting a light other than a red light shall be used for any purpose mentioned in the foregoing Regulations other than for rendering the warning notices referred to in Regulations 6 and 7 hereof clearly visible by night, provided that nothing in the foregoing Regulations shall be deemed to prevent the use, in addition to the lamps provided in pursuance of these Regulations of lamps showing a white light so far as may be necessary to enable work to be carried on at night.

10. If any person acts in contravention of or fails to carry out his duty under any of the provisions of the foregoing Regulations, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5.

11. Any person who has charge of a lamp or lamps provided in pursuance of the foregoing Regulations and who fails to keep such lamp or lamps properly lighted at any time during the required period shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5.

12. The provisions of any Act (whether public, general, or local or private) bye-laws or regulations dealing with the same subject-matter as these Regulations, and the provisions of any Act conferring power of making bye-laws or regulations dealing with the same subject-matter as these Regulations, shall, so far as such provisions apply to any carriageway in any street to which these Regulations apply, be suspended so long as these Regulations remain in force. Provided that nothing contained in these Regulations shall exempt any person from any liability for causing any obstruction or making any excavation nor free him from any obligation imposed upon him to obtain any consents which may be necessary before making any obstruction or excavation nor from any obligation to fence or otherwise render safe any obstruction or excavation.

13. Nothing in these Regulations shall—

(*a*) affect the operation, prior to the date of these Regulations, of the London Traffic (Lighting of Street Works) Regulations, 1925, or anything done or suffered under those Regulations, or

Appendix II.

(*b*) affect any right, privilege, obligation or liability acquired, accrued or incurred under those Regulations, or

(*c*) affect any fine or punishment incurred in respect of a breach of those Regulations, or

(*d*) affect any legal proceedings or remedy in respect of any such right, privilege, obligation, liability, fine, or punishment,

and any such legal proceeding or remedy may be instituted continued or enforced and any such fine or punishment may be imposed as if these Regulations had not been made.

SEA DEFENCE.

CIRCULAR 652.

TO COUNCILS OF COASTAL TOWNS.

MINISTRY OF HEALTH,
14*th December*, 1925.

SEA DEFENCE WORKS (*a*).

SIR,—I am directed by the Minister of Health to state that he has had occasion to deal recently with a number of important schemes of sea defence, and he has asked one of his engineering inspectors, Mr. Crosthwaite, who has had large experience of this class of case, for a report on the general subject. This report will be of interest to those local authorities who are concerned with works of sea defence, and a copy is enclosed for the information of the council.

As pointed out by Mr. Crosthwaite, works of sea defence involve peculiar difficulties of their own, and it is not possible to decide what works, if any, can be carried out with advantage in any particular case except after full investigation of the local conditions.

There are, however, some general considerations which need to be emphasised.

(1) Before any scheme is undertaken, its financial aspect should be carefully studied. The council should consider whether the advantages anticipated from the scheme will produce such a return in public benefit as to warrant the public expenditure, often large, which is involved. The Minister has found that in some cases this broad financial aspect has not been sufficiently examined and taken into account by the local authority.

(2) Public money can be rightly spent only on works of *public* advantage. Many schemes of sea defence works largely benefit private interests, and it is proper in such cases that those private interests should make a reasonable contribution towards the cost.

(3) There are two further considerations of a technical nature which the experience of the Ministry of Health and of the Local Government Board show cannot be too strongly emphasised both for devising satisfactory schemes and for economy. There are instances where much money could have been saved if these conditions had been observed.

  (i) Before sea defence works are undertaken, the council should obtain the advice of competent engineers with special experience in such works.

  (ii) It is equally important, though this consideration has hitherto been seldom observed, except where a competent engineer is permanently employed by the local authority, that the works should be inspected from time to time, say every six or twelve months, by a competent expert, in order to see whether any repair or additional work should be undertaken to preserve the works

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(*a*) See note to s. 149, Public Health Act, 1875, at p 297, *ante*.

already done. This policy of a "stitch in time" is essential for economy, and there are cases where heavy expenditure would have been avoided had this inspection been systematically made, and the necessary works carried out in good time.

I am, etc.

ENCLOSURE TO CIRCULAR 652.

SEA DEFENCE WORKS.

NECESSITY FOR SEA DEFENCE WORKS.

The prime cause necessitating sea defence works is the wasting of the foreshore through the transport of material, generally in the direction of flood tide currents complicated in many cases by the direction of prevailing winds. If any artificial barriers are projected from the foreshore, such as piers and solid jetties, so as to prevent the travel of material, the length of beach lying beyond the obstruction is almost certain to suffer, and rapid encroachment by the sea will result. Also, where extensive series of groynes have been constructed in order to protect the foreshore, the travelling material is trapped, and the erosion of the coast beyond is aggravated and there is a continuous loss of land.

A good example of this is a case where the construction of the harbour piers prevented sand and shingle from reaching the beach to the south, which was almost denuded down to the clay, and great damage resulted to the then existing sea defence works, destroying groynes and undermining walls. In consequence the beach had to be re-groyned. The new groynes collected in time a fair amount of beach and it is now fairly safe, but the shore still further south has suffered severely.

Another cause that accentuates beach erosion is the construction of sea walls fronting seaside towns. These walls are obviously necessary to protect roads and promenades, but unfortunately the rebound of waves breaking against their face almost invariably leads to scour and to the cutting out and denuding of the foreshore. This attack is generally countered by groyning, which is not always successful, with the result that the walls may become undermined and in some cases, unless underpinned or protected in some way, destroyed. The difficulty is that it is almost impossible to say prior to construction what the exact effect of a wall in any one place will be.

Again, on sandy foreshores there are frequently shifting channels and gut-ways parallel to the coast line that are a very great difficulty because in some conditions of wind and tide, which it is almost impossible to foresee, these may move landwards from positions in which they have remained stationary for years and cause havoc to groynes and foundations. This is said to have recently occurred off Silloth, on the Solway Firth, where vessels that could formerly lie only at a considerable distance from the shore were able, owing to an alteration of the channel, to come to within a few yards from the ends of the groynes, which were undermined. It has also been suggested that the destruction of a comparatively new sea wall at Lowestoft may be due to a general deepening of the sea bed beyond low water mark. This is, however, more or less a matter of conjecture, as there are not sufficient data upon which to form a reliable opinion.

DESIGN OF SEA DEFENCE WORKS.

From the brief description given above of the causes that necessitate sea defence works, it will be readily understood that an engineer who has to design them is faced by a complicated problem, and he is usually called in only when some failure has actually occurred, and works must be done at once to prevent the damage spreading. To design such works successfully, a fairly complete knowledge of the local conditions is essential. That is to say, reliable information is needed of prevailing winds and tidal currents, the direction of littoral drift and the effect of wind coming from any direction on the latter. To obtain such information, observations must extend over a considerable period, for if they are made in the fine summer months the results may prove quite different from what would prevail in rough winter weather, or during the extreme high and low waters of the equinoxes. When called in to advise, the engineer is almost always met with a lack of reliable information on all these points, and especially can obtain no information of any kind relating to shifting channels off the shore. All he is likely to be told is that the directions of prevailing winds and littoral drift are so and so, and that the damage is caused when rough weather synchronises with exceptionally high tides, all of which he knows already. On such data and on what information he can pick up in a few days, he has to design his works, for when sea defences are breached they must be repaired at once, and it is small wonder if at times the works should turn out a failure.

This lack of local knowledge applies especially to small authorities who cannot usually be expected to have a surveyor capable of taking reliable tidal observations or making marine surveys and designing sea defence work, and in consequence an outside engineer has to be called in.

Even among the larger authorities, however, the local conditions with regard to tidal currents, etc., have seldom been systematically and properly recorded, and there is no record at the Ministry of any place, large or small, where a marine survey has been made extending, say, half a mile to sea and along the whole sea front sufficient to enable shifting channels to be studied. This would entail a proper survey with soundings taken on definite lines and repeated at intervals so as to ascertain what is happening out of sight, below low water. The soundings would, of course, be referred in all cases to a definite datum so that the successive surveys could be compared.

Tidal current observations should also be made at different states of tide and wind. These would not require the repetition necessary in the case of soundings, but might be added to from time to time, when exceptional conditions occur, or when the soundings showed that there had been material change in the shifting channels, likely to affect tidal currents. Such a survey to be of value should be made by an engineer who has had experience of marine surveying. It would of necessity be somewhat expensive, but, if once made, the repetition soundings, if taken on definite lines and permanently marked, could be taken by a competent surveyor or an assistant working under instructions.

At most large harbours, these periodic surveys are regularly made and, though they take considerable time, are of the greatest value. At most seaside places, the original survey would take one engineer and an assistant not more than three or four months, given favourable weather, while the periodic soundings could probably be done in a month or six weeks.

FAILURE OF SEA DEFENCE.

The failure of sea defence works may usually be attributed to :—

(1) Faulty design.
(2) Neglected maintenance.
(3) Unusual local circumstances that could not have been foreseen.

Few cases have come under the notice of the Ministry where works have actually failed which could not have been saved, at any rate to some extent, if remedial measures had been taken in time.

In a number of cases, walls have been designed of insufficient strength and with shallow foundations. Frequently these have been made safe by underpinning, piling in front, or by the provision of breast walls or buttresses carried down to a solid foundation. Though in these cases the original walls cannot be said to have actually failed, the cost of such remedial measures has been far more than the expense which would have been incurred had a more substantial design been carried out in the first instance.

Where actual failure has resulted, it has almost always been where the local authority has put off doing anything until too late. Thus, in one case, a wall was constructed about forty years ago, with the foundations reaching to only about half-tide level. When constructed, the shingle foreshore almost reached the coping level, but during recent years the level fell, as the result of erosion, and a few years ago the wall was undermined. Part fell and great damage was done. The authority consulted a well-known firm of engineers who prepared a scheme for repairing the damaged part and strengthening the whole length of wall. When tenders were obtained after the war, prices were at their highest and the cost was greater than could be faced. The engineers advised the authority to go on with the repairs and the protective works for the part of the wall that was actually in danger at the moment, in fact to spend as much as they could afford at the time, postponing such works as could be omitted with safety, but warning the authority that the remainder of the old wall would not be safe until the whole had been strengthened. The abridged scheme was consequently carried out.

Since the work was finished, there has been a continued denudation of the foreshore, and further lengths of the foundations of the old wall were exposed. Nothing was, however, done to extend the protective works as recommended by the engineers, and afterwards, during rough weather, the sea washed the gravel from under the old wall and part of it was undermined, bridging a breach under the foundations through which the wall backing was sucked out and a large cavity formed. The engineers were again called in, but all they could do was to repeat the advice previously given.

Another town where sea defences have constantly been a source of trouble may be referred to. Here, about twenty years ago, a sea wall and a series of groynes were erected for the protection of the beach. The wall was of quite satisfactory design, the foundations being taken down to about low water level and founded on gravel as it was not practicable to get any other foundation. The landward end of the groynes was carried up above high water level, and for about fifteen years the work seemed safe, there being a very good accumulation of gravel against the face of the wall. Later, however, the beach lowered considerably. Some of the groynes were partly washed out and, owing to the difficulty (this was during the war) of obtaining satisfactory labour and timber, it was not possible to maintain them and some were completely destroyed. The wall then became undermined and several lengths fell. A large sum was spent on rebuilding to make good the damage, but eventually it was found impossible to maintain the beach, and finally it was decided to give up all attempt to maintain the old line of sea wall and an entirely new form of wall was adopted, landwards of the old.

In this case, it is somewhat difficult to attribute the failure to any particular cause. The design of the wall was satisfactory, and it would have stood indefinitely had it been possible to maintain a good beach in front. The groynes were well constructed and were kept in repair, except for some time during the war, when, as explained above, there was difficulty. The only defect in design suggested is that the groynes were perhaps too high and not long enough to maintain a sufficiently flat beach. It is well known that in rough weather high groynes cause a scour by waves breaking over them and cutting out the beach on the lee side. In order to avoid this danger, groynes are sometimes lowered by removing sheeting where owing to scour they become too high, but in this case this could not be done as they were constructed with piles driven close together.

To account for this failure, it has been further suggested that there may have been a general deepening of the sea outside low water mark that caused the loss of beach material, but unfortunately no such survey as already suggested had been made, so there are no data either to confirm or refute this view. It is unfortunate that there was no survey in this particular case, for, if the damage is due to such general deepening of the sea bed, groynes will not stop it and the fate of the defence works now under construction will be the same as the last, and before they are finished they will have cost a large sum.

The above instances have been described somewhat fully, for they are typical of failures that may be expected when works from some cause prove ineffective, and the causes that have led to these failures are also typical.

It is sometimes asked why should there be more failures of sea defence than of other classes of works. There are several answers to this question. Other works have not the sea constantly attacking their foundations. Again, sea works are usually much more expensive than inland works, and the amount of money available is unfortunately limited. Consequently engineers, in order to keep within the available resources of their employers, have to take risks that in other circumstances would not be necessary. With unlimited money, no doubt, permanent sea defence works could be put up almost anywhere, but local authorities are not in this fortunate position. Where risks are taken, it may turn out all right, but, whether known risks are taken or not, all sea works should be kept under careful observation so that any defects that may develop may be remedied at once before the damage has time to spread.

These cases which have been instanced were on a large scale, but the need of competent advice may be equally important, relatively, in small cases. In one instance, groynes were put in and taken out without proper advice, as the majority in the council swayed for or against them, with resulting waste.

The maintenance of sea defence works is always the great difficulty, and before incurring a large expenditure there is always the tendency to " wait till something happens." Then it probably is too late, for the something generally happens during the rough winter weather when works of maintenance or reconstruction are impossible.

GENERAL REMARKS.

It is obviously impossible to lay down any rule as to coast protection works owing to the varying conditions at different places.

It would, however, tend towards economy if councils who have not a surveyor fully competent to design such works would employ a competent outside engineer, not only to advise them on works to be carried out, but to inspect the works annually and report what maintenance works, if any, are required. If this practice had been followed in some cases recently before the Ministry, much money would have been saved, whereas the cost of such an annual inspection would not be great.

It is also desirable, where coast works are required for the protection of a flat sandy coast, to have an accurate marine survey extending, say, half a mile to sea, with soundings taken on definite lines. The survey should extend for some distance each side of the place to be protected, and the soundings should be repeated annually or at such intervals as may be recommended by the responsible engineer. The survey should also show current observations during different conditions of tide and wind and, to be of value, should be made by an engineer who has had special experience in marine surveying.

If local authorities would adopt this proposal, any engineer called in later would have proper data upon which to design works, whereas at present, without such a survey, he is usually groping in the dark.

But, as important as the survey is the annual, or six-monthly, inspection of works by the engineer who designed them. He will take more personal interest in their preservation and will probably know what to look for better than another.

In fact, if local authorities would employ a competent engineer, do what he tells them, and not follow amateur advice, there would not be so much trouble with sea defence works, though at certain places, as already instanced, unforeseen difficulties are bound to arise.

(Signed) P. M. CROSTHWAITE.

MINISTRY OF HEALTH,
WHITEHALL, S.W.1,
November, 1925.

SHOPS REGULATION.

REGULATIONS UNDER THE SHOPS ACTS.

(April 1st, 1912.)

In pursuance of the powers conferred on me by the Shops Act, 1912, I hereby make the following regulations :—

I.

Notice to be given by Occupier as to Assistants' Weekly Half-holiday (*section* 1 (2)).

1. The notice required to be affixed in a shop specifying the day or days on which the shop assistants employed therein are not employed after half-past one o'clock shall be in the form marked I. in the schedule to these regulations.

2. The notice shall be kept constantly affixed in a position where it may be readily seen and read by any person whom it affects, and shall be renewed whenever it becomes defaced or otherwise ceases to be clearly legible.

If the half-holiday is given on different days to the assistants employed in different rooms or departments of a shop, a separate notice shall be affixed in each such room or department.

3. The notice shall be affixed before the assistants to whom it relates cease work on the Saturday preceding the week during which it is to have effect.

Inquiries by Local Authorities as to Orders fixing the Day on which Shops are to be closed for the Weekly Half-holiday (*section* 4 (2)).

4. Before the local authority make an Order fixing the day of the weekly half-holiday for any class of shops, they shall take the following steps for ascertaining whether the occupiers of a majority of that class of shops approve the order :—

(1) They shall cause a register of the shops of that class to be prepared in the manner hereinafter provided.

(2) They shall give notice of their intention to make the Order and of the times and place at which the register may be inspected by any shopkeeper affected, in the form marked II. in the schedule to these regulations. The notice shall either be advertised in at least two newspapers circulating in the area to which the Order is to apply, or be posted up in streets and public places in the area to which the Order is to apply, in such positions and in such manner that it is likely to be seen and can easily be read by persons interested.

(3) They shall take a vote of the occupiers of the shops of that class in the manner hereinafter provided or, if the local authority have received an application in writing purporting to be signed by the occupiers of a majority of the shops of that class, they may in lieu of taking a vote take such steps as they think fit to verify the signatures to the application, and signatures so verified shall, unless reason appear to the contrary, be taken to mean that the occupiers whose signatures they purport to be approve the order.

Provided that if shops of any class are required under a closing order in force before the 1st May, 1912, to close on a certain day of the week (other than Saturday) at one o'clock in the afternoon, it shall not be necessary to take a vote of the occupiers of those shops in respect of a proposal to make an order fixing that day as the day of the weekly half-holiday, unless representations are made to the local authority by a substantial proportion of the occupiers in favour of another day being fixed.

Appendix II. *Conditions for Mixed Shops remaining open on Weekly Half-holiday (section* 10 (1)).

5. Where any trade or business exempted from the provisions of the Act as to closing on the weekly half-holiday is carried on in the same shop with any trade or business not so exempted, the shop shall only be kept open for the purpose of the exempted trade or business on the day fixed for the weekly half-holiday in respect of the trade or business not exempted, on the following conditions:—(*a*) After the hour of closing on the day of the weekly half-holiday, whether fixed by the occupier or by an Order made by the local authority under the Act, there shall be exhibited in some conspicuous places on the exterior and in the interior of the shop notices in letters of the size of not less than two inches in accordance with the form marked IV. in the schedule to these regulations; (*b*) so far as reasonably practicable no goods in connection with the trade or business not exempted shall be exhibited either inside or outside the shop.

II

Notice of Intention to make Closing Order.

6. As soon as may be after the local authority are satisfied that a *primâ facie* case is made out for making a Closing Order they shall cause a register to be prepared in the manner hereinafter provided.

7.—(1) Notice of the intention of the local authority to make a Closing Order shall be given in the form marked A in the schedule to these regulations, and unless a copy of the proposed order be annexed to it, it shall specify the area within which and the class or classes of shops to which the order will apply and the proposed days and hours of closing. The notice shall

(i) be advertised at least twice in a newspaper or newspapers circulating in the area to which the Order is to apply;

(ii) be posted up in streets and public places in the area to which the Order is to apply in such positions and in such manner that it is likely to be seen and can easily be read by persons interested; and

(iii) be given to any ratepayer in the area making reasonable application for it.

If the Order applies to an area with a population of not more than 5,000, the local authority may, in lieu of advertising the notice in a newspaper or newspapers, cause a copy to be sent to the occupier of every shop known to be affected by the Order.

(2) If anything in the Order affects post office business, a copy of the notice shall be sent to the Postmaster-General.

8. The prescribed period within which objections may be made to the proposed order shall be four weeks.

Ascertaining Opinion of Occupiers of Shops.

9. If the local authority, after considering any objections or suggestions received by them in pursuance of the notice of their intention to make an Order, desire to proceed with the Order, they shall, for the purpose of ascertaining whether the occupiers of at least two-thirds in number of the shops to be affected by the Order approve the Order, either take a vote in the manner hereinafter provided or, if they have received an application in writing for the making of the Order, purporting to be signed by the occupiers of at least two-thirds in number of the shops to be affected by the Order, they may in lieu of taking a vote take such steps as they think fit to verify the signatures to the application, and signatures so verified shall, unless reason appear to the contrary, be taken to mean that the occupiers whose signatures they purport to be approve the Order.

Notice, etc., when Order submitted to Secretary of State.

10. When the local authority have made a Closing Order, a notice, in the form marked C in the schedule to these regulations, shall be given in the manner above prescribed for the notice of intention to make an Order.

11. In submitting the Order to the Secretary of State, the local authority shall inform him as to the method adopted by them for ascertaining the opinion of the occupiers of shops, and as to any matters which they think it desirable to bring to his notice, and shall forward to him copies of any notices given by them under these regulations and other evidence that the regulations have been duly complied with, verified by a certificate signed by their clerk.

Local Inquiries.

12. When the Secretary of State directs a local inquiry to be held with regard to a Closing Order it shall be held at such place as the local authority, with the approval of the Secretary of State, may appoint, and at such time as may be fixed by the person appointed by the Secretary of State to hold the inquiry (hereinafter called "the Commissioner").

13. Not less than three weeks before the time of holding the inquiry notice thereof and of the place where the inquiry will be held shall be given in the manner above prescribed for the notice of intention to make an Order.

14. The inquiry shall be held in public, and any person who, in the opinion of the commissioner, is affected by the Closing Order, may appear and be heard either in person or by counsel, solicitor, or agent.

15. The Commissioner may give such directions as he thinks fit as to the order in which the objections to the Order shall be considered; and, if any person who has not sent objections in writing to the Secretary of State claims to be heard at the inquiry, may require him to state his objections in writing.

16. The Commissioner may adjourn the inquiry from time to time as he thinks desirable.

17. If the objections to the Order made by more than one person appearing at the inquiry seem to the Commissioner to be the same in substance, he may select any person whom he considers representative of the largest number of the persons affected by the Order, to state such objections, and to call evidence (if required); provided that any other person making the same objections may be heard subsequently with the consent of the Commissioner.

18. Subject to the foregoing rules, all the proceedings shall be conducted in such manner as the Commissioner may direct.

III.—GENERAL.

Preparation of Register.

19.—(1) A register to be prepared in pursuance of these regulations shall show the addresses, trades, and names of the occupiers of all the shops to be affected by the Order.

In the case of a shop in which several trades or businesses are carried on, the local authority may require the occupier to specify, in pursuance of sub-section (3) of section 10 of the Act, which trade or business he considers to be his principal trade or business, and the local authority shall not insert the name of the occupier in the register in respect of any other trade or business carried on in the shop unless the occupier satisfies them that it forms a substantial part of the business carried on in the shop.

(2) Every occupier of a shop to be affected shall be entitled to attend within the times and at the place specified in the notices required to be given by these regulations for the purpose of securing that the entries in the register with regard to his shop are duly made.

(3) Any occupier of a shop to be affected may represent to the local authority any matter, in regard to the register, which seems to him to require to be rectified; and the local authority shall consider all such representations.

Appendix II.

The Taking of a Vote.

20. If a local authority decide, or are required, to take a vote for the purpose of ascertaining the opinion of the occupiers of shops to be affected by an Order fixing the day of the weekly half-holiday or by a Closing Order, they shall proceed as follows:—

(1)—(*a*) A notice, together with a voting paper, in the form marked III. or in the form marked B in the schedule to these regulations, as the case may be, shall be sent by post or otherwise delivered to every occupier appearing in the register, at his registered address.

(*b*) Voting papers shall be returned to the local authority either through the post or by a collector appointed in writing by them for the purpose, and carrying with him at the time of collection his written appointment, which he shall show to any occupier who shall require it to be shown.

(*c*) A voting paper shall be deemed to be duly signed if signed by the occupier with his full name or with the ordinary signature used for the purpose of his business: provided that, if any occupier is unable to write, he may, in the presence of some other person, who shall explain the effect of the voting paper, attach his mark thereto, and such mark shall be attested by such other person, who shall append his signature and address.

(*d*) The local authority shall cause the voting papers, as soon as may be after the last day fixed for their return, to be scrutinised and compared with the register, and the numbers respectively of the votes for and against the Order to be ascertained.

Other Provisions as to making of Orders.

21. The making of an Order shall not be frustrated nor the Order invalidated by reason merely of any failure in the delivery of a notice or a voting paper to any person or to the local authority or of any other informality in complying with these regulations.

22. When an Order fixing the day of the weekly half-holiday is made by the local authority, or a Closing Order is confirmed by the Secretary of State, the local authority shall forthwith either cause to be advertised once in a newspaper, and to be posted up in streets and public places, in the area to which the Order applies a notice giving the terms of the Order as made or confirmed, or shall send such notice to the occupier of every shop affected by the Order.

Revocation of Orders.

23. Before revoking an Order fixing the day of the weekly half-holiday or applying to the Secretary of State to revoke a Closing Order, the local authority shall, for the purpose of ascertaining whether the occupiers of a majority of each of the several classes of shops affected by the revocation approve the revocation, follow, with the necessary modifications, the same procedure as is prescribed in the foregoing regulations in regard to the making of such Orders.

24. When an Order is revoked in whole or in part by a local authority or by the Secretary of State, as the case may be, the local authority shall forthwith either cause to be advertised once in a newspaper, and to be posted up in streets and public places, in the area to which the Order applied a notice announcing such revocation or shall send such a notice to the occupier of every shop known to be affected by the revocation.

Certificate of Appointment of Inspector.

25. The certificate of appointment with which an inspector is required to be furnished shall be in the form marked V. in the schedule to these regulations.

R. McKENNA,
One of His Majesty's Principal Secretaries of State.

HOME OFFICE,
1*st April*, 1912.

Appendix II.

I.—PRESCRIBED FORM OF NOTICE AS TO ASSISTANTS' WEEKLY HALF-HOLIDAYS.

Shops Act, 1912, *section* 1.

Prescribed Form of Notice as to Assistants' Weekly Half-Holidays.

I HEREBY GIVE NOTICE that the assistants employed in this {shop / room / department} (*a*) will not be employed about the business of the shop after 1.30 p.m. on the day named below in the week following the date of this notice and until further notice (*b*).

Names (*c*) *or* Class *or* Department of Assistants.	Week-day on which Half-holiday is allowed.

Signature of occupier or manager,

Date.

This notice must be kept constantly affixed in the shop in a position where it may be readily seen and read by any person whom it affects, and must be renewed whenever it becomes defaced or otherwise ceases to be clearly legible.

If the half-holiday is given on different days to the assistants employed in different rooms or departments of a shop, a separate notice must be affixed in each such room or department.

The notice must be affixed before the assistants to whom it relates cease work on the Saturday preceding the week during which it is to have effect.

II.—NOTICE OF INTENTION TO MAKE A HALF-HOLIDAY ORDER AND AS TO INSPECTION OF REGISTER.

Shops Act, 1912, *section* 4 (2).

NOTICE IS HEREBY GIVEN that the council [on application made to them] propose to make an Order fixing the day of the weekly half-holiday for the trades hereinafter mentioned as follows :—

Name of Trade	Day of weekly half-holiday.
	—— (or, at option of shopkeeper, Saturday) *or as the case may be,* Saturday (or, at option of shopkeeper——).

NOTICE IS FURTHER GIVEN that the occupier of any shop to be affected by the Order may, on presenting himself at [the council's offices] between the hours of and on [any] day before the [date] next, verify that his name, address and trade are duly entered in the register of shops, [and may inspect the application for the making of the order received by the council].

Dated this day of 19 .

Clerk to the Council.

III.—NOTICE FOR ASCERTAINING THE OPINION OF OCCUPIERS OF SHOPS ON PROPOSED ORDER BY TAKING A VOTE.

Shops Act, 1912, *section* 4 (2).

NOTICE IS HEREBY GIVEN that the council propose to make the Order shown on the enclosed voting paper, provided they are satisfied that the occupiers of a majority of the shops to be affected by the Order approve the Order.

You are requested (i) to signify your opinion for or against the making of the Order by writing " Yes " or " No " on the enclosed voting paper in the space provided for the purpose ; and (ii) to return the paper by post to the council at [the council's offices] before

---

(*a*) Strike out the words which are not appropriate.

(*b*) Strike out the words " and until further notice " if the notice is intended to apply only to one week.

(*c*) If the same day is fixed for all the assistants, the word " all " only need be inserted in this column.

Appendix II.

the . day of 19 , [or to hand the paper to a collector appointed by the council for the purpose, who will call for it, and will show, on request, his written appointment] [or to hand the paper to the person delivering it].

Dated this day of 19 .

Clerk to the Council.

FORM OF VOTING PAPER (*to be enclosed with the foregoing notice*).

Shops Act, 1912.

I. (Here insert terms of draft order.)

II. Form for Votes.

[Borough] *or* [Urban District] *or* [Area] of

——	*Write in the Space below either* "Yes" *or* "No."
Are you in favour of the making of the above Order?	

Signature
Address of Shop
Date

IV.—NOTICE TO BE AFFIXED IN SHOPS PARTIALLY EXEMPTED FROM CLOSING FOR THE WEEKLY HALF-HOLIDAY.

Shops Act, 1912, *Section* 10 (1).

This shop is closed for to-day except for the *trade or business of [ ].

* In shops where a wholesale and retail business are carried on together, and the shop is kept open on the half-holiday for the wholesale business, the word " wholesale " should be inserted in the notice before " trade."

V.—FORM OF CERTIFICATE OF APPOINTMENT OF AN INSPECTOR UNDER THE SHOPS ACT, 1912.

Shops Act, 1912.

I HEREBY CERTIFY THAT *A. B.* has been appointed an inspector for the purposes of the above-mentioned Act for [the city of London or county or borough or urban district of]

(Signature)
The Lord Mayor of the City of London
or
Chairman of the County Council of
or
Mayor of the Borough of
or
Chairman of the Urban District Council of

Dated this day of 19 .

A.—NOTICE OF INTENTION TO MAKE A CLOSING ORDER.

Shops Act, 1912.

NOTICE IS HEREBY GIVEN that the council propose to make a Closing Order for [specify class or classes of shops] in [specify the area] fixing the hours at which such shops shall be closed as follows :—

Any person wishing to make objection to the Order or suggestions as to the provisions of the Order should address a statement in writing to the clerk to the council before the [date] next.

Notice is further given that the occupier of any shop to be affected by the Order may, on presenting himself at [the council's offices] between the hours of and on [any] day before the aforesaid date, verify that his name, address and trade, are duly entered in the register of shops.

Dated this day of 19 .

Clerk to the Council.

B.—Notice for Ascertaining the Opinion of Occupiers of Shops on Proposed Closing Order by Taking a Vote.

Shops Act, 1912.

Notice is hereby given that the council propose to make the Order shown on the enclosed voting paper, provided they are satisfied that the occupiers of two-thirds of the shops to be affected by the Order approve the Order.

You are requested (i) to signify your opinion for or against the making of the Order by writing "Yes" or "No" on the enclosed voting paper in the space provided for the purpose: and (ii) to return the paper by post to the council at [the council's offices] before the day of 19 , [or to hand the paper to a collector appointed by the council for the purpose, who will call for it, and will show, on request, his written appointment] [or to hand the paper to the person delivering it].

Dated this day of 19 .

Clerk to the Council.

Form of Voting Paper (*to be enclosed with the foregoing notice*).

Shops Act, 1912.

I. (Here insert terms of draft Order.)

II. Form for Votes.

[City] [Borough] *or* [Urban District] *or* [Area] of

—	*Write in the Space below either "Yes" or "No."*
Are you in favour of the making of the above Order?	

Signature
Address of Shop
Date

C.—Notice of Making of Order.

Shops Act, 1912.

Notice is herby given that the council have made a Closing Order, of which a copy is annexed hereto, and have submitted the Order to the Secretary of State for confirmation.

A copy of the order may be obtained by any person whom it may concern on application at [the offices of the council]:

If any person desires to make any objections to the provisions of the order he should address a written statement to the Secretary of State, Home Department, London, within one month from the date thereof, *i.e.* before the day of , 19 .

Dated this day of 19 .

, Clerk to the Council.

FURTHER REGULATION (8TH MARCH, 1913).

In pursuance of the powers conferred on me by the Shops Acts, 1912 and 1913, I hereby make the following regulation :—

The notice required by section 1 (1) (*d*) of the Shops Act, 1913, to be affixed in premises for the sale of refreshments where the occupier elects that the provisions of the Act shall apply, shall be in the form in the schedule to this regulation.

R. MCKENNA,
One of His Majesty's Principal Secretaries of State.

HOME OFFICE,
8th March, 1913.

SCHEDULE.

This notice must be affixed and constantly maintained in a conspicuous position in the premises.

SHOPS ACT, 1913.

I HEREBY GIVE NOTICE that I elect that instead of the provisions of section 1 of the Shops Act, 1912, in regard to the weekly half-holiday and meal times for shop assistants, the provisions of the Shops Act, 1913 (as set out below), shall apply to all assistants employed wholly or mainly in connection with the business of these premises of the sale of* and that I propose to carry out those provisions in the manner indicated below.

This notice can only be withdrawn at the end of a year from this date or at the end of any succeeding year.

Dated the *day of* , 19 .

*Signature of occupier or manager*____________

* Insert "intoxicating liquor" or "refreshments" or both as the case may be.

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1. The following provisions apply to all persons wholly or mainly employed in any capacity on these premises in connection with the business here carried on of the sale of *

2. TOTAL HOURS OF WORK.—An assistant must not be employed for more than 65 hours in any week EXCLUSIVE of meal times.

3. MEAL TIMES.—Two hours must be allowed to each assistant for meals on ordinary days and three-quarters of an hour on half-holidays. No assistant may be employed on any day for more than six hours without being allowed an interval of at least half an hour.

4. WEEK-DAY HOLIDAYS.—Every assistant must be given 32 whole holidays on a week day in the year. Of these six are to be given consecutively on full pay as an annual holiday, and the remaining 26 must be so distributed that there shall be at least two holidays in each month. Except as regards the consecutive holiday, two half-holidays on week days may be allowed instead of any whole holiday. On any such half-holiday the assistant may not be employed for more than six hours including meal time, and he must cease work not later than 3 p.m.

5. SUNDAY HOLIDAYS.—Every assistant must be given 26 whole holidays on Sunday in the year, and at least one in every three consecutive Sundays must be a whole holiday.

Steps taken to comply with the Act.†

WEEK-DAY HOLIDAYS.

SUNDAY HOLIDAYS.†

† Here state as precisely as possible in what manner it is proposed to carry out the Act. *E.g.*, it will be open to an occupier to give a weekly half-holiday commencing at 3 p.m. in lieu of the corresponding number of whole holidays. If he decides to do this, he can state this in the notice, and the day on which, as a general rule, the half-holiday will be given. Or he may decide to give a whole holiday every other week : if so, he can state this and the day on which the holiday will be given : etc., etc.

MODEL FORMS PREPARED BY THE HOME OFFICE.

FORM A.

MODEL FORM OF CLOSING ORDER FOR AREAS OR CLASSES OF SHOPS FOR WHICH NO ORDER IS IN FORCE FIXING THE DAY OF THE WEEKLY HALF-HOLIDAY.

The Council of in pursuance of the powers conferred upon them by the Shops Act, 1912, and after due compliance with its provisions, do hereby order as follows :—

1. This Order which may be cited as applies to all shops in (the borough of) *or* (the area of) in which [the sale by retail of] *or* [the retail trade or business of a] is carried on.

2. All shops to which this order applies shall be closed for serving customers on the several days of the week at and after the following hours respectively (*a*) :—

Day of Week.	*Closing Hour.*
Monday	(A closing hour not earlier than 7 p.m. should be fixed for *every* week-day).
Tuesday	
Wednesday	
Thursday	
Friday	
Saturday	

Provided that nothing in this Order shall affect the obligation of every occupier to close his shop at 1 p.m. on one week-day in each week for the weekly half-holiday in accordance with section 4 of the Shops Act, 1912, and that on the day specified in the notice affixed in his shop as the day for the half-holiday the closing hour fixed above shall not apply.

3 (*b*). Where any trade or business other than [the sale by retail of] *or* [the retail trade or business of a] is carried on in any shop to which this Order applies, such shop may, subject to the provisions of any other Order for the time being in force, be kept open after the closing hour mentioned in Article 2 of this order, for the purpose of the first-mentioned trade or business alone, provided that (*a*) after the said closing hour there shall be exhibited in some conspicuous places on the exterior and in the interior of such shop notices in letters of the size of not less than two inches containing the following words: "SHOPS ACT, 1912. THIS SHOP IS CLOSED FOR TO-DAY EXCEPT FOR [THE SALE BY RETAIL OF] *or* [THE TRADE OR BUSINESS OF]"; (*b*) so far as reasonably practicable no goods in connection with the trade or business for which the shop is required to be closed shall be exhibited either inside or outside the shop.

4. (*In seaport towns.*) Nothing in this Order shall prevent customers from being served on any day after the closing hour with victuals, stores or other necessaries for a ship on her arrival at or immediately before her departure from a port.

FORM B.

MODEL FORM OF CLOSING ORDER FOR AREAS OR CLASSES OF SHOPS FOR WHICH AN ORDER IS IN FORCE FIXING THE DAY OF THE WEEKLY HALF-HOLIDAY (*c*).

The Council of in pursuance of the powers conferred upon them by the Shops Act, 1912, and after due compliance with its provisions, do hereby order as follows :—

1. This order, which may be cited as applies to all shops in (the borough of) *or* (the area of) in which [the sale by retail of], *or* [the retail trade or business of a] is carried on.

(*a*) If it is desired that a later closing hour should be fixed for, or that the order should not apply to, any particular day or days (*e.g.*, the days immediately preceding Christmas or Easter), a proviso to that effect can be added to this article. It should be noted, however, that such a proviso cannot affect the obligation to close for the weekly half-holiday, and to make this clear a footnote should, if necessary, be added in the following terms : "These provisions do not apply to a day on which the shop is required to be closed for the weekly half-holiday, but any shopkeeper may, if he so desires, avail himself of the provisions of section 4 (5) of the Act, which provides that if a shop is closed throughout the whole of a Bank Holiday and the Bank Holiday does not fall on the day fixed for the weekly half-holiday, the shopkeeper may keep his shop open *either* on the half-holiday before, *or* on the half-holiday after the Bank Holiday."

(*b*) If the order applies to several trades, and *different* closing hours are fixed for different trades, Article 3 should run as follows : "Where in any shop which is required by this Order to be closed at a certain hour in respect of any trade or business, any other trade or business is also carried on for which a later closing hour or no closing hour is fixed by this Order, such shop may, subject to the provisions of any other Order, for the time being in force, be kept open for the purpose of such other trade or business alone, provided that, etc., etc."

If the order applies to all trades Article 3 should run as follows : "Where in any shop to which this Order applies any trade or business exempted by the Third Schedule to the Act is carried on, such shop may be kept open after the closing hour fixed by article 2 of this Order for the purpose of such exempted trade or business alone, provided that, etc., etc."

(*c*) A closing order in this form cannot be confirmed until an order has been made fixing the day of the weekly half-holiday. A copy of the Half-Holiday Order should be forwarded when the Closing Order is submitted for confirmation

2. All shops to which this Order applies shall be closed for serving customers on the several days of the week at and after the following hours respectively (*a*) :—

Day of Week.	*Closing Hour.*
Monday	(Specify the closing hour, not earlier than 7 p.m., for five days of the week. Opposite the day fixed for the weekly half-holiday, insert "Weekly half-holiday—shops closed at 1 p.m.")
Tuesday	
Wednesday	
Thursday	
Friday	
Saturday	

(*b*) Provided that where the occupier of a shop elects to close his shop for the weekly half-holiday on ( ) instead of on ( ) the closing hour on ( ) shall be (p.m.).

3 (*c*). Where any trade or business other than [the sale by retail of] *or* [the retail trade, or business of a] is carried on in any shop to which this order applies, such shop may, subject to the provisions of any other order for the time being in force, be kept open after the closing hour mentioned in article 2 of this order, for the purpose of the first-mentioned trade or business alone, provided that (*a*) after the said closing hour there shall be exhibited in some conspicuous places on the exterior and in the interior of such shop notices in letters of the size of not less than two inches containing the following words: "SHOPS ACT, 1912. THIS SHOP IS CLOSED FOR TO-DAY EXCEPT FOR [THE SALE BY RETAIL OF] *or* [THE TRADE OR BUSINESS OF]"; (*b*) so far as reasonably practicable no goods in connection with the trade or business for which the shop is required to be closed shall be exhibited either inside or outside the shop.

4. (*In seaport towns.*) Nothing in this Order shall prevent customers from being served on any day after the closing hour with victuals, stores or other necessaries for a ship on her arrival at or immediately before her departure from a port.

FORM C.

ORDER UNDER SECTION 4 (2) FIXING THE DAY OF THE WEEKLY HALF-HOLIDAY FOR NON-EXEMPTED SHOPS.

The Council of in pursuance of the powers conferred upon them by the Shops Act, 1912, and after due compliance with its provisions, do hereby order as follows :—

1. This Order, which may be cited as applies to all shops in the borough of [*or* the area of] in which the sale by retail of [*or* the retail trade or business of] is carried on.

Or, if the order is to apply to all non-exempted shops—

This Order, which may be cited as applies to all shops in the borough of [*or* the area of] except shops which are exempted by the Act or by any Order made in pursuance of the Act from the obligation to close for the weekly half-holiday.

2. All shops to which this Order applies shall be closed for the weekly half-holiday on at 1 p.m. [throughout the year] (*d*).

Provided that any shopkeeper may substitute for on affixing a notice to that effect in his shop (*e*).

NOTE.—It is provided by section 4 (5) of the Act that if a shop is closed throughout the whole of a Bank Holiday and the Bank Holiday does not fall on the day fixed for the weekly half-holiday, the shopkeeper may keep his shop open *either* on the half-holiday before, *or* on the half-holiday after the Bank Holiday.

(*a*) See note (*a*), *ante*, p. 3755.

(*b*) The proviso is intended for fixing the evening closing hour on the ordinary day of the weekly half-holiday in cases where the occupier elects to close on the alternative day.

(*c*) See note (*b*), *ante*, p. 3755.

(*d*) The Secretary of State is advised that a local authority have no power to insert in the Order provisions exempting shopkeepers during any period of the year from the obligation to close for the half-holiday, but it is open to them to fix different days for the half-holiday for different periods of the year.

(*e*) A provision to this effect must be inserted in the order, but the Secretary of State is advised that the local authority may add conditions as to the manner in which the power of changing the day may be exercised, *e.g.*, a condition may be inserted as to the time during which the notice shall be affixed in the shop before the change is to take effect.

FORM D.

ORDER UNDER SECTION 4 (4) EXEMPTING (*a*) SHOPS OF A PARTICULAR CLASS FROM THE OBLIGATION TO CLOSE FOR THE WEEKLY HALF-HOLIDAY OF FIXING AN HOUR LATER THAN 1 P.M. FOR THE COMMENCEMENT OF THE HALF-HOLIDAY.

The Council of in pursuance of the powers conferred upon them by the Shops Act, 1912, and after due compliance with its provisions, do hereby order as follows :—

1. This Order, which may be cited as applies to all shops in the borough of [*or* the area of] in which the sale by retail of [*or* the retail trade or business of] is carried on.

2. All shops to which this Order applies are hereby exempted from the provisions of section 4 of the Act in regard to closing for the weekly half-holiday (*b*).

FORM E.

ORDER UNDER SECTION 4 (6) AND (2) (*c*) EXTENDING THE PROVISIONS OF SECTION 4 TO EXEMPTED SHOPS AND FIXING THE DAY OF THE WEEKLY HALF-HOLIDAY.

The Council of in pursuance of the powers conferred upon them by the Shops Act, 1912, and after due compliance with its provisions, do hereby order as follows :—

1. This Order may be cited as

2. The provisions of section 4 of the Act are hereby extended to the sale by retail of (*d*) [*or* to such parts of the retail trade or business of as are exempted by section 4 (6) and the Second Schedule to the Act (*e*)].

3. All shops in which the sale by retail of [*or* the retail trade or business of] is carried on shall be closed for the weekly half-holiday at 1 p.m. on [throughout the year] (*f*).

Provided that any shopkeeper may substitute for on affixing a notice to that effect in his shop (*g*).

NOTE.—It is provided by section 4 (5) of the Act that if a shop is closed throughout the whole of a Bank Holiday and the Bank Holiday does not fall on the day fixed for the weekly half-holiday, the shopkeeper may keep his shop open *either* on the half-holiday before, *or* on the half-holiday after the Bank Holiday.

FORM F.

ORDER UNDER SECTION 11 (1) SUSPENDING IN A HOLIDAY RESORT THE OBLIGATION TO CLOSE FOR THE WEEKLY HALF-HOLIDAY DURING A PERIOD OF THE YEAR.

The Council of in pursuance of the powers conferred upon them by the Shops Act, 1912, do hereby order as follows :—

The obligation to close for a half-holiday on one week day in each week is hereby suspended in respect of all shops (*h*) in the during the period[s] (*i*) from to .

(*a*) The Secretary of State is advised that the local authority have no power to make an order under this sub-section for part of the year only.

(*b*) If the exemption is to be limited to fixing a later hour than 1 p.m. for the commencement of the half-holiday, insert here " to the following extent, namely : the closing hour on the weekly half-holiday shall be ." The hour so fixed must not be later than 2 p.m.

(*c*) If it is proposed by the order to fix a later hour than 1 p.m. for the commencement of the half-holiday, sub-section (4) should also be mentioned here.

(*d*) If this form of drafting the clause is adopted, the name of the exempted article should be here specified in accordance with terms of the Second Schedule.

(*e*) This form of drafting will be found convenient where it is desired to fix the day of the weekly half-holiday for the whole of a business, part only of which is exempted by the Act, *e.g.*, the business of a chemist.

(*f*) See note (*d*), *ante*, p. 3756.

(*g*) See note (*e*), *ante*, p. 3756.

(*h*) The Secretary of State is advised that an order under s. 11 (1) must be a general order applying to *all* classes of shops, and cannot be made for particular classes of shops only. The order should accordingly be in all cases a separate order, and should not be combined with orders under s. 4.

(*i*) The period or periods must not exceed in the aggregate four months in any year.

Appendix II.

NOTICE UNDER SECTION 2 (3) IN REGARD TO THE EMPLOYMENT OF YOUNG PERSONS UNDER 18 IN SHOPS.

SHOPS ACTS, 1912—SECTION 2.

NOTICE AS TO EMPLOYMENT OF YOUNG PERSONS UNDER 18.

A YOUNG PERSON UNDER 18 MUST NOT BE EMPLOYED IN OR ABOUT * THIS SHOP FOR MORE THAN 74 HOURS, INCLUDING MEAL TIMES, IN ANY WEEK.

A young person under 18 must not be employed in this shop at all on any day on which he has already worked in a factory or workshop for the whole number of hours permitted by the Factory and Workshop Act.

On any day on which a young person under 18 is employed partly in this shop and partly in a factory or workshop the number of hours of work in the shop and in the factory or workshop together must not exceed the total number permitted by the Factory and Workshop Act.

The total number of hours permitted by the Factory and Workshop Act for a young person is 12 hours, including 1½ hours for meals, on an ordinary day, and 8 hours, including half an hour for a meal, on the weekly short day.

Meaning of "shop."—The above provisions apply to all shops in which any retail trade or business is carried on, including the business of a barber or hairdresser, the sale of refreshments or intoxicating liquors and retail sales by auction. They also apply to wholesale shops, and to warehouses in which assistants are employed for hire.

* It has been held by the High Court that these words apply to persons employed outside the shop in the business of the shop.

† FORM OF AGREEMENT IN CASES WHERE A COUNTY COUNCIL DELEGATE THEIR POWERS TO MAKE ORDERS UNDER SECTIONS 4, 5, AND 11 OF THE ACT TO THE COUNCIL OF AN URBAN OR RURAL DISTRICT.

In pursuance of the powers conferred on them by section 13, sub-section (2), of the Shops Act, 1912, the County Council of and the District Council of hereby agree that the powers of making orders conferred by sections 4, 5, and 11 of the said Act,‡ hereinafter called the delegated powers, shall be exercised in the district by the district council as agents for the county council, on the following terms and subject to the following conditions :—

‡ Insert "and the power of giving certificates under the Second Schedule in respect of retail trade carried on at an exhibition or show" if it is desired to delegate this power as well.

1. The district council shall pay the whole of the expenses incurred in connection with the exercise by them of the delegated powers.
2. The district council shall make such reports to the county council as to the exercise by them of the delegated powers as the county council may from time to time require.
3. The district council shall on making any order in pursuance of any of the delegated powers forthwith send a copy of the order, certified to be a true copy by the clerk to the district council, to the county council, and shall on the revocation of any order forthwith inform the county council of such revocation.
4. The district council and its officers shall give the county council and its officers any assistance that may be necessary for the purpose of the enforcement by the county council and its officers of the provisions of the Act and of any orders made thereunder, and shall produce for inspection by the officers of the county council at all reasonable times the registers of shops prepared by the district council in pursuance of the regulations of the Secretary of State.
5. This agreement may be determined by either council on (three months) notice being given.

† § FORM OF AGREEMENT IN CASES WHERE A COUNTY COUNCIL DELEGATE ALL THEIR POWERS UNDER THE ACT TO THE COUNCIL OF AN URBAN OR RURAL DISTRICT.

In pursuance of the powers conferred on them by section 13, sub-section (2), of the Shops Act, 1912, the County Council of and the District Council of hereby agree that the powers of the county council under the said Act, hereinafter called the delegated powers, shall be exercised in the district by the district council as agents of the county council on the following terms and subject to the following conditions :—

1. The district council shall pay the whole of the expenses incurred in connection with the exercise by them of the delegated powers, but shall be entitled to receive from the county council a sum equal to the amount raised by the county council by rate within the area of the district council for the purposes of the Shops Act.
2. The district council shall appoint such number of inspectors to enforce the provisions

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† Under the First Schedule to the Stamp Act, 1891, every agreement requires a stamp of the value of 10*s*., and every counterpart a stamp of the value of 5*s*.

§ As regards the adoption of this form of agreement, see Home Office Circular, pp. 58–59.

of the Shops Act and of any orders in force in the district as the county council may think necessary, and the remuneration of the inspectors and the conditions of their appointment shall be subject to the approval of the county council.

3. The inspectors appointed as aforesaid shall also act as inspectors of the county council to enforce within the district the provisions of the Employment of Children Act, 1903, and of any byelaws in force in the district under the Act, so far as they apply to children employed in or in connection with shops.

4. The district council shall make an annual report to the county council as to the exercise by them of the delegated powers and the enforcement of the said Acts, and of any orders or byelaws as aforesaid in force in the district, and shall also make such further reports as the county council may from time to time require.

5. This agreement may be determined by either council on (three months) notice being given.

SLAUGHTER-HOUSES.

See also " ANIMALS, DISEASES OF," *ante*, p. 3048.

S. R. & O., 1924, No. 1431.

THE RURAL DISTRICT COUNCILS (SLAUGHTER-HOUSES) ORDER, 1924, DATED 20TH DECEMBER, 1924, MADE BY THE MINISTER OF HEALTH UNDER SECTION 25 OF THE LOCAL GOVERNMENT ACT, 1894.

Whereas sub-section (5) of section 25 of the Local Government Act, 1894, provides that rural district councils shall have such powers, duties and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and that such provisions of any of those Acts relating to urban districts shall apply to rural districts, as the Minister of Health may by general order direct, and by sub-section (6) of that section every order made by the Minister under the section is forthwith to be laid before Parliament:

Now therefore, the Minister of Health, in pursuance of his powers under sub-section (5) of section 25 of the Local Government Act, 1894, and of all other powers enabling him in that behalf, hereby orders and directs as follows:—

Short Title and Commencement.

1. This Order may be cited as the Rural District Councils (Slaughter-houses) Order, 1924, and shall come into operation on the first day of January, 1925.

Interpretation.

2.—(1) The Interpretation Act, 1889, applies to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) In this Order, unless the context otherwise requires—

" Special order " means any order of the Local Government Board, or of the Minister of Health, declaring any provision of the Public Health Acts, or any enactment repealed by those Acts, to be in force in any rural district, or in any contributory place therein ;

" The Minister " means the Minister of Health.

Provision and regulation of slaughter-houses.

3. Rural district councils shall have the powers, duties and liabilities of urban authorities under the enactments relating to slaughter-houses mentioned in Part I. and Part II. of the Schedule to this Order, and those enactments shall apply to every rural district council and rural district in like manner as they apply to urban district councils and urban districts.

Construction of the applied enactments.

4. In the construction of any enactment mentioned in the Schedule hereto, as applied to rural district councils and to rural districts by this Order, any reference to the time of the passing of the special Act, or to the date of the adoption of Part III. of the Public Health Acts Amendment Act, 1890, shall be construed as a reference to the commencement of this Order:

Provided that where any such enactment is in force, immediately before the commencement of this Order, in a rural district, or any contributory place therein, by virtue of any special order, the date of the commencement of the special order shall, for the purposes of the application of the enactment to that rural district or contributory place, be deemed to be the date of the passing of the special Act, or of the adoption of Part III. of the Public Health Acts Amendment Act, 1890, as the case may be.

Expenses.

5. Subject to the provisions of this Order and to the power of the Minister under any enactment to determine in any particular case expenses of a rural district council to be special expenses, the expenses incurred by a rural district council in the execution of any enactment mentioned in the Schedule to this Order shall be defrayed as general expenses.

Rescission of Orders.

6.—(1) Any provision in any special order by virtue of which any enactment mentioned in the Schedule to this Order may be in force in any rural district or in any contributory place therein, and any provision in any such special order or in any other order of the Local Government Board, or of the Minister, determining that the expenses incurred or payable in the execution of any such enactment as aforesaid shall be special expenses, is hereby rescinded:

Provided that nothing in this Article shall affect the operation of any provision in any Order determining that the expenses incurred or payable in the execution of the first paragraph of section 169 of the Public Health Act, 1875, shall be special expenses.

(2) Section 38 of the Interpretation Act, 1889, as applied to this Order, shall have effect as if every provision in an order of the Local Government Board or of the Minister which is rescinded by this Article were a repealed enactment.

(3) Where section 31 of the Public Health Acts Amendment Act, 1890, is in force immediately before the commencement of this Order in a rural district or any contributory place therein, nothing in this Article shall affect the power of a court under that section to revoke a slaughter-house licence upon the conviction of the occupier of the slaughter-house of any offence mentioned in the section.

(4) Nothing in this Article shall affect the operation of any bye-law or regulation made, or any licence granted, under any enactment which immediately before the commencement of this Order is in force in a rural district or contributory place therein by virtue of any special order, or shall affect any existing registration of a slaughter-house under any such enactment as aforesaid.

Publication of this Order.

7.—(1) After the publication of the Minister in the *London Gazette* of notice that this Order has been made, every rural district council to whom this Article applies shall forthwith cause a statement to the effect of this Order and of the place at which a copy of this Order may be inspected to be published once at least in such one or more local newspapers as may best be calculated to secure the publication of this Order in the whole of their district:

Provided that two or more rural district councils may arrange for the publication in a local newspaper, jointly on behalf of such councils, of the statement aforesaid.

(2) Where, immediately before the commencement of this Order, the enactments mentioned in Part II. of the Schedule hereto, are in force within the whole of a rural district, paragraph (1) of this Article shall not extend to the council of that rural district.

The Schedule.

PART I.—ENACTMENT RELATING TO THE PROVISION OF SLAUGHTER-HOUSES.

Enactment applied.	Subject-matter of applied enactment.
The first paragraph of Sect. 169 of the Public Health Act, 1875 (38 & 39 Vict. c. 55).	Power to provide slaughter-houses, and the making of bye-laws with respect to the management and charges for the use of any slaughter-houses so provided.

PART II.—ENACTMENTS RELATING TO THE REGULATION OF SLAUGHTER-HOUSES.

Enactment applied.	Subject-matter of applied enactment.
The Public Health Act, 1875 (38 & 39 Vict. c. 55)—	
The second paragraph of Sect. 169.	Incorporating with the Public Health Act, 1875, the provisions of the Towns Improvement Clauses Act, 1847, with respect to slaughter-houses. These provisions require all existing slaughter-houses to be registered within 3 months after the passing of the special Act, and prohibit the use of new slaughter-houses unless they are licensed; and empower— (1) The local authority to make bye-laws for the regulation of slaughter-houses; (2) The justices to suspend or revoke the licence or registration of a slaughter-house upon a conviction of certain offences; and (3) Officers of the local authority to enter and inspect slaughter-houses, &c.
The third paragraph of Sect. 169.	Saving for the rights, &c., of persons incorporated by any local Act passed before the Public Health Act, 1848, for the purpose of making and maintaining slaughter-houses.
Section 170 . . .	Notice to be affixed to licensed or registered slaughter-houses.
The Public Health Acts Amendment Act, 1890 (53 & 54 Vict. c. 59)—	
Section 29 . . .	Licenses for slaughter-houses to be granted for a limited period only.
Section 30 . . .	Upon a change of occupation of a registered or licensed slaughter-house, notice to be given to the local authority.
Section 31 . . .	Power of justices to revoke a slaughter-house licence upon the conviction of the occupier of certain offences.

CIRCULAR 604.

TO SANITARY AUTHORITIES.

MINISTRY OF HEALTH,
12*th June*, 1925.

RURAL DISTRICT COUNCILS (SLAUGHTER-HOUSES) ORDER, 1924.

PUBLIC HEALTH (MEAT) REGULATIONS, 1924.

SIR,—I am directed by the Minister of Health to refer to Circulars 547 and 552 of the 29th December, 1924, and to say that he has received a large number of communications both from local authorities and from other correspondents as to the proper interpretation of the statutory provisions put in force in rural districts by the Rural District Councils (Slaughter-houses) Order, and of the Public Health (Meat) Regulations. It will, of course, be appreciated that any question as to the legal interpretation of the provisions of the statutes and the Regulations can only be decided by the courts, but the Minister thinks that it may be useful to get out for the information of local authorities the intention of the department and the construction which as he is advised may properly be given to the provisions in question.

1. *Rural District Councils* (*Slaughter-houses*) *Order.*

It appears that some apprehension is being felt as to the effect of this Order on farmers and cottagers who occasionally slaughter pigs or sheep of their own rearing for sale to their neighbours. In considering this question it is to be observed that there is nothing in the Order itself or in the provisions of the Public Health Acts which it puts into operation in rural districts specifically prohibiting the slaughter of an animal otherwise than in a licensed or registered slaughter-house.

The only provision as to the limitation of slaughtering is contained in section 126 of the Towns Improvement Clauses Act, 1847, and is in the following terms :—

> "No place shall be used or occupied as a slaughter-house . . . which was not in such use and occupation at the time of the passing of the special Act and has so continued ever since unless and until a licence for the erection thereof or for the use and occupation thereof as a slaughter-house . . . has been obtained. . . ."

The term "slaughter-house" is defined in the Public Health Act, 1875, as including the buildings and places commonly called slaughter-houses and knackers' yards and any building or place used for slaughtering cattle, horses, or animals of any description for sale.

The joint effect of these two provisions is that in the absence of established user no place may be used for slaughtering animals for sale without a licence. The Minister is advised that the word "used" in the provisions cited must be construed as having reference to some regular user and that a single slaughtering is not prohibited. Should any particular case come before the courts, it would be a question to be decided on the facts whether the amount of slaughtering carried on was sufficient to constitute use as a slaughter-house within the meaning of the statute, and the courts might well have regard to the question not only as to the number of animals slaughtered there but as to whether the animals slaughtered are reared on the same farm, small-holding or premises, or are brought from elsewhere.

The matter is, of course, one which is within the administration of the district council, and the Minister thinks that, in the absence of any guiding legal decision on the subject, they might properly construe the statute as allowing the slaughter on a farm or small-holding or cottage premises of a reasonable number of sheep or pigs reared thereon and sold for consumption in the neighbourhood, without the necessity for registration or licensing.

It may be added that more than half the rural district councils had, prior to the issue of the Order, been invested with the powers in question, and the Minister understands that most local authorities have hitherto acted on the lines indicated above.

2. *Public Health* (*Meat*) *Regulations* (*a*).

Article 2 (1) (*Definition of Meat*).—The Minister's intention in making the Regulations was that, apart from the special case of bacon and ham, they should apply to what is ordinarily known as butcher's meat, that is to say the raw and untreated edible parts of the carcases of slaughtered cattle, swine, sheep, and goats. Questions have been raised whether the Regulations apply to rabbits, poultry, fish, butter, margarine, and cheese. It is clear that the definition of meat would not include these articles, and the Minister thinks that local authorities might also properly treat cooked meat, lard, sausages, and other preparations of or containing meat as outside the scope of the Regulations.

Article 20. (5) (*a*).—It was not contemplated that this provision should be construed as requiring all butchers' shops to be provided with glass fronts, and the precautions which it may be reasonable to require under this provision must depend on the circumstances of individual cases. It seems to the Minister that in its enforcement the corresponding provisions of Article 19 (*b*) and (*d*) should be borne in mind and that the same general standard of freedom from contamination should be aimed at both for shops and for stalls.

The steps necessary to protect meat against contamination must depend on the circumstances of the shop or stall in relation to the sources of possible contamination and also on the conditions under which trade is carried on. In no circumstances, however, should meat be allowed to project outside the limits of the wall or screen of the shop or stall, where it would be especially exposed to contamination from the street, and it should be kept as far within those limits as is practicable. Where meat has to be kept near to an open window the general rule should be that it should be covered with clean muslin or other suitable material, but local authorities will no doubt realise that, when a brisk trade is being carried on, this precaution may have to be suspended so that meat may be readily accessible.

Application to Ships.—The Minister is advised that each deck of a ship would in itself form one or more separate " compartments " and that meat and cattle for example may properly be carried on different parts of the same deck without any special covering of the meat, if those parts are effectively separated.

Article 21 (2) (*a*).—The word " ground " is not intended to apply to any part of a ship, vehicle, or building. (In Article 19 (*e*) where the possibility of a stall being inside a market building is contemplated, the expression used is, " ground or floor.")

I am, etc.

SMALL DWELLINGS.

See also " HOUSING. *ante*, p. 3348.

SMALL DWELLINGS ACQUISITION ACT, 1899 (*b*).

INFORMATION TO BE FURNISHED TO THE MINISTRY OF HEALTH WITH APPLICATIONS FOR SANCTION TO BORROW MONEY.

1. Name of local authority . . . . .
2. Population of district according to the last census
3. Rateable value of district for purposes of the rate applicable to the general purposes of the Public Health Acts . . . . . £

The following documents and information should be forwarded to the Ministry :—

(*c*) (i) A copy of the resolution of the local authority undertaking to act under the Act ;

(ii) A copy of the resolution of the local authority applying for the Ministry's sanction to borrow the money ;

(*a*) See these Regulations, at p. 3316, *ante*.

(*b*) 62 & 63 Vict. c. 44, *ante*, p. 1071.

(*c*) These particulars need not be sent if they have already been furnished in connection with a previous application, but a notification to the effect that such particulars have already been supplied should be placed on the form.

PARTICULARS TO BE FURNISHED AS REGARDS EACH OF THE PROPOSED ADVANCES.

Amount of proposed advance.	(2) Agreed terms as to		(3)	(4)	(5)	(6) If leasehold, what is		(7)	(8) What, according to the rate-book, is		(9)
	(a) Period for repayment.	(b) Rate of interest to be paid.	Situation and description of houses in respect of which the advance is made.	Name of resident.	Is the property leasehold or freehold?	(a) The unexpired period of the lease?	(b) The ground rent?	Market value of the ownership (a).	(a) The gross rental of the property?	(b) The rateable value of the property?	Have the local authority satisfied themselves that each and all the requirements of section 2 of the Act have been or will be complied with?
£	years.	per cent.				years.	£	£	£	£	

(a) Information should be given as to the basis upon which the valuation is formed, and a copy of any valuation made on behalf of the local authority should be supplied.

(*Signed*)____________________

Clerk to the local authority.

(iii) A statement in the form of a balance sheet, of the annual receipts and expenditure of the local authority under the Act, and showing the sum which would be equal to one penny in the pound upon the rateable value of the district;

(iv) The information indicated on pages 2 and 3 of this form as regards each of the advances proposed to be made; and

(v) The information indicated in the accompanying form K, No. 2 (*as to debt of district*).

In the case of a district containing a population, according to the last census for the time being, of less than ten thousand, the following additional document should be forwarded to the Ministry;

(a) (vi) A copy of the consent of the county council under section 9 (1) of the Act to the council of the district being the local authority in the district for the purposes of the Act.

(*The particulars are set out on p.* 3764, *ante.*)

SMALL DWELLINGS ACQUISITION ACT, 1899.

INFORMATION TO BE FURNISHED TO THE MINISTRY OF HEALTH WITH APPLICATIONS FOR APPROVAL OF THE BORROWING OF MONEY.

1. Name of county borough . . . . .
2. Rateable value of county borough for purposes of the borough rate . . . . £

The following documents and information should be forwarded to the Ministry:

(a) (i) A memorial under the seal of the town council applying for the Ministry's approval of the borrowing of the money. The memorial (which should be on paper of foolscap size) should be accompanied by a copy of the notice given in pursuance of section 236 of the Municipal Corporations Act, 1882, endorsed with a certificate to the effect that the notice has been fixed to the town hall for one month prior to the date of the application and that the application itself has been open to public inspection during same period.

(ii) A statement, in the form of a balance sheet, of the annual expenses and receipts of the town council under the Act and showing the sum which would be equal to one penny in the pound upon the rateable value of the county borough; and

(iii) The information indicated on pages 2 and 3 of this form as regards each of the advances proposed to be made.

(*Here follows a Schedule similar to that appended to the preceding form.*)

SMALL HOLDINGS AND ALLOTMENTS.

THE SMALL HOLDINGS AND ALLOTMENTS (COSTS) RULES, 1910, DATED MARCH 5TH, 1910, MADE BY THE BOARD OF AGRICULTURE AND FISHERIES, WITH THE CONCURRENCE OF THE LORD CHANCELLOR, PURSUANT TO PARAGRAPH (6) OF PART I. OF THE FIRST SCHEDULE TO THE SMALL HOLDINGS AND ALLOTMENTS ACT, 1908.

THE following rules, and the scales of costs contained therein, shall apply to the allowance and taxation or determination as against a council of all costs and charges of a claimant in an arbitration under the First Schedule to the Act.

1. Where the compensation awarded by the arbitrator to the claimant does not exceed the sum specified in the first column of the Scale No. 1 herein contained, the sum payable to the claimant for his costs of the arbitration shall be the sum specified in the second column of such scale, which sum shall include and cover all disbursements, except for the attendances of witnesses, for which attendances the sums specified in the third column of such scale shall be allowed. No charge for briefs to, or attendance of, counsel shall be allowed.

2. Where the compensation awarded by the arbitrator exceeds the sum of three hundred pounds, but does not exceed the sum of five hundred pounds, the costs and

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(a) See note (c), *ante*, p. 3763.

Appendix II.

charges of the claimant in the arbitration shall be allowed, and (if necessary) taxed or determined, in accordance with the provisions of the Scale No. 2 herein contained, and no costs or charges other than those specified in such scale, or in accordance therewith, shall be allowed.

3. Where the compensation awarded by the arbitrator exceeds the sum of five hundred pounds, the costs and charges of the claimant in the arbitration shall be allowed, and (if necessary) taxed or determined, in accordance with the provisions of the Scale No. 3 herein contained, and no costs or charges other than those specified in such scale, or in accordance therewith, shall be allowed.

4. So much of the First Schedule to the Arbitration Act, 1889, as provides that the arbitrator may award costs to be paid as between solicitor and client, shall not apply to an arbitration to which these rules apply. In any case in which the arbitrator determines the amount of costs to be paid to the claimant in the arbitration, these rules and the scales herein contained, shall apply to and govern such determination of costs by the arbitrator.

5. These rules shall not apply to an arbitration in which an arbitrator has been appointed before the rules come into operation.

6. Nothing in these rules shall authorise an arbitrator to hear counsel or expert witnesses, except in such cases as the Board of Agriculture and Fisheries direct, and if counsel or expert witnesses are heard by an arbitrator without such direction, no costs shall be allowed in respect thereof.

7.—(1) If, having regard to the nature or importance of the case, the interests of the parties, the general conduct of the proceedings, and the skill, labour, and responsibility involved, the taxing officer shall on special grounds consider the costs or allowances provided by any of the scales inadequate, he may make such further or increased allowances as he shall in his discretion consider reasonable.

(2) The taxing officer may in any case where the owner or claimant is not represented by a solicitor on the arbitration make such allowance as he may consider reasonable towards the charges or expenses incurred by the owner or claimant in connection with the arbitration, but not exceeding in the aggregate the maximum amount which could otherwise have been allowed under the relevant scale.

8. These rules and the scales of costs contained herein shall not apply to the fees or remuneration properly payable to or charged by the arbitrator, which fees, if and when paid by the claimant, shall be recoverable by him from the party who is liable to pay the same.

9. In these rules and the scales of costs contained herein :

(1) " The Act " means the Small Holdings and Allotments Act, 1908.

(2) " The arbitrator " means an arbitrator appointed under the Act.

(3) " Taxing officer " includes the arbitrator when costs are determined by him,

(4) " Council " includes any Commissioner acting in default of a council.

10. These rules shall come into operation on the tenth day of March, 1910, and may be cited as the Small Holdings and Allotments (Costs) Rules, 1910.

SCALE No. 1.

Scale of fixed costs where the compensation awarded does not exceed £300.

Compensation Awarded.	Amount of Costs other than for Witnesses.			Costs of Attendance of Witnesses.		
	£	s.	d.	£	s.	d.
Any sum not exceeding fifty pounds	3	3	0	2	2	0
Any sum exceeding fifty pounds, but not exceeding one hundred pounds	5	5	0	3	3	0
Any sum exceeding one hundred pounds, but not exceeding three hundred pounds :—						
For every fifty pounds or part of fifty pounds exceeding one hundred pounds the following sums in addition to those prescribed for compensation which exceeds fifty pounds	2	2	0	1	1	0

SCALE No. 2.

Costs where the compensation awarded exceeds £300 but does not exceed £500.

(a) The amount payable to the claimant for the costs of the arbitration shall be the sum of £20, which sum shall include all charges and disbursements of every kind, except those hereinafter specially mentioned.

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*(b) In addition to the said sum of £20, there shall be allowed to the claimant the charges and expenses of one expert witness for qualifying and giving evidence as to the value of the claimant's lands, or interest in land, or the amount of compensation to which the claimant is entitled: which charges and expenses shall be taxed and allowed in accordance with the provisions of Scale 3, hereinafter contained.

*(c) If counsel is employed by the claimant, there shall be allowed to him, in addition, for preparing and delivering briefs to and obtaining the attendance of counsel, such fees as, having regard to all the circumstances of the case, the taxing officer shall think fit.

SCALE No. 3.

Scale of costs and allowance where the compensation exceeds five hundred pounds :—

	£	*s.*	*d.*
1. Instructions for claim and attendances on owner or claimant in respect thereof	1	1	0
2. Correspondence and attendance on the clerk to the council or council's solicitor thereon, including drawing and copy claim	1	1	0
* 3. Attending on each witness (of two witnesses) instructing him to qualify and subsequently perusing his report, or if the arbitrator is a surveyor on one witness only	0	13	4
4. Attending on the arbitrator and on the clerk to the council or council's solicitor arranging appointment for the day of hearing	0	13	4
5. Notice to each witness to attend	0	5	0
6. If a view is reasonably necessary attendances on the arbitrator and the clerk to the council or council's solicitor arranging for view	0	13	4
7. Attending view with them	3	3	0
8. Paid travelling expenses			
*9. If counsel employed, instructions to counsel to attend view	0	6	8
*10. Paid his fee and clerk	5	10	0
11. Instructions for attending before the arbitrator and to conduct the claimant's case	2	2	0
*12. If counsel employed in lieu of last item instructions for brief	2	2	0
*13. Drawing case and minutes of evidence, at per folio, 1*s.*; and if counsel attending, brief copy for counsel at per folio, 4*d.*			
*14. Paid counsel's fee			
*15. Attending him	0	6	8
*16. Paid counsel's conference fee	1	6	0
Ditto ditto (if a leader)	2	7	0
*17. Attending to appoint and on conference	1	0	0
18. Solicitor attending reference and conducting case, case completed on each side (solicitor and clerk)	5	5	0
19. If reference not held in town in which the solicitor carries on business, for hotel expenses of solicitor	1	1	0
Ditto ditto of clerk	0	15	0
(And for travelling expenses the sum actually paid.)			
20. If reference not concluded, for each subsequent day the same charges.			
*21. If counsel in attendance, solicitor attending each day on reference	3	3	0
22. And if not in solicitor's town, for hotel expenses (and travelling expenses actually paid)	1	1	0
*23. Paid witnesses (according to the scale of allowances in the Supreme Court Taxing Office).			
24. Drawing bill of costs and copy for taxing, at per folio, 8*d.*			
25. Copy for the clerk to the council or council's solicitor, at per folio, 4*d.*			
26. Notice of taxing	0	4	0
27. Attending taxing	0	13	4
28. Paid taxing (the fee payable in the Supreme Court Taxing Office on taxing costs).			
29. Letters and messengers	1	1	0
30. In agency cases for correspondence between solicitor and London agent	1	1	0

(L.S.) T. H. ELLIOTT,
Secretary of the Board of Agriculture and Fisheries.

I concur,
LOREBURN, *C.*
Dated the 5th of March, 1910.

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* See Rule 6 as to employment of counsel and expert witnesses.

Appendix II.

S. R. & O., 1919, No. 1197.

THE SMALL HOLDINGS AND ALLOTMENTS REGULATIONS, 1919, DATED SEPTEMBER 8TH, 1919, MADE BY THE BOARD OF AGRICULTURE AND FISHERIES UNDER THE SMALL HOLDINGS AND ALLOTMENTS ACTS, 1908 TO 1919.

The Board of Agriculture and Fisheries in exercise of the powers conferred by the Small Holdings and Allotments Acts, 1908 to 1919, do hereby make the following regulations:—

1.—(1) The consent of the Board of Agriculture and Fisheries is, under the Small Holdings and Allotments Acts, 1908 to 1919, or this regulation, required for the exercise by a county council of their powers under the said Acts to—

(1) purchase, hire, sell, mortgage or exchange land; or

(2) appropriate land under paragraph (*c*) of sub-section (1) of section 12 of the Land Settlement (Facilities) Act, 1919; or

(3) let any land for any greater interest than that of a tenancy from year to year, or let any land to an association; or

(4) erect, repair or improve dwelling-houses or other buildings on any land acquired by the council under the said Acts, or execute any other improvement on or in connection with or for the benefit of any such land, in any case where the cost of the erection, repairs, improvement or other work is intended by the council to be defrayed out of money borrowed by the council or out of capital money received by the council; or

(5) make an inclosure of common purporting to be made under an Order to which section 1 of the Land Settlement (Facilities) Act, 1919, applies; or

(6) determine the period within which any money borrowed by a council shall be repaid; or

(7) incur expenditure under section 49 of the Small Holdings and Allotments Act, 1908; or

(8) do any other act authorised by section 12 of the Land Settlement (Facilities) Act, 1919, to which by notice in writing given by the Board to the council the Board shall require that their consent shall be obtained.

(2) This regulation shall apply to the council of a county borough, in relation to the powers of the council in respect of small holdings, in the same manner as it applies to a county council.

S. R. & O., 1919, No. 1961.

THE LAND SETTLEMENT (ANNUITIES) REGULATIONS, 1919, DATED DECEMBER 31ST, 1919, MADE BY THE MINISTER OF HEALTH UNDER PARAGRAPH 10 OF SCHEDULE 1 TO THE LAND SETTLEMENT (FACILITIES) ACT, 1919.

The Minister of Health, in pursuance of the powers conferred on him by paragraph 10 of the First Schedule to the Land Settlement (Facilities) Act, 1919 (hereinafter referred to as "the Act of 1919"), and of all other powers enabling him in that behalf, hereby makes the following regulations with respect to annuities under section 9 of that Act:—

General.

1.—(1) These regulations may be cited as the Land Settlement (Annuities) Regulations, 1919.

(2) In these regulations, "the council" means the council of a county or the council of a county borough by whom an annuity is payable under the Act of 1919.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Register of Annuitants.

2.—(1) The council shall keep a register (hereinafter called the "Register of Annuitants") of all persons who are entitled to an annuity and to whom an annuity certificate has been issued under the Act of 1919.

(2) The register of annuitants shall contain the following particulars :—

(*a*) the name, address and description of each annuitant, a statement of the amount of the annuity to which he is entitled, and the number and date of the annuity certificate issued to him ;

(*b*) the date on which any annuity certificate issued to an annuitant was cancelled upon the redemption of the annuity or otherwise.

(3) The register of annuitants shall be open to public inspection at all reasonable times free of charge.

Annuity Certificates.

3.—(1) Every annuity certificate shall be in the form A contained in the First Schedule to these regulations or in a form substantially to the like effect.

(2) If an annuity certificate is worn out or damaged the council on delivery up thereof may issue a new certificate in the same terms to the person entitled to the annuity in respect of which the certificate was issued.

(3) If an annuity certificate is lost or destroyed the council on proof thereof to their satisfaction and on receiving an indemnity if they so require against the claims of all persons deriving title under the certificate lost or destroyed shall give a new certificate in the same terms to the person entitled to the annuity in respect of which the certificate was issued.

(4) Where two or more persons are jointly entitled to an annuity, only one annuity certificate shall be issued in respect thereof.

(5) Upon the redemption of any annuity by the council, the annuitant shall deliver to the council the annuity certificate relating to it, and the council shall thereupon cancel the annuity certificate.

Transfer of Annuities.

4.—(1) The transfer of an annuity or part of an annuity shall be by deed in the form B contained in the First Schedule to these regulations or in a form substantially to the like effect.

(2) Every deed of transfer shall be duly stamped and the consideration shall be truly stated therein.

(3) The deed of transfer shall be delivered to and retained by the council, and the council shall enter a memorial thereof in a book to be called "Register of Transfers of Annuities" and shall endorse on the deed of transfer a notice of that entry.

(4) The council shall, upon receipt of the deed of transfer duly executed, together with the certificate issued in respect of the annuity, enter the name of the transferee in the register of annuitants and shall issue a new certificate or certificates to the transferee, or to the transferor and transferee, as the case may require.

(5) Until the deed of transfer and the annuity certificate have been delivered to the council as aforesaid, the council shall not be affected by the transfer and the transferee shall not be entitled to receive any payment of the annuity.

(6) The council before registering a transfer of the whole or part of an annuity may, if they think fit, require evidence by statutory declaration or otherwise of the title of any person claiming to make the transfer.

Closing of Register of Transfers.

5. The council may close the register of transfers of annuities for a period not exceeding fifteen days immediately before the thirty-first day of March and the thirtieth day of September in any year respectively, and notwithstanding the receipt by the council during those periods of any deed of transfer of an annuity, the half-yearly payment next falling due may be made to the persons registered as annuitants on the date of the closing of the register of transfers of annuities.

Transmission of Annuities.

6.—(1) Any person becoming entitled to an annuity by reason of the death or bankruptcy of an annuitant or by any lawful means other than a transfer may, upon the production of such evidence of title as the council may require, either be registered as an annuitant in respect of the annuity or instead of being himself registered may make such transfer of the annuity as the annuitant could have made, and the council shall issue an annuity certificate accordingly.

(2) Until such evidence as aforesaid has been furnished to the council, the council shall not be affected by a transmission of the annuity and no person claiming by virtue thereof shall be entitled to receive any payment of the annuity.

(3) Where two or more persons are registered as annuitants in respect of one annuity, they shall be deemed to be joint owners with right of survivorship between them.

Fees.

7. Fees not exceeding those specified in the second schedule to these regulations may be taken by the council in the cases therein mentioned.

Sinking Fund for Redemption of Annuities and Repayment of Borrowed Money.

8.—(1) The council shall, as from the date on which an annuity is granted, make provision by payments out of the county fund or out of the borough fund and rate, as the case may be, for the formation of a sinking fund to be applicable to the redemption of the annuity and the repayment of any moneys borrowed by the council for the redemption of the annuity.

For the purposes of such sinking fund, the value of an annuity shall be deemed to be its capitalised value at twenty-five years' purchase, or such other number of years' purchase as may from time to time be approved by the Minister of Health after consultation with the Board of Agriculture and Fisheries.

(2) The sinking fund shall be formed and maintained by the payment to the fund of such equal yearly or half-yearly sums as with accumulations at a rate not exceeding three pounds ten shillings per centum per annum, or such other rate as may from time to time be approved by the Minister of Health, will be sufficient within the prescribed period to redeem the annuity and to repay any moneys borrowed for such redemption.

(3) The sums so paid to the sinking fund, together with the interest on the investments of the fund shall, unless applied in redemption of the annuity or the repayment of moneys borrowed for such redemption, be immediately invested in securities in which trustees are by law for the time being authorised to invest trust money, or in mortgages, bonds, debentures, debenture stock, stock, or other securities (not being securities payable to bearer) duly issued by any local authority as defined by section 34 of the Local Loans Act, 1875, but exclusive in every case of the securities of the council, the council being at liberty from time to time to vary and transpose such investments.

(4) The council may at any time apply the whole or any part of the sinking fund in or towards the redemption of the annuity, or the repayment of moneys borrowed for such redemption. Provided that the council shall pay into the fund each year or half-year (as the case may be) and accumulate a sum equal to the interest which would have been produced by such sinking fund or part of such sinking fund so applied if invested at the rate per centum per annum on which the yearly or half-yearly payments to the sinking fund are based.

(5) If in any year the income of the sinking fund is less than, or is in excess of, the income which would be derived from the amount invested if the same were invested at the rate per centum per annum on which the yearly or half-yearly payments to the fund are based, any deficiency shall be made good by the council, and any excess may be applied towards the yearly or half-yearly payments.

(6) In any year when the interest arising from the investments of the sinking fund is sufficient to pay the annuity and the interest payable by the council on moneys borrowed for its redemption, the council shall not be required to make any payment to the sinking fund, and the interest on the investments of the fund may be applied in payment of the annuity or of the interest payable by the council on moneys borrowed as aforesaid.

(7) Any expenses connected with the formation, maintenance, investment, application, management of or otherwise in relation to the sinking fund, shall be paid by the council in addition to the payments hereinbefore provided for.

(8) "The prescribed period" means such period not exceeding eighty years

from the date of the grant of the annuity as the council (subject to the provisions of section 15 of the Act of 1919) with the sanction of the Minister of Health shall determine.

Return respecting Sinking Fund to the Minister of Health

9. Once in every year, within 42 days after the thirty-first day of March, if during the twelve months next preceding any sum is required to be paid to a sinking fund formed in pursuance of these regulations, the clerk to the council shall send to the Minister of Health an abstract of the accounts of the council relating thereto in such form as the said Minister may prescribe or require.

SCHEDULES.

FIRST SCHEDULE.

A. *Form of Certificate of Annuity.*

No________ £__________

By virtue of the Land Settlement (Facilities) Act, 1919, the council of the county of [mayor, aldermen and burgesses of the borough of] (hereinafter called the council) do hereby certify that of [is] under and subject to the provisions of that Act entitled to an annuity of , charged on and issuing out of the county fund of the said county [borough fund and borough rate of the said borough], which annuity is payable to the said [his] executors, administrators and assigns, clear of all deductions (except for income tax), by equal half-yearly payments on the thirty-first day of March and the thirtieth day of September in each year.

The annuity in respect of which this certificate is issued is redeemable by the council at any time upon the council giving to the annuitant one month's notice of their intention to redeem the annuity and upon payment of such sum as may be agreed, or in default of agreement, such sum as would, according to the average price at the date of the expiration of the notice of such Government securities as may for the time being be prescribed by the Treasury, yield annual dividends equal to the amount of the annuity.

Given under the Common Seal of the county council of [mayor, aldermen and burgesses of the borough of], this day of , one thousand nine hundred and .

(L.S.) ________________________, Chairman [Mayor].

________________________, Clerk [Town Clerk].

B. *Form of Transfer of Annuity.*

I, , of , in consideration of the sum of £ , paid to me by , of , do hereby transfer to (hereinafter called the transferee), an annuity of £ , being [the whole] [part] of an annuity of £ granted by the council of the county of [mayor, aldermen and burgesses of the county borough of], under the Land Settlement (Facilities) Act, 1919, in respect whereof the said council have issued the certificate numbered , and all my right and interest therein and thereto, to hold unto the transferee, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof, and I, the transferee, do hereby agree to take the said annuity of £ subject to the same conditions.

As witness our hands and seals this day of , one thousand nine hundred and .

Witness to the signature of the said __________ ________________________, L.S.

Witness to the signature of the said __________ ________________________, L.S.

SECOND SCHEDULE.

Fees to be taken by the Council.

	s.	d.
On transfer or transmission, including certificate	2	6
On any new annuity certificate issued under paragraph (2) or (3) of Article 3 of these regulations	2	6
On the taking of an indemnity in respect of a lost annuity certificate	10	0

MINISTRY OF AGRICULTURE AND FISHERIES.

MODEL RULES FOR THE COUNCILS OF BOROUGHS AND URBAN DISTRICTS AS TO ALLOTMENTS.

The making of rules by a borough or district council under section 28 of the Small Holdings and Allotments Act, 1908, is optional. Such rules require to be confirmed by the Minister of Agriculture and Fisheries before they can be of any force.

Any council proposing to make rules should submit a draft copy to the Ministry; a copy of the model rules can be used for this purpose. Where it is proposed to make alterations of any importance it may save time and correspondence if the circumstances are explained when the draft is submitted.

In considering the model rules, it should be remembered that the application of the rules is not limited to land already acquired for allotments. For this reason, although some of the provisions in the rules may seem to be unnecessary or inappropriate to the land already acquired, it may, nevertheless, be desirable to include them.

In the case of very small allotments it may be found convenient to dispense with a written agreement and rely on section 28 (4) of the Act of 1908, which provides that rules for the time being in force under that section shall be binding on all persons whatsoever. For this reason it is desirable that the rules should cover, as far as possible, all matters which would be dealt with by written agreements for letting allotments.

Provisions as to Market Garden Improvements.

When the use of the land for market-gardening is reasonable, the Ministry thinks no obstacle should be thrown in the way of such use, provided that terms as to compensation are arranged which are equitable as between tenant and council, having regard to all the circumstances of the case and in particular to the extent of the council's interest in the land.

Under section 47 of the Small Holdings and Allotments Act, 1908, the tenant of an allotment has a right to compensation at the end of his tenancy for—

(1) planting of standard or other fruit trees permanently set out;
(2) planting of fruit bushes permanently set out;
(3) planting of strawberry plants;
(4) planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years;

unless such improvements are expressly prohibited by the council in writing and such prohibition is not over-ruled by the Minister under sub-section (1) *of that section.* The compensation is based on the value to a hypothetical tenant, which might be considerably in excess of the value to the council or the actual incoming tenant.

If the allotment is by written agreement "let or treated as a market garden" and there is no provision in the lease prohibiting the erection or enlargement of buildings for the purpose of the trade or business of a market gardener, the tenant could not be prevented from carrying out such improvements and claiming compensation from the council (*see* sec. 42 of the Agricultural Holdings Act, 1908 (*a*)).

The right of the council to claim against their landlord for these improvements is regulated by section 42 of the Agricultural Holdings Act, 1908 (*a*), and section 47 (2) of

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(*a*) Now repealed and re-enacted in s. 48 of the Agricultural Holdings Act, 1923 (13 & 14 Geo. 5, c. 9). See note (*a*) to s. 47 of the 1908 Act, *ante*, p. 1178.

the Small Holdings and Allotments Act, 1908, as amended by the Land Settlement (Facilities) Act, 1919 (*see* sec. 23 and second schedule), and accordingly councils must contemplate the possibility of their right to claim being excluded, or limited to the actual value to the landlord, which in the case of land ripe for building might be insignificant.

The Ministry recognises that councils who allow their tenants to grow market garden crops must take precautions to prevent their having to pay large sums in compensation to their tenants, which they may be unable to recover. Model rule 8 has therefore been drawn up with the view of allowing reasonable freedom to the tenant while at the same time protecting the council from any serious loss for the payment of compensation. The advisability of including this rule should be considered if there is any likelihood of the allotments or any of them being used for growing market garden crops.

SMALL HOLDINGS AND ALLOTMENTS ACTS, 1908 TO 1919.

RULES.

Made by the (*a*)
with respect to allotments for the (*b*)

Interpretation of Terms.

1. Throughout these rules the expression "the council" means the (*a*)
and includes any allotment managers appointed by the council under the Small Holdings and Allotments Act, 1908 to 1919.

Definition of the persons eligible to be tenants of the Allotments.

2. Any man or woman who at the time of application to the council for an allotment is resident in the (*c*).
shall be eligible to become a tenant of an allotment, subject to the statutory provision that one person shall not hold allotments acquired under the above-mentioned Acts exceeding five acres.

Division of the land into Allotments.

3. The council, before giving notice of their intention to let any land for allotments shall divide the land, and shall cause a plan to be prepared showing each allotment, and distinguishing it by a separate number.

Notices to be given for the letting of the Allotments.

4. The council shall give public notice by bills or placards, posted in some conspicuous places in the (*d*).
or otherwise exhibited therein, setting forth the particulars as to any allotments which they propose to let.

Such notice shall specify the allotments to be let and the size thereof, the rent to be paid for the same, the name and address of the clerk to the council to whom applications for the hiring of an allotment or for forms of application are to be sent, and the last day for receiving an application for an allotment.

If any special condition is to apply to the allotments, or any of them, the notice shall specify such condition, or state where copies of the Form of Agreement for Letting of such allotments may be seen.

If the tenant is to pay for tenant right or compensation for improvements this fact and the amount if then ascertained shall be stated in the notice.

(*a*) Insert "Mayor, Aldermen and Burgesses of the Borough of acting by the Council" or "Urban District Council of."

(*b*) Insert "said Borough" or "said Urban District."

(*c*) Insert "Borough" or "District."

(*d*) Insert "Borough" or "District."

Appendix II.

Rules as to the letting of the Allotments, and for preventing any undue preference in the letting thereof.

5. The council shall not let any allotment unless and until notice that they propose to let the same has been duly given in pursuance of the rule in that behalf at least two weeks before the last day for receiving an application for such allotment.

Every application for an allotment shall be in the Form appended to these rules, and shall be sent or delivered to the clerk to the council.

In letting an allotment for which there are two or more applicants eligible to become tenants and likely to keep the allotment in a proper state of cultivation, preference shall be given to an applicant who does not hold an allotment or agricultural land (other than a garden of 20 poles or less attached to his residence) either from the council or otherwise over an applicant who does hold such land but subject to such preference the tenant shall be determined by the drawing of lots by the council. A quitting tenant of land shall for the purposes of this rule be treated as not holding that land.

Agreements for letting Allotments.

6. An agreement to let an allotment to an applicant may be signed by the clerk to the council on behalf of the council, and may be in the form set out in the schedule to these rules.

General Conditions under which Allotments are to be cultivated.

7. The tenant of an allotment shall comply with the following conditions :—

(1) He shall keep the allotment clean and in a good state of cultivation and fertility and in good condition.

(2) He shall not cause any nuisance or annoyance to the occupier of any other allotment, or obstruct any path set out by the council for the use of the occupiers of the allotments.

(3) He shall not underlet, assign, or part with the possession of the allotment or any part of it without the written consent of the council.

(4) He shall not without the written consent of the council cut or prune any timber or other trees, or take, sell, or carry away any mineral, gravel, sand, or clay.

(5) He shall keep every hedge that forms part of the allotment properly cut and trimmed, keep all ditches properly cleansed, and shall maintain and keep in repair any other fences and any gates on the allotment.

(6) He shall not without the written consent of the council erect any building on the allotment.

(7) He shall not without the written consent of the council break up any pasture.

(8) He shall not use barbed wire for a fence adjoining any path set out by the council for the use of occupiers of the allotments.

(9) He shall, as regards the allotment, observe and perform all conditions and covenants contained in the lease under which the council hold the land.

(10) He shall observe and perform any other special condition which the council consider necessary to preserve the allotment from deterioration, and of which notice to applicants for the allotment is given in accordance with these rules.

Special Rule as to Market Garden Improvements.

8. Except where it is otherwise expressly agreed in writing, an allotment shall be held subject to the following conditions, which shall be endorsed on the agreement for letting the allotment :—

(1) The allotment shall not be let or treated as a market garden, but if the tenant executes any of the following improvements (*a*), *viz.* :—

(*a*) Any one or more of these improvements may be omitted as regards a particular tenancy.

(*a*) planting of standard or other fruit trees permanently set out;
(*b*) planting of fruit bushes permanently set out;
(*c*) planting of strawberry plants;
(*d*) planting of asparagus, rhubarb, and other vegetable crops which continue productive for two or more years;

he shall on the determination of the tenancy be entitled to receive from the council such sum as fairly represents the increase (if any) in value of the allotment to the council due to these improvements having regard particularly to the then unexpired term of the lease (if any) under which the land is held by the council.

(2) The tenant may in lieu of claiming compensation for any fruit or other trees or bushes planted or acquired by him remove the same before the determination of the tenancy, levelling the surface of the land and restoring the same to a proper state and condition and making good any damage caused by the removal.

(3) For the purpose of protecting the council from claims for compensation for the under-mentioned improvements, other than such compensation as is provided by paragraph (1), the following improvements are to be treated as prohibited for the purpose of section 47 of the Small Holdings and Allotments Act, 1908, *viz.*:—

(*a*) planting of standard or other fruit trees permanently set out;
(*b*) planting of fruit bushes permanently set out;
(*c*) planting of strawberry plants;
(*d*) planting of asparagus rhubarb and other vegetable crops which continue productive for two or more years.

Payment of Rent.

9. The rent of an allotment shall, unless otherwise agreed in writing, be paid half-yearly [quarterly] on the [*insert dates*] in each year.

Power to inspect Allotments.

10. Any member or officer of the council shall be entitled at any time when directed by the council to enter and inspect an allotment.

Determination of a tenancy of an Allotment.

11. The tenancy of an allotment shall, unless otherwise agreed in writing, determine on the half-yearly [quarterly] rent day next after the death of the tenant, and shall also determine when the tenancy of the council determines.

The tenancy may also be determined by one month's notice in writing given by the council under section 30 of the Small Holdings and Allotments Act, 1908—

(1) if the rent is in arrear for not less than 40 days after demand made for its payment; or
(2) if the council is satisfied that, not less than three months after the commencement of the tenancy—
  (*a*) the tenant is not keeping the allotment clean and in a good state of cultivation and fertility and in good condition; or
  (*b*) the tenant has failed to comply within a reasonable time with any notice in writing by the council served on the tenant requiring him to remedy any breach of or failure to comply with these rules; or
  (*c*) the tenant is resident more than one mile out of the (*a*).

The tenancy may also be determined by the council or the tenant at the end of any year of the tenancy by 12 months' notice in writing.

Application of these Rules.

12. These rules shall not apply to any land let to an association or to any allotment which the council, under special circumstances to be recorded in their minutes, may

(*a*) Insert "Borough" or "District."

Appendix II. exempt from these rules, but shall apply, except as aforesaid, to an allotment though held under a tenancy made before these rules come into operation, but not so as to affect any right to compensation for an improvement executed before these rules come into operation.

FORM OF APPLICATION FOR ALLOTMENTS.

* * * * * *

SCHEDULE.

Form of Agreement for Letting.

Agreement made this day of 19 , between the (*a*) (hereinafter called the council) of the one part, and of (hereinafter called the tenant) of the other part, whereby the said council agrees to let, and the tenant agrees to hire as a yearly tenant from the day of 19 , the allotment[s] numbered in the register of allotments provided by the council and containing or thereabouts [(*b*) subject to the exceptions and reservations contained in the lease under which the council hold the land] at the yearly rent of payable *half-yearly* and at a proportionate rent for any part of a year over which the tenancy may extend.

The tenancy is subject to the Allotment Rules made by the council and in particular to the following conditions :—

(*a*) The rent shall be paid (*c*) on the day of , the day of [the day of and the day of] in each year.

(*b*) The tenancy of an allotment shall, unless otherwise agreed in writing, determine on the half-yearly [quarterly] rent day next after the death of the tenant, and shall also determine when the tenancy of the council determines.

The tenancy may also be determined by one month's notice in writing given by the council under section 30 of the Small Holdings and Allotments Act, 1908 :—

(1) If the rent is in arrear for not less than forty days after demand made for its payment ; or

(2) If the council is satisfied that, not less than three months after the commencement of the tenancy—

(*a*) The tenant is not keeping the allotment clean and in a good state of cultivation and fertility and in good condition ; or

(*b*) The tenant has failed to comply within a reasonable time with any notice in writing by the council served on the tenant requiring him to remedy any breach of or failure to comply with these rules ; or

(*c*) The tenant is resident more than one mile out of the (*d*) .

The tenancy may also be determined by the council or the tenant at the end of any year of the tenancy by twelve months' notice in wiriting.

Signed

Clerk to the Council.

Witness

Signed

Tenant.

Witness

[*Any special conditions affecting the allotment are to be endorsed on the agreement.*]

(*a*) Insert " Town Council for the Borough of ," or " Urban District Council of ."

(*b*) Omit words in brackets if inapplicable.

(*c*) Unless the rent is 20*s*. or less, not more than one quarter's rent shall be required to be paid in advance.

(*d*) Insert " Borough " or " District."

SMALL HOLDINGS AND ALLOTMENTS ACTS, 1908 TO 1919, AND ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919.

MINISTRY OF AGRICULTURE AND FISHERIES (MAY 29TH 1920).

General direction as to the hearing of one expert witness on either side by the Official Arbitrator.

WHEREAS it is provided in paragraph (5) of Part I of the first schedule to the Small Holdings and Allotments Act, 1908, that at any arbitration held under that schedule the arbitrator shall not, except in such cases as the Minister of Agriculture and Fisheries otherwise directs, hear expert witnesses.

And whereas the Acquisition of Land (Assessment of Compensation) Act, 1919, which amends the law as to the assessment of compensation in respect of land acquired compulsorily under the said recited Act provides that in any proceedings before an arbitrator not more than one expert witness on either side shall be heard unless the official arbitrator otherwise directs, subject to a proviso allowing additional expert witnesses in certain cases.

Now the Minister of Agriculture and Fisheries hereby directs that in any arbitration on the compulsory acquisition of land under the Small Holdings and Allotments Acts, 1908 to 1919, one expert witness on either side may be heard unless the arbitrator otherwise directs.

And further that, where the claim includes a claim for compensation in respect of minerals, or disturbance of business, as well as in respect of land, one additional expert witness on either side on the value of the minerals, or, as the case may be, on the damage suffered by reason of the disturbance, may be heard.

S. R. & O., 1922, No. 1056.

THE SMALL HOLDINGS AND ALLOTMENTS (COMPULSORY PURCHASE) REGULATIONS, 1922, DATED SEPTEMBER 26TH, 1922, MADE BY THE MINISTER OF AGRICULTURE AND FISHERIES UNDER THE SMALL HOLDINGS AND ALLOTMENTS ACTS, 1908 TO 1919, AND THE ALLOTMENTS ACT, 1922.

The Minister of Agriculture and Fisheries in pursuance of the provisions of the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922, hereby makes the following regulations :—

Orders for Compulsory Purchase.

1. A compulsory order for purchase made by a council shall be in the form set forth in the Appendix to these regulations or to the like effect ; provided that an Order if submitted to the Minister of Agriculture and Fisheries (in these regulations referred to as " the Minister ") for confirmation may be modified by the Minister after notice of the intended modification to the council and to those persons interested in the land who, in the opinion of the Minister, would be affected thereby, and after consideration of any objection thereto presented to the Minister within the time prescribed by such notice.

2. Notice of the making of an Order for compulsory purchase to which section one of the Land Settlement (Facilities) Act, 1919, as amended by section 8 (1) of the Allotments Act, 1922, applies shall be given as soon as practicable to each owner, lessee and occupier of the land authorised to be acquired. The notice shall be accompanied by a copy of the Order (except any plan annexed or referred to therein) and shall state the place where a copy of any plan annexed or referred to in the Order an be obtained free of charge by any person interested in the land.

3.—(1) When a council propose to purchase land compulsorily under an Order which requires confirmation by the Minister under the Small Holdings and Allotments Acts, 1908 to 1919, the council, not less than one calendar month before they submit the Compulsory Order to the Minister, shall publish the Order by means of a notice, containing such particulars as are prescribed by this regulation, inserted as an advertisement in one or more newspapers circulating in the locality, and by furnishing a copy of the Order (except any plan annexed to or referred to in the Order) free of

Appendix II. charge to any person interested in the land who shall apply for the same. The council shall also give notice of the Order, containing such particulars as are required by this regulation, to the Minister and to each owner, lessee, and occupier of the land proposed to be purchased, or to such of them as shall be known to the council.

(2) Every notice under this regulation shall contain the following particulars :—

(*a*) the purpose for which the land is proposed to be purchased ;

(*b*) the quantity, description and situation of the land and the names of the reputed owners, lessees, and occupiers thereof ;

(*c*) the place where copies of the Order (except any plan annexed to or referred to in the Order) may be obtained free of charge by any person interested in the land ;

(*d*) the place where the plan (if any) annexed to or referred to in the Order may at all reasonable times, until the Order is submitted to the Minister, be inspected by or on behalf of any person interested in the land.

(3) Every notice shall also state that any objection must be presented to the Minister, and every notice sent to an owner, lessee or occupier shall state the period within which an objection by him may be so presented in accordance with these regulations. A notice may also state that a copy of every objection should be sent to the clerk to the council.

(4) If the council is a county council acting on behalf of a parish council or parish meeting the notice shall so state and give the name of the parish.

4. The period within which an objection to a compulsory Order may, under the preceding regulation, be presented to the Minister by a person interested in the land to which the Order relates shall be the period of one calendar month from and after the date on which notice of the Order is sent to him, or if no notice is sent to him in that case from and after the date of the latest advertisement of a notice of the Order.

5. Notice of the confirmation of the Order shall be given by the council as soon as practicable to each owner, lessee, and occupier of the land authorised to be purchased, and a copy of the Order and of any plan annexed to or referred to in the Order, shall be furnished by the council to any person interested in the land on application by such person.

6.—(1) Every notice required to be given by the council to an owner or other person interested in land proposed or authorised to be purchased, shall either be served personally on such person or sent by post to or left at his usual place of abode in the United Kingdom, if any such can after diligent inquiry be found, and in case any such person shall be absent from the United Kingdom or cannot be found after diligent inquiry, shall be sent by post to or left with any agent ordinarily receiving the rents of the land on behalf of such person, and a copy thereof shall also be sent by post to or left with the occupier of the land to which such notice relates, or, if there be no such occupier, shall be affixed upon some conspicuous part of such land.

(2) If an owner or other person interested be a corporation aggregate, such notice shall be sent by post to or left at the principal office of business of such corporation, or if no such office can after diligent inquiry be found, shall be sent by post to or served on some principal officer, if any, of such corporation.

7. Where a council propose to purchase compulsorily the estate and interest of a lessee only, the Order shall so state, and these regulations shall apply with the necessary modifications.

8. In these regulations, unless the context otherwise requires—

" Owner " in relation to any land proposed or authorised to be purchased means the person who by himself or his agent is in actual possession, or receipt of the rents or profits, of the land (except a lessee) and that without regard to the real amount of interest of such person ;

" Lessee " includes a tenant holding under an agreement for a lease ;

" Compulsory Order " means an Order under the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922, which authorises land to be compulsorily purchased ;

" Land " includes stints and other alienable common rights of grazing.

9. These regulations shall apply to a compulsory purchase by the small holdings commissioners acting in default of a council or by the Minister with the substitution of those commissioners or the Minister, as the case may be, for the council.

Appendix II.

10. The regulations as to compulsory purchase made by the Board of Agriculture and Fisheries on the 8th day of September, nineteen hundred and nineteen, are hereby revoked but not so as to affect any Order made before the date of these regulations.

APPENDIX.

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S. R. & O., 1922, No. 1057.

THE SMALL HOLDINGS AND ALLOTMENTS (COMPULSORY HIRING) REGULATIONS, 1922, DATED SEPTEMBER 26TH, 1922, MADE BY THE MINISTER OF AGRICULTURE AND FISHERIES UNDER THE SMALL HOLDINGS AND ALLOTMENTS ACTS, 1908 TO 1919, AND THE ALLOTMENTS ACT, 1922.

The Minister of Agriculture and Fisheries, in pursuance of the provisions of the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922, does hereby make the following regulations :—

PART I.

Orders for Compulsory Hiring.

1. A Compulsory Order for hiring made by a council shall be in the form set forth in the appendix to these regulations or to the like effect ; provided that an Order if submitted to the Minister for confirmation may be modified by the Minister after notice of the intended modification to the council and to those persons interested in the land who, in the opinion of the Minister, would be affected thereby, and after consideration of any objection thereto presented to the Minister within the time prescribed by such notice.

2. Notice of the making of an Order for compulsory hiring to which section one of the Land Settlement (Facilities) Act, 1919, as amended by section 8 (1) of the Allotments Act, 1922, applies shall be given as soon as practicable to each owner, lessee and occupier of the land authorised to be acquired. The notice shall be accompanied by a copy of the Order (except any plan annexed or referred to therein) and shall state the place where a copy of any plan annexed or referred to in the Order can be obtained free of charge by any person interested in the land.

3.—(1) When a council propose to hire land compulsorily under an Order which requires confirmation by the Minister under the Small Holdings and Allotments Acts, 1908 to 1919, the council, not less than one calendar month before they submit the Order to the Minister, shall publish the Order by means of a notice containing such particulars as are prescribed by this regulation, inserted as an advertisement in one or more newspapers circulating in the locality and by furnishing a copy of the Order (except any plan annexed to or referred to in the Order) free of charge to any person interested in the land who shall apply for the same. The council shall also give notice of the Order containing such particulars as are required by this regulation, to the Minister and to each owner, lessee, and occupier of the land proposed to be hired, or to such of them as shall be known to the council.

(2) Every notice under this regulation shall contain the following particulars :—

- (*a*) the purpose for which the land is proposed to be hired ;
- (*b*) the quantity, description, and situation of the land and the names of the reputed owners, lessees, and occupiers thereof ;
- (*c*) the number of years (with a part of a year, if so desired), for which the land is proposed to be hired ;
- (*d*) the place where copies of the Order (except any plan annexed to or referred to in the Order) may be obtained free of charge by any person interested in the land ;
- (*e*) the place where the plan (if any) annexed to or referred to in the Order may at all reasonable times until the Order is submitted to the Minister be inspected by or on behalf of any person interested in the land.

(3) Every notice shall also state that any objection must be presented to the Minister, and every notice sent to an owner, lessee or occupier shall state the period

within which an objection may be so presented in accordance with these regulations. A notice may also state that a copy of every objection should be sent to the clerk to the council.

(4) If the council is a county council acting on behalf of a parish council or parish meeting the notice shall so state and give the name of the parish.

4. The period within which an objection to a Compulsory Order may, under the preceding regulation, be presented to the Minister by a person interested in the land to which the Order relates shall be the period of one calendar month from and after the date on which notice of the Order is sent to him, or if no notice is sent to him, in that case from and after the date of the latest advertisement of a notice of the Order.

5.—(1) Notice of the confirmation of the Order shall be given by the council as soon as practicable to each owner, lessee, and occupier of the land authorised to be hired, and a copy of the Order, and of any plan annexed to or referred to in the Order, shall be furnished by the council to any person interested in the land on application by such person.

(2) Upon the application of any person interested in the land authorised to be hired, or in the interest of an existing tenant which will or may be extinguished by the compulsory hiring, the Order shall be so framed as to make such provision as is necessary for securing the interest of any party other than the owner or existing tenant in any compensation payable in respect of the compulsory hiring, and for that purpose there may be incorporated in the Order, with such adaptations as are required, any of the provisions of the Lands Clauses Consolidation Act, 1845, which relate to compensation coming to parties having limited interests.

PART II.

Procedure for Enforcing Compulsory Hiring Order.

6.—(1) When the council require to hire compulsorily any land authorised to be hired by a Compulsory Order, they shall give notice to that effect to the owner of such land, and to any existing tenant thereof, or to such of the said parties as shall, after diligent inquiry, be known to the council, and by such notice shall demand from such parties the particulars of their estate and interest in such land, in so far as such particulars are required in order to ascertain the owner thereof and the interests of the existing tenants (if any); and every such notice shall state the particulars of the land required to be hired, and the term for which the council are authorised to hire the same, and that the council are willing to treat for the hiring thereof. The council shall in every such notice state a date consistent with the terms of the Order on which they require that the tenancy of the council shall commence.

(2) Where the owner is a tenant the council shall also give notice to the person in receipt of the rent reserved under the lease under which the owner holds as tenant that they require to hire compulsorily the lands specified in such notice.

(3) Where the land is authorised to be hired for the purpose of providing allotments or allotment gardens, the notices referred to in this regulation must be served within three calendar months after the date of the Order or where confirmation of the Order is necessary then after the date of the confirmation thereof.

7. On receipt of the particulars of the interest of an existing tenant, the council shall within twenty-one days give notice to the tenant, stating whether the council desire to extinguish the interest of such tenant or to hire the land subject to such interest, and if the council fail to give such notice they shall be deemed to desire to extinguish the interest of the tenant. Any interest of an existing tenant which is extinguished under the powers conferred by a Compulsory Order shall be extinguished upon, and by reason of, the commencement of the tenancy of the council.

8.—(1) An existing tenant whose interest in the land is extinguished upon, and by reason of, the commencement of the tenancy of the council shall be entitled to recover from the council compensation for the value of his interest in the land and for any just allowance which ought to be made to him by an incoming tenant, and for any loss or injury which the existing tenant may sustain.

(2) If any person claim compensation in respect of any unexpired term or interest under any lease of lands by the Order authorised to be hired, the council may require such person to produce the lease in respect of which such claim is made, or sufficient

evidence thereof, and if, after demand made in writing by the council, such lease, or such evidence thereof, be not produced within twenty-one days, the party so claiming compensation shall be considered as a tenant holding only from year to year, and be entitled to compensation accordingly.

9. If the owner of land authorised by a Compulsory Order to be hired is unable, except under powers conferred by these regulations, to lease the land for the term and on the conditions for and on which the council are so authorised to hire the land, the rent to be paid by the council shall be determined, as in default of agreement, under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922.

10. If an existing tenant is unable, except under powers conferred by these regulations, to dispose of the interest created by the lease under which he holds and to give an absolute discharge for the compensation for such interest, the amount payable by the council to the existing tenant or any person claiming through him in respect of such interest or in respect of improvements executed on the land or otherwise, and, where part only of the holding is hired, the rent to be paid for the residue of the holding during the remainder of the term for which the holding is held, shall be determined, as in default of agreement, in manner provided by the preceding regulation.

11. If the council cannot after diligent inquiry ascertain the owner or existing tenant, or if for twenty-one days after the giving of such notice to treat to the owner or existing tenant as is required by these regulations, he fail to state the particulars demanded by the notice or fail to treat with the council in respect of his interest, or if the owner or the existing tenant do not agree with the council as to any matter which, under paragraph (3) of Part II. of the first schedule to the Act of 1908 is in default of such agreement to be determined as therein provided, the council may require that the rent, compensation or other matter to be determined shall be determined in manner provided by the Acquisition of Land (Assessment of Compensation) Act, 1919, and the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922.

12. If the land authorised to be compulsorily hired is held by the owner subject to any reservation or exception or easement from which the council require that the land when leased to the council shall be exonerated during the existence of the lease, any person injuriously affected by the exoneration of the land from such reservation or exception or by the extinguishment of the easement effected by the lease to the council shall be entitled to recover compensation for the injury from the council, and the amount of the compensation shall in default of agreement between such person and the council be determined under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922.

13. In determining the rent to be paid by the council for land authorised to be compulsorily hired the interest of any existing tenant and the existence of any reservation or exception or easement affecting the land shall be taken into consideration, and the land shall be valued as subject to such interest, reservation, exception, or easement.

14.—(1) In determining the rent to be paid for land authorised to be compulsorily hired regard shall be had by the arbitrator not only to the value of the land to be hired, but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of such owner, or by reason of such other land being otherwise injuriously affected by the exercise of the powers conferred on the council by the Compulsory Order, the Small Holdings and Allotments Acts, 1908 to 1919, or by the Allotments Act, 1922.

(2) Every existing tenant shall be entitled to receive from the council compensation for the damage done to him in his tenancy by reason of the severance of the land to be hired from land which is held by such tenant and is not required to be hired.

15.—(1) If the land authorised to be compulsorily hired is land of copyhold or customary tenure which cannot be leased by the owner for such a lease as is authorised by the Compulsory Order except with a licence of the lord of the manor of which the land is held, and the owner shall not obtain such licence before the execution of the lease, this shall be taken into consideration in determining the rent payable by the council, and the lord of the manor shall be entitled to recover compensation from the

Appendix II.

council for any loss sustained by reason of the lease being under these regulations made valid and effectual without a licence, and the amount of the compensation shall in default of agreement between the lord and the council be determined under and in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, and the Small Holdings and Allotments Acts, 1908 to 1919, and the Allotments Act, 1922.

(2) Every such lease shall be entered on the rolls of the manor in every case in which by the custom of the manor such a lease granted with the licence of the lord is required to be so entered; and the steward of the manor shall cause such lease to be so entered, and shall give to the council a certificate of such entry on payment to such steward of the accustomed fees, or, if there be no accustomed fees, on payment of such sum as may in default of agreement be adjudged by a Court of Summary Jurisdiction on the application of such steward or the council, to be payable in respect of such entry.

16.—(1) As soon as the amount of the rent to be paid by the council for the land proposed to be compulsorily hired, and the amount of any other compensation to be paid by the council to any person entitled thereto in respect of the land or any interest therein, or in respect of improvements executed on the land or otherwise, have been determined, so far as the same can be determined before the tenancy of the council commences, the owner shall on the application of the council execute a lease of the land in accordance with the Order, subject only to the interest of any existing tenant which the council have given notice that they do not desire to extinguish, and to any reservation, exception, or easement subject to which the land is to be hired, and if the owner refuses or after notice in writing by the council fails within one month, to execute the lease, or if the owner of the land cannot after diligent inquiry be ascertained by the council, the council shall execute the lease in duplicate, and shall forward one copy to the owner, if he can be found, and a lease so executed shall take effect as if it had been duly executed by the owner.

(2) A lease executed by the owner, or by the council under this regulation, shall be binding on and enure for the benefit of all persons interested in the land hired, and shall not cause any forfeiture of the land, or of any land held therewith or create any right of entry on any such land, or any right of action for breach of a covenant not to assign, or like covenant.

17. The lease to the council shall, when executed in accordance with these regulations, and subject as hereinafter provided, take effect as from the date specified by the council in the notice to treat given by the council to the owner of the land, and in such case the council shall on the date so specified be entitled to enter on the land, subject to the interest of any existing tenant which is not to be extinguished by the hiring;

Provided that this regulation is subject to the power of the council under subsection (8) of section 39 of the Act of 1908 to withdraw such notice to treat.

18.—(1) Costs reasonably incurred by the owner in connection with the preparation and execution of the lease and any counterpart and costs reasonably incurred by the owner or an existing tenant in furnishing any particulars of his estate and interest required by notice under these regulations, or otherwise required by the council, shall be paid by the council to the owner or tenant as the case may be.

(2) If the council and the party entitled to any such costs do not agree as to the amount thereof, such costs shall be taxed by one of the taxing masters of the High Court, upon an Order of the Court to be obtained upon petition in a summary way by either of the parties; and the council shall pay what the said master shall certify to be due in respect of such costs to the party entitled thereto, or in default thereof the same may be recovered in the same way as any other costs payable under an Order of the Court, and the expense of taxing such costs shall be borne by the council unless upon such taxation one-sixth part of the amount of such costs be disallowed, in which case the costs of such taxation shall be borne by the party whose costs shall be so taxed, and the amount thereof shall be ascertained by the said master, and deducted by him accordingly in his certificate of such taxation.

19. If in any case the council are authorised by a Compulsory Order and these regulations to enter upon and hold any land authorised to be compulsorily hired, and the owner or occupier of any such lands or any other person refuses to give up the possession thereof, or hinders the council from entering upon the same, a court of summary jurisdiction, on complaint made by the council, may require the owner or

occupier of such land or other person to deliver possession of the same to the council or permit them to enter thereon ; and any Order made under these provisions may be enforced as provided by section 34 of the Summary Jurisdiction Act, 1879.

20. The arbitrator shall within one month after his appointment, or within such extended time as the Minister shall allow, make and sign a determination of all matters referred to him for determination which are in his opinion capable of being ascertained at the date of the determination, and shall within one month after the commencement of the tenancy of the council, or within such extended time as the Minister shall allow, make and sign a determination of all matters referred to him for determination which are not determined by the previous determination.

21. Every determination made by an arbitrator shall be duly stamped by him and sent as soon as possible to the council and a copy shall at the same time be sent to the owner and any existing tenant affected by the determination.

22.—(1) Any compensation, other than rent, payable by the council in respect of the compulsory hiring, including any compensation payable in respect of the interest of an existing tenant which is extinguished by such hiring, shall be payable by the council in manner provided by these regulations on the execution of the lease, or if payable in respect of any matter not then determined, on the date when it is fully determined.

(2) Subject to any provision in the Compulsory Order and these regulations, compensation so payable by the council shall be paid on demand to the owner, or the existing tenant, as the case may be.

23. Subject to any provision in the Compulsory Order relating to mines and minerals, there shall, unless the owner and the council otherwise agree, be excepted and reserved out of the lease all the mines and minerals, metals, ores, and other substrata, whether of coal, stone, clay, sand, or any other metalliferous or mineral substance or produce whatsoever, whether opened or unopened, worked or unworked, within or under the hired land (all which are hereinafter collectively referred to as " the said mines and minerals") ; with full liberty and power for the persons entitled to the said mines and minerals at all times during the lease by underground workings only to win, work, and carry away the whole of the said mines and minerals, and also to carry away the produce of any other mines ; nevertheless making reasonable compensation for any damage or subsidence which may be occasioned to any building on the land hired by reason of such working and carrying away of the said mines and minerals as aforesaid or the exercise of the powers to be reserved as aforesaid, such compensation to be settled in case of dispute by a single arbitrator in accordance with the Agricultural Holdings Act, 1908.

24. Except as in these regulations expressly provided, any person interested in the determination of any matter under these regulations shall not be required to produce to the person making the valuation, or give him access to, any document of title.

PART III.

General.

25.—(1) Every notice required to be given by a council to an owner, existing tenant, or other person interested in land proposed or authorised to be hired, shall either be served personally on such person or sent by post to or left at his usual place of abode in the United Kingdom, if any such can after diligent inquiry be found, and in case any such person shall be absent from the United Kingdom or cannot be found after diligent inquiry, shall be sent by post to or left with any agent ordinarily receiving the rents of the land on behalf of such person, and a copy thereof shall also be sent by post to or left with the occupier of the land to which such notice relates, or, if there be no such occupier, shall be affixed upon some conspicuous part of such land.

(2) If an owner, existing tenant, or other person interested be a corporation aggregate such notice shall be sent by post to or left at the principal office of business of such corporation, or if no such office can after diligent inquiry be found, shall be sent by post to or served on some principal officer, if any, of such corporation.

26.—(1) Section two of the Land Settlement (Facilities) Act, 1919 (*Power of entry on*

Appendix II.

land), shall apply in the case of an Order authorising the compulsory hiring of land, or of an agreement to hire land, subject to the following adaptations :—

(*a*) "Hire" or "hiring" shall, as the context requires, be substituted for "purchase";

(*b*) A notice under Regulation 6 of these Regulations shall be deemed to be a notice to treat.

(2) In the case of an Order for the compulsory hiring of land and entry by a council on the land or any part thereof under sub-section (1) of the said section as adapted by this regulation, the compensation payable in respect of the hiring of the land shall include such compensation by way of rent or otherwise, together with interest on such part of the compensation as is not paid by way of rent at the rate of five per cent. per annum from the time of entry on the land until such compensation is paid, as would have been payable if the council had at the date of entry hired the land of which possession is taken and extinguished the interest therein of any existing tenant.

27. Where under the Acquisition of Land (Assessment of Compensation) Act, 1919, any matter to which these regulations relate is determined by the Commissioners of Inland Revenue, any provision in these regulations referring to an arbitrator shall subject to the necessary modifications apply to the Commissioners.

28. In these regulations, unless the context otherwise requires—

"Minister" means the Minister of Agriculture and Fisheries;

"Owner" in relation to any land proposed or authorised to be hired means the person who by himself or his agent is in actual possession, or receipt of the rents and profits of the land (except a tenant thereof under a lease for a term no greater than the term for which the land is proposed or authorised to be hired) and that without regard to the real amount of interest of such person;

"Existing tenant" in relation to any land proposed or authorised to be hired means a tenant thereof under a lease for a term no greater than the term for which the land is proposed or authorised to be hired;

"Lease" includes an agreement for a lease;

"Compulsory Order" means an Order under the Acts of 1908 to 1919 and the Act of 1922 which authorise land to be compulsorily hired;

"Land" includes stints and other alienable common rights of grazing.

29. A Compulsory Order shall incorporate these regulations, but shall not, unless therein otherwise expressly stated, incorporate any of the provisions of the Lands Clauses Acts or of sections 77 to 85 of the Railway Clauses Act, 1845, except so far as such provisions have been incorporated with adaptations in these regulations.

30. These regulations shall apply to a compulsory hiring by the Small Holdings Commissioners acting in default of a council or by the Minister, with the substitution of those Commissioners or the Minister, as the case may be, for the council.

31. The Compulsory Order and these regulations shall not extend and apply to

Any land belonging to His Majesty the King, his heirs and successors in right of the Crown, or in right of the Duchy of Lancaster; nor to

Any land belonging to the Duchy of Cornwall; nor to

Any land subject to rights of common.

32. The Small Holdings and Allotments (Compulsory Hiring) Regulations, 1919, are hereby revoked but not so as to affect the operation of any Order made before the date of these regulations.

APPENDIX.

Form of Order for Compulsory Hiring.

1. The (*a*) are hereby empowered to put in force as respects the land described in the draft lease set forth in the schedule hereto the powers of compulsory hiring conferred by the Small Holdings and Allotments Acts, 1908 to 1919 (*b*), subject to the provisions of those Acts and to the Small Holdings and Allotments (Compulsory Hiring) Regulations, 1922, and to the terms of this Order.

(*a*) Insert "County Council of ," or "County Council of acting on behalf of the Parish Council" [*or* "Meeting"] or "Mayor, Aldermen, and Burgesses of the Borough of ," or " District Council."

(*b*) Insert here "and the Allotments Act, 1922," if the Order is made for the purpose of providing allotments or allotment gardens.

2. The tenancy of the council shall commence either on the [*twenty-fifth day of March*] or the [*twenty-ninth day of September*] (*i*).

3. (*Where the land is glebe land or other land belonging to an ecclesiastical benefice insert the following paragraph.*) Any sum payable by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the Ecclesiastical Leasing Acts of land belonging to a benefice.

4. (*Where the Order relates to small holdings insert the following paragraph.*) The powers conferred by this Order shall cease after the expiration of one year from the date of confirmation of this Order by the Minister of Agriculture and Fisheries, unless such period is extended by the Minister.

5. (*Where the Order relates to allotments or allotment gardens insert the following paragraph.*) The powers conferred by this Order shall cease after the expiration of three calendar months from the date hereof or from the date of confirmation by the Minister of Agriculture and Fisheries if the Order is so confirmed.

Schedule to Form of Order for Compulsory Hiring.

This schedule shall contain a draft of the lease under which it is proposed that the land shall be authorised to be acquired by the council, setting out all the proposed terms and conditions except the date of the commencement of the tenancy and the rent.

The lease shall contain covenants by the council to cultivate the land in a proper manner and to pay to the landlord at the determination of the tenancy, on the council quitting the land, compensation for any depreciation of the land by reason of any failure by the council, or any person deriving title under them, to observe such covenants, or by reason of any user of the land by the council or such person as aforesaid, and, unless otherwise agreed, a covenant by the council to keep the buildings and premises demised in repair.

The lease shall not authorise the breaking up of pasture unless the council are prepared to prove to the satisfaction of the Minister of Agriculture and Fisheries that it can be so broken up without depreciating the value of the land, or that the circumstances are such that small holdings [allotments] cannot otherwise be successfully cultivated.

If the Order relates to the provision of land for allotment gardens, the lease should so state, and the foregoing paragraph relating to the breaking up of pasture is not applicable.

If the land authorised to be acquired for allotment gardens is the property of a corporation or company acquired by them for the purposes of a railway, dock, canal, water or other public undertaking, the lease shall contain a condition enabling the corporation or company to resume possession of the land when required by them for the purpose (not being the use of land for agriculture) for which it was acquired by the corporation or company.

The lease shall also provide that, except with the consent of the landlord, the council shall not fell or cut timber or trees, or take, sell, or carry away any minerals, gravel, sand, or clay, except so far as may be necessary or convenient for the purpose of erecting buildings on the land or otherwise adapting the land for small holdings [allotments] [allotment gardens], and except upon payment of compensation for minerals, gravel, sand, or clay so used.

The lease shall also provide that any question as to the amount of compensation payable by the council under the lease shall be determined where the land is authorised to be acquired for small holdings by a single arbitrator in accordance with the Agricultural Holdings Act, 1908, and where the land is authorised to be acquired for allotments or allotment gardens in manner provided by the Allotments Act, 1922.

S. R. & O., 1925, No. 1124.

ALLOTMENTS, ENGLAND.

THE ALLOTMENTS (APPROVED SOCIETIES) REGULATIONS, 1925, DATED NOVEMBER 10, 1925, MADE BY THE TREASURY UNDER SECTION 2 (8) OF THE ALLOTMENTS ACT, 1925 (15 & 16 GEO. 5, C. 61).

Whereas by sub-section (8) of section 2 of the Allotments Act, 1925 (15 & 16 Geo. 5, c. 61), it is enacted that for the purposes of that Act "approved society" means—

(*a*) a society registered under the Industrial and Provident Societies Acts, 1893 to 1923, or the Friendly Societies Acts, 1896 to 1924, one of whose objects is the provision of allotments, and which, by its constitution or otherwise, is restricted in relation to the rate of interest on share and loan capital and the distribution of profits amongst its members so as to comply with regulations made in that behalf by the Treasury ; or (*b*) a company registered under the Companies Acts, 1908 to 1918, which does not trade for profit, or whose constitution forbids the issue of any share or loan capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury.

Now, therefore, the Lords Commissioners of His Majesty's Treasury by virtue of the power vested in them by the said section and of all other powers enabling them in that behalf hereby make the following regulations, which may be cited as the Allotments (Approved Societies) Regulations, 1925 :—

(1) The rate of interest which may be paid by an approved society upon any share or loan capital raised after the date of these Regulations shall not exceed the rate of six per cent. per annum, such rate being a gross rate calculated before deduction of income tax.

(2) The distribution of profits amongst members of an approved society shall be limited in any year to the payment of a dividend not exceeding the rate of five per cent. per annum upon any share capital of the society for the time being subscribed and paid up, such rate being a gross rate calculated before deduction of income tax.

Dated this tenth day of November, 1925.

GEORGE HENNESSY.
CURZON.

STOCK (ISSUE OF).

ORDER IN COUNCIL OF THE 26TH SEPTEMBER, 1891.

At the Court at Balmoral, the 26th day of September, 1891.

PRESENT :

The Queen's Most Excellent Majesty in Council.

WHEREAS the Local Government Board have, in virtue of the powers conferred upon them by the " Public Health Acts Amendment Act, 1890," made regulations applying to the creation, issue, transfer, and redemption of, and other dealings with, any stock which any urban sanitary authority under the Public Health Acts (having adopted Part V. of the said Public Health Acts Amendment Act, 1890), either in that or in in any other capacity, create, with the consent of the said Local Government Board, under the said regulations in exercise of any statutory borrowing power as defined in those regulations :

And whereas the said regulations have, as required by the said Public Health Acts Amendment Act, 1890, been laid before both Houses of Parliament for the period of thirty days, and no resolution has been passed by either House that such regulations ought not to be proceeded with :

Now, therefore, Her Majesty, having taken the said regulations (copy whereof is hereunto annexed) into consideration, is pleased, by and with the advice of her Privy Council, to confirm, and doth hereby confirm the said regulations.

C. L. PEEL.

PUBLIC HEALTH ACTS AMENDMENT ACT, 1890.

(53 & 54 VICT. c. 59, s. 52.)

REGULATIONS AS TO ISSUE OF STOCK.

Whereas by section 52 of the Public Health Acts Amendment Act, 1890 (which section forms Part V. of the said Act) [*the section* (*see* ante, *p.* 914) *is recited*].

And whereas it is provided by the said Act that Part V. thereof may be adopted by any urban sanitary authority under the Public Health Acts :

Now therefore, we, the Local Government Board, in pursuance of the powers given to us by the above-cited section, do hereby order and prescribe as follows :—

The regulations hereinafter contained shall, from and after the confirmation thereof as aforesaid, apply to the creation, issue, transfer, and redemption of, and other dealings with, any stock which any urban sanitary authority (having adopted the said Part of the said Act), either in that or in any other capacity, create with our consent under these regulations, in exercise of any statutory borrowing power as defined in Article I.

PRELIMINARY.

ARTICLE 1.—In these regulations—

Interpretation. "The local authority."

The local authority means the mayor, aldermen, and burgesses of the borough, acting by the council of the borough, or the local board for the Local Government district, or the improvement commissioners for the Improvement Act district, as the case may be, exercising under these regulations, with the consent of the Local Government Board, the power of borrowing by the creation of stock;

"The district."

The district means the borough, or Local Government district, or Improvement Act district, according as the local authority is the mayor, aldermen, and burgesses, or the Local Board, or the improvement commissioners;

"Stock."

Stock, unless the context otherwise requires, means stock created by the local authority under these regulations

"Rate."

Rate includes water rents, gas rents, and charges for supply of water or gas, or the hire of meters or fittings connected therewith;

"The Board."

The Board means the Local Government Board;

"The Bank of England."

The Bank of England means the governor and company of the Bank of England;

"Revenues of the local authority."

Revenues of the local authority includes the revenues of the local authority from time to time arising from any land, undertakings, or other property for the time being of the local authority, and rates leviable by or on the precept of the local authority.

"Statutory borrowing power."

Statutory borrowing power means any power, whether or not coupled with a duty, of borrowing, or continuing on loan, or re-borrowing money, or of redeeming or paying off, or creating or continuing payment of or in respect of any annuity, rent-charge, rent, or other security representing or granted in lieu of consideration money, for the time being existing under any Act of Parliament, public or local, passed or to be passed, or under any Provisional Order confirmed by Act of Parliament passed or to be passed, or under these regulations, or under any Order or sanction of any Government department made or given, or to be made or given, by authority of any Act of Parliament passed or to be passed;

"Statutory security."

Statutory security means any security in which trustees are for the time being by or under any Act of Parliament passed or to be passed authorised to invest trust money, except any security of the local authority, and any other mortgage, bond, debenture, stock, annuity, rent-charge, rent, or other security authorised by or under any Act of Parliament passed or to be passed, or under these regulations, of any local authority as defined by section 34 of the Local Loans Act, 1875, except as before excepted, and except securities payable to bearer;

"Interest."

Interest includes instalments of an annuity and half-yearly or other payments of or in respect of a rent-charge, rent, or other security.

CREATION AND CHARGE OF STOCK.

Creation of stock.

ARTICLE 2.—(1) Where the local authority have for the time being any statutory borrowing power, and the Board have by order (hereinafter called the Consent Order) consented to the exercise of such power by the creation of stock, then, subject and according to the provisions of these regulations and of the Consent Order, the local authority may from time to time by resolution exercise the power by creation of redeemable stock, to be from time to time issued for such amount within the limit of the power, at such price, being not lower than ninety-five per centum, to bear such half-yearly or other dividends, and to be so transferable, that is to say, in books or by deed as the local authority by the resolution direct: Provided that, subject to any regulations which the Board may make amending these regulations, all stock at any time and from time to time so created shall be created on and subject to such terms and conditions as that the same shall form one and the same class of stock, bearing one and the same rate of dividend, and shall become redeemable as hereinafter provided after the expiration of the same period from the first creation of the stock.

(2) All stock at any time and from time to time so created shall rank equally without any priority or preference by reason of any precedence in the date of any

statutory borrowing power, or in the date of creation of any portion of stock, or in the date of issue of any portion of stock, or on any other ground whatsoever, and shall (unless otherwise expressed in the resolution for creation of the stock) also rank equally with all other securities of the local authority created or granted in pursuance of any statutory borrowing power at any time after the date of the first creation of any stock.

(3) After the expiration of such a period from the creation of the stock as the Board shall fix by the Consent Order, the stock shall be redeemable at par, at the option of the local authority, and within such a period (not exceeding sixty years) from the first creation of the stock as the Board shall fix by the Consent Order, the whole of the stock shall be redeemed or purchased and extinguished.

(4) Each resolution for creation of stock shall specify after what period the stock thereby created is redeemable at par, and within what period the stock is to be redeemed or purchased and extinguished.

(5) The stock shall be designated by such name as the local authority in the resolution for creation of the stock shall, with the approval of the Board determine.

Borrowing power to be exercisable for actual sum raiseable.

ARTICLE 3. The Consent Order of the Board to the exercise of any statutory borrowing power of the local authority by the creation of stock shall be construed to authorise the local authority to create such an amount of stock and from time to time to issue such nominal amounts thereof as will, in the aggregate, according to the price of issue, produce the actual amount of money for the time being lawfully raiseable by the local authority under that power, or some portion, mentioned in the Consent Order, of that actual amount, or (as the case may be) the actual amount of money properly payable by the local authority as consideration on payment of or redemption by the local authority of any mortgage, bond, debenture, stock, annuity, rent-charge, rent, or other security granted or created by the local authority in respect of the payment off or redemption of which consent was given by the Consent Order.

Charge of stock.

ARTICLE 4.—(1) All stock for the time being issued and the dividends thereon shall be the same and are by virtue of these regulations charged indifferently on all the revenues of the local authority.

(2) The dividends for the time being payable on all stock shall rank equally with interest on all other securities of the local authority created or granted in pursuance of any statutory borrowing power at any time after the date of the first creation of any stock and the same dividends and interest shall, subject to all charges existing at that date, be the first charge on all the revenues of the local authority.

CONSOLIDATION OF LOANS.

Consolidation of loans.

ARTICLE 5. The Board may, in the Consent Order, approve a scheme for the consolidation for the purpose of the repayment of all or any of the loans raised by the local authority under all or any of the statutory borrowing powers of the local authority, whether existing at the date of these regulations or not, and any such scheme shall fix the period or periods within which the loans so consolidated shall be discharged, and for that purpose may extend or vary any period allowed for the payment off of such loans by the statutory borrowing powers: Provided that the Board, in approving the period or periods as aforesaid, shall have due regard to the amounts of the several loans and the periods allowed for the payment off of such loans respectively by the statutory borrowing powers.

DIVIDENDS FUND.

Establishment of dividends fund.

ARTICLE 6. For payment of dividends on the stock there shall be established and formed a fund called the stock (dividends) fund; and in these regulations the stock (dividends) fund is referred to as the dividends fund.

Contributions to dividends fund.

ARTICLE 7.—(1) In each year the local authority shall pay into the dividends fund a sum or sums equal to the aggregate amount of all dividends payable in that year on the stock.

(2) They shall provide the sum or sums aforesaid by contributions from the several revenues of the local authority, if any, specifically made liable to provide the same by or under any Act of Parliament, or any Provisional Order confirmed by Act of Parliament, or any Order or sanction of any Government department, or by any resolution of the local authority having reference to those respective statutory borrowing powers; and if, as regards any statutory borrowing power, there is no such specific

liability, then from the several revenues out of which interest would have been payable on money borrowed by the local authority under that power if that money had been raised and remained secured otherwise than by stock, and in default thereof, or subject thereto, they shall provide the same, if the district is a borough, out of the borough fund and borough rate, or out of the district fund and general district rate, or if there is no district fund or general district rate, out of such other rate as the local authority, having regard to the provisions of these regulations and of the Consent Order and to the objects for which the statutory borrowing powers was exercised, may consider equitable ; and if the district is not a borough they shall provide the same out of the district fund and general district rate, or, if there is no such fund and rate, out of such other rate, as the local authority, having regard as aforesaid, may consider equitable.

(3) The amounts of those several contributions (subject to any payment in reduction thereof authorised by these regulations) shall be the sums ascertained to be required in that behalf by apportionment of that aggregate amount of dividends among the several revenues of the local authority according to the amount of stock, the dividends whereon are properly payable out of such revenues respectively.

Raising of contributions to dividends fund.

ARTICLE 8.—(1) The local authority shall from time to time, in order to raise the amounts of the several contributions to the dividends fund as aforesaid out of the several revenues of the local authority, do all such acts, exercise all such powers, collect all such money, and make and levy all such rates as they lawfully can or ought to do, exercise, collect, make, and levy for the purposes of or in relation to the respective statutory borrowing powers in exercise whereof the several portions of stock are issued.

(2) If by reason of any limit of rate, or for any other reason, there is a deficiency on any revenue in respect of any required contribution, the local authority shall advance the amount of the deficiency if the district is a borough out of the borough fund and borough rate, or out of the district fund and general district rate, or, if there is no district fund or general district rate, out of such other rate as the local authority, having regard to the provisions of these regulations, and of the Consent Order and to the objects for which the statutory borrowing power was exercised, may consider equitable and if the district is not a borough they shall advance the same out of the district fund and general district rate, or if there is no such fund and rate, out of such other rate as the local authority, having regard as aforesaid, may consider equitable.

(3) The amount so advanced shall be a debt due from the revenue on which the deficiency existed to the fund or rate out of which the advance is made, and interest shall be payable thereon until repayment at the rate to be determined by the Board, and the same debt and interest shall, as soon as in the judgment of the local authority reasonably may be, be raised and paid out of the revenue on which the deficiency existed.

Payment of rents, etc., to dividends fund.

ARTICLE 9.—(1) Unless the Board otherwise direct, the local authority shall pay into the dividends fund and shall carry to the proper separate account forming part of the general account of the dividends fund, the rents and profits of any land and other property of the local authority acquired by them for the purposes of any undertaking or purpose for or in respect of which any statutory borrowing power is exercised by them by the issue of the stock, and not being wholly or in part otherwise appropriated or required to be otherwise applied.

(2) The local authority before making any payment into the dividends fund under this article, may deduct from the rents and profits to which this article applies any costs and expenses properly incurred by the local authority in or about the collection and receipt of such rents and profits.

Application of dividends fund.

ARTICLE 10. The local authority shall from time to time, apply the dividends fund in paying the dividends on the stock.

Account of dividends fund.

ARTICLE 11. As parts of the general account of the dividends fund the local authority shall keep separate accounts, distinguishing and showing, in relation to each undertaking or purpose for or in respect of which any statutory borrowing power is exercised by them by the issue of the stock,—

(1) All money from time to time paid into the dividends fund as receipts from rents and profits of any land and other property of the local authority so as aforesaid acquired in respect of that undertaking or purpose and not otherwise appropriated or required to be applied ; and

(2) All money paid into the dividends fund as contributions from the revenues of

the local authority in respect of dividends on the several amounts of stock chargeable to that undertaking or purpose; and

(3) All money being unclaimed dividends paid into the dividends fund as hereinafter provided and allocated to that undertaking or purpose.

Application of income in reduction of contributions to dividends fund.

ARTICLE 12. Where any money is standing on a separate account in the dividends fund, being money paid into that fund as rents and profits of the land and other property of the local authority, or being other money properly paid into that fund otherwise than as contributions under Article 7 required for the payment of dividends, the local authority may, if they think fit, from time to time apply the same in reduction of such contributions out of the revenues of the local authority as are payable into the dividends fund in respect of the portions of stock comprised in the separate account on which the money is standing.

REDEMPTION FUND.

Establishment of redemption fund.

ARTICLE 13. For redemption and extinction, or purchase and extinction, of the stock there shall be established and formed a fund called the stock (redemption) fund; and in these regulations the stock (redemption) fund is referred to as the redemption fund.

Contributions to redemption fund for extinction of stock.

ARTICLE 14.—(1) In each year the local authority shall pay into the redemption fund a sum or sums equal to the aggregate amount of all sums payable in that year for redemption and extinction, or purchase and extinction of the stock.

(2) They shall provide the sum or sums last aforesaid by contributions from the several revenues of the local authority, if any, specifically made liable to provide the same by or under any Act of Parliament, or any Provisional Order confirmed by Act of Parliament or any order or sanction of any Government department, or by any resolution of the local authority having reference to those respective statutory borrowing powers, and if as regards any statutory borrowing power there is no such specific liability, then from the several revenues out of which any yearly or other sums would have been payable towards a sinking fund for discharge, or towards payment off by instalments, appropriations, annual repayments, or otherwise of money borrowed by the local authority under that power if that money had been raised and remained secured otherwise than by stock; and in default thereof, or subject thereto, they shall provide the same, if the district is a borough, out of the borough fund and borough rate, or out of the district fund and general district rate, or if there is no district fund or general district rate, out of such other rate as the local authority, having regard to the provisions of these regulations and of the Consent Order and to the objects for which the statutory borrowing power was exercised may consider equitable; and if the district is not a borough, they shall provide the same out of the district fund and general district rate, or, if there is no such fund and rate, out of such other rate as the local authority having regard as aforesaid, may consider equitable.

(3) The amounts of those several contributions (subject to any payment in reduction thereof authorised by these regulations) shall be determined by the provisions either of paragraph (*a*), paragraph (*b*), or paragraph (*c*) of this clause, according as the Board shall prescribe in the Consent Order, or shall thereafter determine:—

a) The said amounts shall be the same as would under the statutory borrowing powers have been payable towards paying off the money represented by the stock, or to a sinking fund for the repayment of the same, if the same had been raised otherwise than by the issue of stock; provided that if the moneys payable as aforesaid were not required to be accumulated, the Board may determine what the amounts of the contributions shall be, having regard to the rate at which the redemption fund will be accumulated.

(*b*) The said amounts shall be such amounts as will, with accumulations at compound interest at a rate per centum per annum to be determined by the Board, be sufficient, after payment of all expenses, to purchase the amount of stock at par within the time within which, under the statutory borrowing power, the money represented by the stock is to be repaid: Provided that the Board may from time to time, if they think fit, alter such rate of interest.

(*c*) If the statutory borrowing power in exercise of which the stock is issued does not determine the amounts to be paid towards paying off or to a sinking fund in respect of the money to be borrowed thereunder, or the period within which the same is to be repaid, or if the Board approve a scheme for the consolidation of all or any of the loans to be raised by the issue of stock, the amounts of the several contributions shall be such amounts as will, with accumulations at compound interest at a rate per centum per annum to be determined by the Board, be sufficient, after payment of all expenses, to purchase the amount of stock at par within such time, not exceeding sixty years from the first creation of the stock, as the Board shall prescribe in the Consent Order, or shall thereafter determine: Provided that the Board may from time to time, if they think fit, alter such rate of interest.

(4) The provisions of Article 8 of these regulations in regard to the raising of contributions to the dividends fund shall apply to the raising of contributions to the redemption fund as if such provisions were repeated in this article with the substitution of "redemption fund" for "dividends fund."

(5) If it appears to the Board at any time that any contributions to the redemption fund will not be sufficient to redeem the amount of stock in respect of which such contributions are made within the time allowed for the continuance of the loan represented by the stock, the amount of such contributions shall be increased to such extent as the Board may direct; and the Board shall at any time have power to consent to the reduction of the contributions to be made to the redemption fund as aforesaid, either temporarily or permanently, in any case in which it appears to the Board that such contributions would, if maintained, be more than sufficient to redeem the amount of stock in respect of which such contributions are made within the time allowed for the continuance of the loan represented by the stock; and if the amount in the redemption fund at any time is, in the opinion of the Board, sufficient, with the accumulations to arise thereon, to redeem the stock within the time or times allowed for the continuance of the loan or loans represented by the stock, the Board may consent to the discontinuance of contributions to the redemption fund in respect of the stock.

(6) If the local authority create and issue stock for the purpose of defraying the expenses of the creation and issue of any stock, the amount of stock created and issued for that purpose shall be redeemable and extinguished after and within the same periods after and within which the stock is to be redeemed and extinguished for the purpose of defraying the expenses of which it was so created and issued; and, for the purpose of determining the amount of the contributions aforesaid, the amount of the said expenses shall be deemed to be the amount of a loan authorised by a statutory borrowing power, and required to be paid off within the period within which the stock is to be extinguished.

(7) If, before the expiration of the period allowed for the continuance of any loan represented by the amount of stock, the local authority apply in the redemption of purchase and extinction of stock to that or any less amount, any part of the redemption fund, then a sum equal to the interest which the part of the redemption fund so applied would have produced at the rate per centum on which the payments to the redemption fund are calculated shall, in each year, until the expiration of the said period allowed for the continuance of the loan, be paid into the redemption fund out of the revenues of the local authority chargeable with payment of the contributions to the redemption fund in respect of the amount of stock aforesaid.

Provided that if any amount of stock extinguished by application of part of the redemption fund as aforesaid is purchased by the local authority at a rate exceeding one hundred pounds sterling for one hundred pounds stock, the interest payable into the redemption fund under this part of this article shall be calculated as if only one hundred pounds sterling had been applied out of the redemption fund for each one hundred pounds stock purchased, and the local authority shall either pay into the redemption fund, during the year in which such purchase is made, an additional sum or sums equal in amount to the sum or sums paid in excess of the said rate for the purchase of stock in such year, or shall, during such year and each succeeding year until the expiration of the period allowed for the continuance of the loan represented by the stock extinguished, pay into the redemption fund such additional sum as the Board shall approve; and such additional sum or sums shall be paid out of the revenues of the local authority chargeable with payment of the contributions to the redemption fund in respect of that amount of stock.

For the purpose of ascertaining what contributions, to be paid out of what revenues, are required to be paid in respect of any amount of stock extinguished as aforesaid, the several amounts of stock issued under different statutory borrowing powers shall be deemed to be extinguished in succession, beginning with the amount created in exercise of the borrowing power under which (at the date of the extinction of such stock) the remaining period allowed either expressly or by implication for the continuance of the loan is the shortest, and proceeding, in order, to that created in exercise of the borrowing power under which the longest remaining period is allowed as aforesaid.

Payment of sale money, etc. to redemption fund.

ARTICLE 15.—(1) Unless the Board otherwise direct, the local authority shall pay into the redemption fund, and shall carry to the proper separate account forming part of the general account of the redemption fund, all such money being capital, or in the nature of capital, and not being wholly or in part otherwise appropriated or required to be otherwise applied, as shall from time to time arise from any sale, lease, or other disposition of land or other property of the local authority on the revenues whereof any stock is charged, and as shall from time to time arise from any other source.

(2) The local authority, before making any payment into the redemption fund under this article, may deduct from the money to which this article applies any costs and expenses properly incurred by the local authority in or about any sale, lease, or other disposition of land or property as aforesaid.

Investment and application of redemption fund.

ARTICLE 16. The local authority shall from time to time apply the redemption fund in redeeming stock according to the terms of issue and purchasing stock for extinction, and, pending such application of the redemption fund or any part thereof, all sums paid into the redemption fund shall be invested on statutory securities, and the interest and annual proceeds arising from those securities shall be paid into the redemption fund, and be invested and accumulated in like manner.

Extinction of stock redeemed or purchased.

ARTICLE 17. The local authority on redeeming and purchasing any stock shall forthwith pass a resolution directing the stock so redeemed or purchased to be cancelled by the registrar, and on such cancellation the same and all dividends thereon which have not already become payable shall be and the same are by virtue of these regulations extinguished.

Account of redemption fund.

ARTICLE 18.—(1) As parts of the general account of the redemption fund, the local authority shall keep—

(*a*) An account showing the securities on which all sums paid into the redemption fund are from time to time invested ; and

(*b*) Separate accounts relative to each undertaking or purpose for or in respect of which any statutory borrowing power is exercised by them by the issue of the stock ; and

(*c*) Separate accounts relative to each statutory borrowing power so exercised.

(2) Those separate accounts shall distinguish and show—

(*d*) The amounts of stock for the time being chargeable to each undertaking or purpose and respectively attributable to the exercise of the several statutory borrowing powers if more than one relating to that undertaking or purpose; and

(*e*) The several amounts of stock redeemed or purchased by means of the redemption fund and cancelled and extinguished.

(3) Those separate accounts shall further distinguish and show in relation to each undertaking or purpose—

(*f*) All money being capital, or in the nature of capital, paid into the redemption fund, and in the judgment of the local authority properly attributable to that undertaking or purpose ; and

(*g*) All money from time to time received as interest of the last-mentioned moneys ; and

(*h*) All money and securities transferred to the redemption fund as having formed part of a sinking fund, and all money from time to time received as interest of the last-mentioned money or securities ; and

(*i*) All money paid into the redemption fund as contributions from the revenues of the local authority in respect of redemption and extinction, or purchase and extinction, of those several amounts of stock ; and

(*j*) All money from time to time received as interest of the last-mentioned money.

Determination as to charge of stock.

ARTICLE 19. For the purposes of any contribution or account under these regulations, the local authority, if they think fit, having regard to all the circumstances of the case, and subject to the terms on which any loan of the local authority was contracted, or any stock was issued, may from time to time by resolution, with the approval of the Board, determine and declare on which of the revenues of the local authority any loan of the local authority or any portion of stock is or shall be deemed to be primarily or collaterally charged, or determine and declare that any loan of the local authority or any portion of stock shall be apportioned as regards the charge thereof between or among any of the revenues of the local authority, and every such determination and declaration shall be effectual to all intents.

CONVERSION OF OTHER SECURITIES INTO STOCK.

Payment off or substitution for existing securities.

ARTICLE 20.—(1) Where the consent of the Board is given to the exercise by the local authority of any statutory borrowing power by the creation and issue of stock for the purpose of purchasing, paying off, or redeeming any mortgage, bond, debenture, stock, annuity, rent-charge, or other security granted or created by the local authority under any statutory borrowing power and which the local authority have power, with the consent of the holder of that security, or otherwise, to pay off or to redeem, they may pay off or redeem the security accordingly with money raised by stock, or they may, with the consent of the holder thereof, issue stock in substitution for the security.

Provided that as regards any loans specified for the purposes of this provision in the Consent Order, the Board may, in such Order, require the foregoing powers of this article to be exercised as far as practicable *pari passu* with respect to all such loans and in such manner as not to extend the period approved under these regulations for the payment off of such loans on consolidation.

(2) The local authority may in every such case make such reasonable payment as they may think fit to the holder of any security for his consent, or for otherwise compensating him for the payment off or redemption of or substitution for his security, and any such payment may be either in money or stock, or partly in one and partly in the other.

(3) In every such case of payment off redemption or substitution the local authority shall forthwith pay and transfer into the redemption fund the whole or a proportionate part (as the case may require) of any money and securities forming part of any sinking fund applicable to the discharge of the security, and also such further sum, if any, as may be necessary to make the money and securities so paid and transferred equivalent to the amount which should have been in such sinking fund, or should have been paid off, in respect of the security for the payment off or redemption of which or in substitution for which the stock is created.

(4) Where the holder of the security is one of the persons described in section 7 of the Lands Clauses Consolidation Act, 1845, and by that Act enabled to sell land thereunder, that person may consent to payment or redemption of, or substitution for, the money secured or represented by that security and may accept money for giving that consent as if the person so consenting were the absolute owner of that security, and that person is hereby indemnified for so doing, and his receipt shall be a good discharge for the same.

(5) Money received by the holder of any security as authorised by this article, and stock issued to him in substitution for any security, shall be subject to the same trusts, powers, testamentary, and other dispositions, provisions, and incumbrances, as the money secured or represented by the security was subject to, immediately before the payment off redemption or substitution, and every deed, or other instrument, or any testamentary, or other disposition, shall take effect with reference to the whole, or a proportionate part of the money or stock received, or substituted, as the case may be.

EFFECT ON BORROWING POWERS.

Extinction or suspension of power.

ARTICLE 21. On the issue of any portion of stock the statutory borrowing power, in exercise whereof that stock is issued, shall be affected as follows; namely—

(*a*) If the stock is issued for the whole term limited for the continuance of any loan, or for the continuance of payment of or in respect of any mortgage, bond, debenture, stock, annuity, rent-charge, rent, or other security granted or created by the local authority under that statutory borrowing power, then that power, to the extent of the money raised by that stock (except in the case hereinafter provided for), shall be and the same is by virtue of these regulations extinguished; but

(b) If the stock is issued for part only of that term, then so much of the money raised by that stock as represents the balance which should be outstanding may be re-borrowed by the local authority for the residue of that term, or any part thereof, and so from time to time.

APPLICATION OF MONEY RAISED.

General application of money from stock.

ARTICLE 22. Money raised by stock shall be applied for purposes for which money raisable under the statutory borrowing power, in exercise whereof the stock is issued, ought by law to be applied, and not otherwise.

Provided that if, after the raising of any money by stock under these regulations, it shall be found that any part of such money is not required for the purposes to which it is applicable as aforesaid, the local authority shall pay such money into the redemption fund, or apply such money for such other purposes for which the local authority shall have a statutory borrowing power as the Board may, by Order, approve; and if any such money is so paid into the redemption fund the statutory borrowing power in exercise whereof the stock represented by the money so paid was issued shall, to the amount of the money so paid, be deemed not to have been extinguished; and if any such money is applied for some other purpose as aforesaid the stock represented by the money so applied shall be deemed to have been created and issued under these regulations in exercise or part exercise of such last-mentioned statutory borrowing power.

Temporary investment of money raised by stock.

ARTICLE 23. The local authority shall from time to time invest temporarily on statutory securities any sum exceeding such sum as may be fixed by the Consent Order, and may so invest any sum raised by stock and not for the time being applied to or required for the undertaking or purpose for which it is raised, and shall from time to time pay the interest of those securities into the dividends fund.

REGISTRATION AND CERTIFICATES.

Appointment of registrar.

ARTICLE 24.—(1) The local authority shall, on and subject to such terms and instructions not inconsistent with any provision of these regulations as they think expedient, appoint and keep appointed an officer of the local authority, or any other person, or the Bank of England, or any other bank, or any banking or other company, as registrar for all or any of the purposes of these regulations (in these regulations referred to as the registrar).

(2) The local authority in relation to these regulations and the registrar shall respectively be deemed a banker within the Bankers Books Evidence Act, 1879.

Stock register.

ARTICLE 25.—(1) The registrar shall keep books, in which shall be entered the names and addresses of holders from time to time of stock, and the amounts held by them (in these regulations referred to as the stock register).

(2) The stock register shall be *primâ facie* evidence of any matter entered therein in accordance with these regulations, and of the title of the persons entered therein as holders of stock.

Certificates of proprietorship of stock.

ARTICLE 26.—(1) On demand of a holder of stock the local authority may, if they think fit, give to him a certificate of the proprietorship thereof, under their common seal, specifying the amount of stock to which he is entitled (in these regulations referred to as a stock certificate).

(2) A stock certificate shall be *primâ facie* evidence of the title of the person therein named, his executors, administrators, successors, or assigns, to the stock therein specified; but the want of a stock certificate, if such want be accounted for to the satisfaction of the local authority, shall not prevent the holder of stock from disposing of and transferring the same.

(3) If a stock certificate is worn out or damaged the local authority, on production thereof, may cancel it and give a similar stock certificate to the party in whom the property in the stock certificate and in the stock therein specified is then vested.

(4) If a stock certificate is lost or destroyed the local authority, on proof thereof to their satisfaction, may give a similar stock certificate to the party entitled to the certificate lost or destroyed.

(5) An entry of the issue of a stock certificate or a substituted certificate, as the case may be, shall be made in the stock register.

TRANSFER.

Power for stockholder to transfer.

ARTICLE 27. Subject to the provisions of these regulations, every stockholder may transfer all or any part of his stock in books or by deed.

Transfer in books.

ARTICLE 28.—(1) If and where the resolution for creation of any portion of stock makes the same transferable in books and not by deed, the provisions of this article shall apply and have effect, but not otherwise.

(2) The registrar shall keep books wherein transfer of stock so transferable shall be entered (in these regulations referred to as the stock transfer books).

(3) Every such entry shall be conceived in proper words for the purpose of transfer, and shall be signed by the party making the transfer, or, if he is absent, by his agent thereunto lawfully authorised in writing under his hand attested by a witness.

(4) Where the Bank of England are the registrar they may, if they think fit, require that the agent be so authorised by power of attorney under the hand and seal of the party making the transfer, attested by two or more credible witnesses.

(5) The person to whom a transfer is made may, if he thinks fit, underwrite his acceptance thereof.

(6) Except as otherwise provided by Act of Parliament, and subject to the provisions of these regulations respecting any portion of stock which the resolution for creation thereof makes transferable by deed and not in books, no mode of transferring stock other than that prescribed in this article shall be good in law.

Transfer by deed.

ARTICLE 29.—(1) If and where the resolution for creation of any portion of stock makes the same transferable by deed and not in books, the provisions of this article shall apply and have effect, but not otherwise.

(2) Every transfer of stock so transferable shall be by deed.

(3) The deed of transfer shall relate only to the transfer, and shall not contain any recital, trust, or proviso whatsoever.

(4) The deed of transfer, when duly executed, shall be delivered to and kept by the registrar, and the registrar shall enter a memorial thereof in a book to be called the register of transfers of stock, and shall endorse on the deed of transfer a notice of that entry.

(5) The registrar shall on demand, and on delivery up of the old stock certificate, or on such proof that it cannot be produced as the registrar, with the approval of the local authority, may require, deliver a new stock certificate to the purchaser, or shall, at the option of the purchaser, make an endorsement of the transfer on the existing stock certificate, which endorsement, being signed by the registrar, shall be equivalent to a new stock certificate.

(6) Until the deed of transfer has been so delivered to the registrar, the local authority or the registrar shall not be affected thereby, and the purchaser of the stock shall not be entitled to receive any dividend thereon.

Evidence on transfer.

ARTICLE 30.—(1) The registrar, before allowing any transfer of stock, may, if the circumstances of the case appear to him to make it expedient, require evidence of the title of any person claiming a right to make the transfer.

(2) That evidence shall be a statutory declaration of one or more competent persons, or of such other nature as the registrar, with the approval of the local authority, may require.

Closing of transfer books.

ARTICLE 31.—(1) The registrar, with the approval of the local authority, may, as regards any portion of stock, close the stock transfer books or the register of transfers of stock (as the case may be) on any day in the month next before that in which dividends on that portion of stock are payable, but so that the books be not at any time kept closed for more than fifteen days.

(2) The persons who on the day of such closing are inscribed as stockholders shall, as between them and their transferees of stock, be entitled to the dividend next payable thereon.

Stamp duty on transfers.

ARTICLE 32. Unless the local authority have compounded for stamp duty, all stock shall, notwithstanding anything in any resolution of the local authority, be transferable by deed, and not in books, and every deed of transfer of stock transferable by deed shall be duly stamped, and the consideration shall be truly stated therein.

TRANSMISSION.

Transmission on death.

ARTICLE 33.—(1) The interest of a deceased stockholder in stock shall be transferable by his executors or administrators, notwithstanding any specific bequest thereof.

(2) Where two or more persons are registered as owners of any stock, such persons shall be deemed to be joint owners with right of survivorship between them.

(3) The local authority or the registrar shall not be required to allow any executors or administrators to transfer any stock until the probate of the will or the letters of administration to the estate of the deceased has or have been left with the registrar for registration, and may require all the executors who have proved the will to join in the transfer.

Transmission otherwise than by death of holder or transfer in books or by deed.

ARTICLE 34.—(1) If the interest in any stock has become transmitted by any lawful means other than a transfer in books or by deed, or than the death of a stockholder, satisfactory evidence of the transmission shall be furnished to the registrar by a statutory declaration of one or more competent persons, or in such other manner as the registrar may, with the approval of the local authority, require.

(2) The name of the person entitled under the transmission shall be entered in the stock register.

(3) Until such evidence has been furnished, the local authority or the registrar shall not be affected by the transmission, and no person claiming by virtue thereof shall be entitled to receive any dividend on the stock.

(4) In this article the term transmission includes any case of apparent transmission in consequence of the change of name of the stockholder, although the actual ownership of the stock may remain unaltered

DIVIDENDS.

Payment of dividends.

ARTICLE 35. The local authority shall pay by the registrar the dividends on stock.

Dividends to executors, etc.

ARTICLE 36. The local authority or the registrar shall not be required to pay any executors or administrators any dividend on stock held by their testator or intestate until the probate of the will or the letters of administration has or have been left with the registrar for registration.

Evidence of title.

ARTICLE 37. The registrar before paying any dividend on any stock may, if the circumstances of the case appear to him to make it expedient, require evidence of the title of any person claiming a right to receive the dividend, and that evidence shall be a statutory declaration of competent persons, or of such other nature as the registrar, with the approval of the local authority, may require.

Dividends to joint holders.

ARTICLE 38.—(1) Where more persons than one are registered as joint holders of any stock, any one of them may give an effectual receipt for any dividend thereon, unless notice to the contrary has been given to the registrar by any other of them.

(2) Where stock is standing in the name of an infant or person of unsound mind jointly with any person not under legal disability, a letter of attorney for receipt of the dividends on the stock shall be sufficient authority in that behalf if given under the hand and seal of the person not under disability attested by two or more credible witnesses, but the registrar before acting on the letter of attorney may, if he think fit, require proof to his satisfaction of the alleged infancy or unsoundness of mind by a statutory declaration of one or more competent persons.

Dividend warrants by post.

ARTICLE 39.—(1) Where a stockholder desires to have his dividends sent to him by post, he may make a request for that purpose to the registrar in writing, signed by him in a form approved by the local authority, and shall give to the registrar an address in the United Kingdom, or in the Channel Islands, or the Isle of Man, to which the letters containing the warrants are from time to time to be sent.

(2) The posting by the registrar of a letter containing a dividend warrant addressed to a stockholder at his request at the address so given by him shall, as respects the liability of the local authority and of the registrar, be equivalent to the delivery of the warrant to the stockholder himself.

(3) Every warrant so sent by post shall be deemed a cheque, and the local authority and the registrar shall, in relation thereto, be deemed a banker within the Bills of Exchange Act, 1882.

(4) Provided that this article shall not apply to cases to which the provisions of section 4 of the National Debt Act, 1889, apply.

STOCK CERTIFICATES WITH COUPONS TO BEARER.

Provisions respecting stock certificates with coupons to bearer.

ARTICLE 40.—(1) On demand of a stockholder, the registrar may issue to the stockholder a stock certificate to bearer, that is to say, a certificate of title to his stock or any part thereof, entitling the bearer to the stock therein specified, and transferable by delivery with coupons entitling the bearer of the coupons to the dividends on the stock, but so that no such certificate or coupons shall give a title to dividends beyond the time limited for redemption of the stock.

(2) A stock certificate to bearer shall not be issued in respect of any sum of stock other than ten pounds or a multiple of ten pounds.

(3) No trustee shall apply for, purchase, take, or hold a stock certificate to bearer unless he is in express words authorised to do so by the instrument creating his trust, and any contravention of this provision by a trustee shall be deemed a breach of trust; but this provision shall not impose on the local authority or the registrar an obligation to inquire or to take notice whether a person applying for or holding a stock certificate to bearer is or is not a trustee, or subject the local authority or the registrar to any liability in case of his, with or without notice, issuing to a trustee a stock certificate to bearer, or invalidate any stock certificate to bearer issued.

(4) Where a stock certificate to bearer is outstanding the stock represented thereby shall cease to be transferable in books or by deed.

(5) The bearer of a stock certificate to bearer may, on delivery up to the registrar of the certificate, and of all unpaid coupons belonging thereto, require to be entered in the stock register as the holder of the stock described in the certificate under which he derives title, and thereupon such stock certificate and coupons shall be cancelled and the stock shall be re-entered in the register as transferable, and shall become and again be transferable in the stock transfer books or by deed, as the case may require, and shall, as regards the mode of payment of the dividends thereon, be in the like condition as if no stock certificate to bearer had been issued in respect thereof.

(6) The coupons issued with a stock certificate to bearer shall comprise the dividends to be paid in respect of the stock therein specified for such period as the local authority approve.

(7) At the end of that period fresh coupons may be issued for such further period as the local authority approve, and so for successive periods during the continuance in force of the stock certificate, but the local authority may direct the registrar, in lieu of issuing fresh coupons in respect of any stock certificate, to give in exchange a fresh stock certificate with coupons.

(8) Payment to the bearer of a coupon of the amount expressed therein shall be a full discharge to the local authority and to the registrar from all liability in respect of that coupon and the dividend represented thereby.

(9) Where the Bank of England are the registrar coupons shall be payable at the chief establishment of the bank at the expiration of three clear days from the day of presentation, and at any branch establishment of the bank situate more than ten miles from the chief establishment at the expiration of five clear days from the day of presentation.

(10) If a stock certificate to bearer or coupon is worn out or damaged the registrar, on production and delivery up thereof, may cancel it and issue a new certificate or coupon.

(11) If a stock certificate to bearer or coupon is lost or destroyed, the registrar may issue a new certificate or coupon on receiving indemnity to the satisfaction of the local authority against the claims of all persons deriving title under the certificate or coupon lost or destroyed.

(12) All coupons issued under these regulations in respect of any stock certificate to bearer shall, for the purposes of the Acts relating to stamp duties, be deemed to have been attached to and issued with such stock certificate.

(13) Stock specified in a stock certificate to bearer shall be charged on the same securities, and be subject to the same powers of redemption and other powers, and save as regards the mode of transfer and of payment of dividends thereon, and save so far as a stock certificate to bearer is a negotiable instrument, shall be subject to the same incidents in all respects as if that stock had continued to be registered in the stock register as transferable in books or by deed.

GENERAL.

Nature of stock: notice of trusts.

ARTICLE 41.—(1) Stock is personal property.

(2) Stock is not liable to foreign attachment by the custom of London or otherwise.

(3) No notice of any trust, express, implied, or constructive, in respect of any

stock, or of any stock, certificate to bearer or coupon, shall be entered in the stock register, or in any other book kept by the local authority or the register, or be receivable by the local authority or the registrar, or affect the registrar or the local authority through the registrar or otherwise.

Receiver.

ARTICLE 42.—(1) If at any time any dividend due on any stock remain unpaid for two months after demand in writing the person entitled thereto may apply to the High Court for a receiver, and the Court may, if it thinks fit, appoint a receiver on such terms as it thinks fit.

(2) The receiver shall have the like power of collecting, receiving, recovering, and applying all money which ought to be paid under these regulations into the redemption fund or the dividends fund, and of assessing, making, and recovering all rates for the purpose of obtaining the same, as the local authority or any officer thereof would or might have, and such other powers and such duties as the Court thinks fit, and shall apply all money so collected, after payment of expenses and costs as the Court directs, for purposes of these regulations.

(3) The Court may at any time discharge the receiver, and shall have full jurisdiction over him and all persons interested in his acts.

Protection of holders of stock.

ARTICLE 43. A person taking or holding stock shall not be concerned to inquire or to take notice whether the creation or issue thereof was or was not within any statutory borrowing power of the local authority, or otherwise in accordance with these regulations, or whether or not the local authority or any meeting thereof was properly constituted or convened, or whether or not the proceedings at any meeting of the local authority were legal or regular, or to see to the application of any money raised by stock, or be answerable for any loss or misapplication thereof.

Annual return to Local Government Board.

ARTICLE 44.—(1) Once in every year, at a time appointed by the Board, the clerk to the local authority shall send to the Board an abstract of the accounts of the local authority relating to stock and the redemption fund in a form prescribed by the Board; and such abstract shall be verified by a statutory declaration of an officer of the local authority, if and as may be required by the Board, and such abstract shall be made up to such date in each year as the Board may determine.

(2) Unless and until the Board in any case by Order otherwise direct, the said abstract shall—

(*a*) Be made up to the twenty-fifth (*a*) day of March in each year;

(*b*) Be forwarded to the said Board within forty-two days after that day;

(*c*) Be in the form set forth in the Schedule B to these regulations; and

(*d*) Be verified by a statutory declaration of the clerk to the local authority, or of such other officer of the local authority as the Board may, on the application of the authority, approve.

(3) In case of wilful default therein by the clerk to or other officer of the local authority, the said clerk or other officer shall on each occasion be liable to a fine not exceeding twenty pounds, and every fine under this article shall be recoverable summarily on the prosecution of the Board, and not otherwise.

(4) If by any such abstract or otherwise it appears to the Board that the local authority have failed to comply with any requisition of these regulations, or of any Order of the Board thereunder, in relation to any payment, application, or investment, or otherwise in relation to stock or the redemption fund, the Board may by Order require the local authority to make good the default within a time therein limited; and if the default be in respect of any sum payable into the redemption fund, or the misapplication of any part of such fund, the Board may by Order direct that the sum in such Order mentioned, not exceeding double the amount in respect of which default has been made, shall be paid into the redemption fund and be invested and applied as part of that fund.

Unclaimed dividends.

ARTICLE 45.—(1) If at any time any dividend on any stock is unclaimed at the time for payment thereof the same shall, nevertheless, on demand at any subsequent time whatsoever, be paid to the person showing his right thereto, but without interest in the meantime.

(2) Where any dividend remains unclaimed for five years from the time for payment thereof the local authority shall cause notice thereof to be sent by post in a registered letter addressed to the stockholder named in their books by the description and

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(*a*) Now the thirty-first; see the Order of the L. G. B., April 5th, 1902, *post*, p. 3807.

at the address therein appearing, and so at the expiration of three other successive periods of five years.

(3) At the end of every successive period of five years from the day when the first dividend becomes payable on stock first issued, the local authority shall publish an advertisement in a newspaper circulating in their district, stating what, if any, dividends on stock have then been unclaimed for more than four years, and the names and addresses appearing in the stock register of the persons entitled to such dividends when the same became due.

(4) At the end of every successive period of ten years from the day when the first dividend becomes payable on stock first issued the local authority, unless it has been otherwise agreed between them and the registrar, may require the registrar to repay to them all dividends unclaimed during that period and then in his hands, and the local authority shall cause the same or any other dividends unclaimed during that period to be paid into the dividends fund, and may deal therewith as they are by these regulations empowered to deal with money paid into the dividends fund, without prejudice, nevertheless to the rights of any person to those dividends.

Unclaimed stock.

ARTICLE 46.—(1) If at the end of the period within which any stock is required to be extinguished the local authority, by reason of the holder of any such stock not being forthcoming, or by reason of any doubt as to the ownership of any such stock, shall not be able to redeem, extinguish, and cancel such stock as required by the regulations hereinbefore contained, the local authority shall invest on statutory securities a sum equal to the nominal value of all such stock as cannot be redeemed by reason as aforesaid, such sum to be dealt with as hereinafter prescribed, and thereupon such stock shall be deemed to have been extinguished.

(2) If before the end of the period within which any stock is required to be extinguished the local authority shall have extinguished all the stock, except such as cannot be redeemed by reason as aforesaid, the local authority may invest on statutory securities a sum equal to the nominal value of all such stock as cannot be redeemed as aforesaid, such sum to be dealt with as hereinafter prescribed, and thereupon such stock shall be deemed to have been extinguished.

(3) Any sums invested by the local authority as aforesaid shall, unless sold for the purpose of satisfying any claim in respect of the stock represented by the same, be kept invested on statutory securities for a period of ten years, after which time the local authority may appropriate the said sums and any accumulations thereon for such purposes as the Board may approve, without prejudice, nevertheless, to the rights of any person to the said sums or any part thereof.

Saving for power to borrow otherwise.

ARTICLE 47. Nothing in these regulations shall affect any power of the local authority to raise otherwise than by stock any money which they do not think fit to raise by stock, but whenever, from time to time after the date of the first creation of stock, the local authority raise money otherwise than by stock, they shall cause to be given to each lender of money so raised notice in writing, signed by the clerk or other authorised officer of the local authority, of the equality of charge which stock has or may have by virtue of these regulations.

Saving for power of revocation.

ARTICLE 48. The local authority may by resolution revoke at any time, in whole or in part, any resolution for creation of stock theretofore passed by the local authority if and as far as the same has not been acted on by the issue of stock thereunder, and notice of such revocation shall forthwith be given to the Board; and in so far as the local authority revoke any such resolution, the Board may, if they think fit, by Order, revoke their consent to the exercise of the statutory borrowing power by the creation and issue of stock.

Saving for other obligations.

ARTICLE 49. Except as in these regulations expressly provided, nothing in these regulations shall relieve the local authority from any obligation imposed on them in relation to any statutory borrowing power by any Act of Parliament under or by which that power for the time being exists or is regulated.

Saving for power to sell lands, etc.

ARTICLE 50.—(1) Nothing in these regulations shall affect any power or duty of the local authority to sell, lease, or otherwise dispose of any land or property of the local authority, or to apply any purchase money or other money arising thereby in discharge of any charge on that land or property, or the revenues thereof, other than the charge of stock, or affect any claim of any person under such first-mentioned charge.

(2) That land or property shall, in the hands of the purchaser or other person taking the same under the sale, lease, or other disposition, be by virtue of these regulations absolutely freed from the charge of stock, and he shall not be concerned to see to the application of that purchase money or other money, or be answerable for any loss or misapplication thereof.

Saving for existing securities.

ARTICLE 51. Nothing in or done under these regulations shall affect any security or charge created or granted or payable by the local authority before and subsisting at the date of the first creation of any stock, and the local authority shall, whenever required by the holder of any security or charge aforesaid, apply all such money, do all such acts, exercise all such powers, collect all such money, and make and levy all such rates as they would or ought to have applied, done, exercised, collected, made, and levied for his benefit and security if these regulations had not been prescribed and made applicable to the local authority.

Forgery.

ARTICLE 52.—(1) Stock shall be deemed capital stock of a body corporate within the Act of the Session of the twenty-fourth and twenty-fifth years of the reign of Her present Majesty (chapter ninety-eight) "to consolidate and amend the statute law of England and Ireland relating to indictable offences by forgery."

(2) A stock certificate to bearer and a coupon connected therewith shall be deemed a stock certificate and coupon within the Forgery Act, 1870.

Orders of the Local Government Board.

ARTICLE 53. Any determinations or directions of the Board under these regulations may be signified by Order under their seal, and any Order of the Board may contain such provisions as the Board think necessary or proper for giving effect thereto, and shall be enforceable by writ of mandamus to be obtained by the Board out of the High Court, and may from time to time be cancelled or varied by the Board, as the circumstances of the case may require, but the Board shall not make any such Order without first hearing the local authority, if desirous of being heard, which hearing may be in the form of a public inquiry, with or without a published report, or in such other form as the Board, having regard to the circumstances, think just and expedient, and sections 294 and 296 of the Public Health Act, 1875, shall apply to hearings, inquiries, and other proceedings to which this article relates: Provided that the costs of inquiries as to which the Board may make Orders under the said section 294 may include such reasonable sum, not exceeding three guineas a day, as the Board may determine, for the services of any inspector holding an inquiry.

Regulations by Bank of England.

ARTICLE 54. Where the Bank of England are the registrar, they may, with the sanction of the local authority, from time to time issue any forms that may be required for carrying into effect the provisions of these regulations, and may also from time to time make any regulations that are not inconsistent with these regulations relative to the following things, and, when made, may alter, vary, or repeal any such regulations, and make other regulations instead thereof, or in addition thereto, and any such regulations for the time being in force shall be duly observed:

(*a*) The period for which coupons are to be given:

(*b*) The mode in which the bank are to act in issuing stock certificates to bearer, or entering in the transfer books the bearers of stock certificates to bearer:

(*c*) The mode of proving the title of or identifying any person applying for a stock receipt or stock certificate, or stock certificate to bearer:

(*d*) With respect to anything necessary for carrying into effect the provisions of these regulations which relate to or affect the bank.

Forms.

ARTICLE 55. The forms given in the Schedule A to these regulations may be used for the purposes therein indicated, and the same, or forms to the like effect, with such variations or additions as circumstances require, shall be effectual for those purposes.

Fees.

ARTICLE 56.—(1) Fees not exceeding those specified in the said Schedule A may be taken by or on behalf of the local authority in the cases therein mentioned.

(2) The proceeds of fees shall be paid by the local authority into the dividends fund, and shall be applied in reduction of contributions out of the revenues of the local authority payable into that fund in respect of dividends on such portions of stock as the local authority, having regard to the cases in which the fees are paid, determine.

Expenses.

ARTICLE 57.—(1) The expenses incurred by the local authority in or about the creation and issue of any amount of stock, including any sum paid by them for composition for stamp duty thereon and any other expenses properly chargeable to capital, shall be deemed money raisable under a statutory borrowing power.

(2) Expenses of book-keeping and management and other current expenses from time to time incurred by the local authority in the execution of these regulations shall be defrayed as the ordinary expenses of the local authority are or may be defrayed, and shall be divided amongst the different funds and undertakings of the local authority in such proportions as the local authority, having regard to all the circumstances, may from time to time determine.

SCHEDULES.

SCHEDULE A.

FORM (A).

RESOLUTIONS ON CREATION OF STOCK.

[ ] of [ ].
[, 189].

At a meeting of the [ ] of the [ ] of [ ] holden on [day, the day of , 189] at [ ] o'clock in the noon in [ ].

Present:
[ ].

Resolved first—

That, with the consent of the Local Government Board, and subject to the regulations of that Board prescribed under the Public Health Acts Amendment Act, 1890, the [ ] do hereby in exercise of their powers create stock to be called [ ] Stock, and to be issued to an amount which shall be sufficient for the following purposes, but not exceeding [ ] pounds (£):—

A. For raising the following sums (amounting in the aggregate to the sum of pounds which has not been raised), that is to say:—

(1) The sum of pounds on account of the money which the [ ] have authority to raise by borrowing under the powers conferred upon them by the [ ] for the purchase money for [ ] and the cost of re-construction of portions thereof;

(2) The sum of pounds on account of the money which the [ ] have authority to raise by borrowing under the powers conferred upon them by the [ ] for the cost of construction of [ ];

(3) The sum of pounds on account of the money which the [ ] have authority to raise by borrowing under the powers conferred upon them by the [ ] for the construction of [waterworks];

(4) The sum of pounds on account of the money which the [ ] have authority to raise by borrowing under the powers conferred upon them by the [ ] for the purposes of [sewering and paving within the].

B. For raising instead of re-borrowing the sum of pounds required by the [ ] for the purpose of paying off when due sums amounting to pounds which will fall due before the [, 189], being a portion of their debts now subsisting on the security of outstanding securities granted by the [ ] for raising money for the purposes of the following Acts (that is to say):—

and which sums the [ ] are under those Acts authorised to re-borrow.

C. For raising the sum of pounds for paying off or redeeming statutory securities granted by the [ ] under the following Acts and now outstanding (that is to say):—

D. For the purpose of issuing stock in substitution for statutory securities granted by the [ ] under the following Acts and now outstanding (that is to say):—

Resolved secondly—

That such stock shall be issued at the price, and shall bear the dividends, and be transferable in the manner hereinafter specified (that is to say):—

A. The minimum price of issue to be [£] per cent., the first dividend to be payable on the [1st January, 189];

B. Tenders for stock to be made to [ ]. A deposit of 5 per cent. on the amount of stock tendered for to be paid at [ ] at the time of the delivery of the tender;

C. The dates for the further payments on account of the said tenders when accepted to be as follows: On [Wednesday, the 20th day of October, 189 , so much of the amount tendered and accepted as when added to the deposit will leave £75 (sterling) to be paid for each £100 of stock. On Friday, the 26th day of November, 189 , 25 per cent. On Tuesday, the 11th day of January, 189 , 25 per cent. On Tuesday, the 1st day of March, 189 , 25 per cent.]. In case of default in the payment of any instalment at its proper date the deposit and instalments previously paid will be liable to forfeiture;

D. Dividends at £ per cent. per annum, payable [quarterly];

E. Dividends on the total amount of stock (calculated from the 1st of October, 189), to be payable on the 1st January, 189 .

F. Stock certificates to bearer with coupons attached for the dividends payable 1st January, 189 , and 1st April, 189 , to be issued in exchange for the provisional receipts.

G. In the event of the receipt of tenders for a larger amount of stock than that proposed to be issued at or above the minimum price, the tenders at the lowest price accepted to be subject to proportionate diminution.

H. Stock to be issued in sums of not less than £10.

J. Stock to be transferable in books and not by deed. (*See, however, Article* 32.)

Resolved thirdly—

That such stock shall be redeemable as follows: *state terms.*

Resolved fourthly—

That such stock shall be redeemed or purchased and extinguished within a period of years from the creation of such stock.

Resolved fifthly—

That an agreement be entered into with the Commissioners of Inland Revenue for the payment to them of composition under the provisions of the Customs and Inland Revenue Act, 1887, for the stamp duty on the transfers of stock issued under the foregoing resolutions.

FORM (B).

STOCK RECEIPT.

] STOCK (£ PER CENT.)

RECEIVED this day of , 189 , of

hereinafter called the said transferee, the sum of

being the consideration for

interest or share in the [

] STOCK (per cent.) transferable at the , and all my property and interest in, and right to, the same, and the dividends thereon, by

this day transferred unto the said transferee.

Witness hand

Witness

Transfer days:

Monday,
Tuesday,
Wednesday,
Thursday,
Friday,

Holidays excepted.

☞The Proprietors to protect themselves from FRAUD are recommended to ACCEPT, by themselves or their attorneys, all TRANSFERS made to them.

£ *s.* *d.*

[*Indorsement.*]

NOTICE TO HOLDERS OF [ ] STOCK (£ PER CENT.)

Payment of Dividends.

Dividends are due on [*the* 1*st January,* 1*st April,* 1*st July, and* 1*st October*], unless the [1*st*] of either of these months falls on a Sunday, in which case the dividends will be payable on the following business day.

Dividends will be paid in one of the following modes:—

I. To the stockholders personally, or to their attorneys, at the .

N.B.—Stockholders may arrange for the receipt of their dividends, free of charge, at [ ].

II. By transmission of dividend warrants by post, at the risk of the stockholder under the following regulations:

1. Any stockholder residing within the United Kingdom, or in the Channel Islands, or the Isle of Man, who desires to have his dividend warrant sent to his address by post, must fill up a form of application, to be obtained at [ ].
2. In the case of joint accounts, the applications must be signed by all the members of the account, directing the warrant to be sent to one of them at a given address.
3. Post dividend warrants will be crossed *& Co.*, and will only be payable through a banker. They will be drawn to the order of the stockholder, and must be endorsed.

Appendix II.

☞ Stockholders, whose warrants are sent by post, should give notice to [ ] if they are *not* received on the day on which they ought to be delivered; but need not acknowledge those that arrive in due course.

Stock Certificates to Bearer.

Stock certificates to bearer, of the denominations of [£10 or any multiple of £10] with coupons for the quarterly dividends attached, may be obtained in exchange for inscribed stock, except in the case of stock held upon any trust.

FORM (C).

[ ] STOCK CERTIFICATE.

[ ] of [ ].

No.

This is to certify that *A.B.* of [ ] is the proprietor of [ ] pounds of [ ] stock subject to the regulations relating thereto.

Given under the common seal of the [ ] of the [ ] of [ ] this [ ] day of [ ] [18].

FORM (D).

TRANSFER IN BOOKS.

[ ] STOCK (£ PER CENT.).

No.

Entered by this day of in the year of our Lord one thousand eight hundred and do assign and transfer

Witness to the identity of interest or share in the [ ] STOCK (£ PER CENT.) transferable at the , and all my property and interest in, and right to, the same, and the dividends thereon, unto

£	*s.*	*d.*

Executors, administrators, or assigns. Witness hand

________ Witness

do freely and voluntarily accept the above stock transferred to

________ Witness

FORM (E).

APPLICATION FOR ISSUE OF POWER OF ATTORNEY.

, the day of , 189 .

From *A. B.* and *C. D.* [*the registered stockholders*]

£__________ [ ] STOCK

(£ per cent.)

To *G. H.* [*the intended Attorney*]

Examined by Dr. fol. Cr. fol. Transfer-book.

Posted by Posted by

FORM (F).

POWER OF ATTORNEY FOR SALE AND TRANSFER AND FOR RECEIPT OF DIVIDENDS.

Corporate Account.

[ ] STOCK.

ACCEPTANCE, SALE OF £ AND DIVIDENDS.

We

our attorneys and attorney

for us and in our name and our behalf—

First—to ACCEPT all transfers made or to be made to us of any sum of

[ ] STOCK.

Secondly—to SELL and TRANSFER all or any part of the sum of
said stock standing in our name in the books of the ;

Thirdly—to RECEIVE and GIVE RECEIPTS for all DIVIDENDS or PAYMENTS due or to become due on any sum of the said stock from time to time standing in our name in the books of the ;

AND ALSO—to do whatever is necessary or proper to be done for the purposes aforesaid, or any of them.

In witness whereof we have hereunto affixed our corporate seal this day of , in the year of our Lord one thousand eight hundred and .

Sealed with the corporate seal and delivered in the presence of

N.B.—The execution of this letter must be attested by [two witnesses who are] not of the corporate body, and who must be present when the corporate seal is affixed.

[*Indorsement.*]

INSTRUCTIONS FOR EXECUTING THE WITHIN LETTER OF ATTORNEY.

Corporate Account }

The *date* must be inserted in *words* and not in figures

The execution must be attested by [*two credible witnesses* who are] not of the corporate body, and who must add [their addresses and their qualities, professions, or occupations.]

A *witness resident in a town* must give the No. of house as well as the name of the street.

If *clerks* or *servants* are witnesses they must give the names and addresses of their employers.

When a witness is a *female* she must state whether she is a *spinster*, *wife*, or *widow;* and if a *wife* she must give her husband's name, address, and quality, profession, or occupation.

A *wife* is not a *valid witness* to the execution of this letter of attorney when her husband's name appears in the letter as attorney or transferee.

If any *alteration, interlineation, or erasure* be made in this letter of attorney, it must be particularly stated in the attestation, subscribed to by the witnesses, that such alteration, interlineation, or erasure was made previously to the execution of the letter.

I demand to act by this letter of attorney, this day of , 18 .
Witness

FORM (G).

DEED OF TRANSFER.

[ ] of [ ].

I, *A.B.*, of [ ] in consideration of the sum of [ ] pounds paid to me by *C. D.*, of [ ] (hereinafter called the said transferee) do hereby transfer the sum of [ ] pounds [ ] stock standing [or part of the stock standing] in my name in the books of the [ ] of the [ ] of [ ] to hold unto the said transferee, his executors, administrators, and assigns [*or* successors and assigns], subject to the several conditions on which I hold the same at the time of the execution hereof, and I, the said transferee, do hereby agree to take the said stock subject to the same conditions.

As witness our hands and seals the [ ] day of [ ].

FORM (H).

DIVIDEND WARRANT.
[ ] STOCK
(£ per cent.).

000000

To the

ONE QUARTER OF A YEAR'S DIVIDEND on the sum of . }
[ ] Stock, due , 189 .
Less Property Tax at *d.* per £ – –

PAY SELF OR BEARER.
Examined

[ ].

Witness

FORM (I).

DIVIDEND WARRANT BY POST.

(1.)

[ ] STOCK

(£ PER CENT.).

REQUEST FOR TRANSMISSION OF DIVIDEND WARRANTS BY POST.

To the

A sum of £ [ ] STOCK (£ per cent.) is now standing in name, as follows :—

Amount.
" my " or " our."

____

____

____

____

Names, addresses, and descriptions as recorded in the books.

As the person entitled to the dividends upon the above-mentioned amount of stock hereby authorise [ ], in the name of to draw upon the [ ] for the amount of the quarterly dividends due and to become due on the said amount of stock, or on the amount for the time being standing in name :

" I " or " we ."
" myself " or " our *nominee*."
" my " or " our."

And hereby request the said [ ] to send through the post at risk, and until further notice, the warrants so drawn to—

" I " or " we."
" my " or " our."

Name ______________________________

Present address ______________________________

____

If the account is a sole one, insert here the name and address of the stockholder : If the account is a joint one, insert here the name and address of one of the stockholders, as *nominee*.

SIGN HERE.

In the case of joint stockholders, or of co-executors, all must sign.

____

____

____

____

Date ____________ 189___.

[*On second half-sheet of same Form.*]

This half-sheet is to be retained by the stockholder. Reference to it will often save unnecessary correspondence.

NOTICE TO HOLDERS OF [ ] STOCK

(£ PER CENT.).

Transmission of Dividend Warrants by Post.

Dividends upon the above-named stock may be transmitted through the post to the *stockholder* in sole accounts, and to *any one of the stockholders* in joint accounts, *at their risk* upon a form of request being duly filled up and forwarded to [ ]. (Forms are obtainable at [ ]).

N.B.—This arrangement does not apply to stockholders whose addresses are beyond the United Kingdom, the Channel Islands, and the Isle of Man.

Persons receiving dividends under letters of attorney cannot have the warrants for such dividends sent to them by post.

A separate form must be used for each separate holding of stock.

When forwarding a form of request, care should be taken to state the number of overdue dividends, if any.

Dividends are payable on [1*st January*, 1*st April*, 1*st July*, *and* 1*st October*].

When the [1*st*] happens on a Sunday, the dividends are not payable until the [2*nd*].

Forms of request may be delivered at any date, either by hand or through the post ; but when received between the day on which the balance for a dividend is struck and the day on which the dividend is payable, the warrants for such *next* dividend will be forwarded as soon as possible, but the will not guarantee their being posted on the day before the dividend is payable.

For the dividend payable [1*st January*] the balance is struck on or about the [1*st December*].

For the dividend payable [1*st April*] the balance is struck on or about the [1*st March*].

For the dividend payable [1*st July*] the balance is struck on or about the [1*st June*].

For the dividend payable [1*st October*] the balance is struck on or about the [1*st September*].

Warrants for overdue dividends will be forwarded as promptly as possible, but not necessarily by return of post.

Any change of address of the stockholder in sole accounts, or of the nominee in joint accounts, should be notified at once to the [ ]. When any such notification reaches less than a fortnight before the next dividend is due, there may be a delay of a few days in the delivery of the warrant for such next dividend.

In the absence of any notification to the contrary, it will be taken for granted that dividend warrants have duly reached their destinations. When they are not received on the correct day, notice should be given to the [ ] without delay.

As postal dividend warrants are made payable to order, they must be indorsed; they are crossed in blank, and consequently are only payable on presentation by a banker. (will not undertake to cross postal dividends warrants with the names of particular bankers.)

Instructions to transmit warrants by post remain in force, although the stock may have been added to or a part sold.

Stockholders selling stock by attorney, if they wish to continue to receive their dividends through the post, should instruct their bankers or brokers to obtain letters of attorney *for sale only.*

All communications with reference to postal dividend warrants should be addressed to [ ], and the postage should be prepaid.

(2.)

———Div.
000000

POST DIVIDEND WARRANT.
[ ] STOCK.
(£ per cent.)

To the

ONE QUARTER OF A YEAR'S DIVIDEND on the sum of .
[ ] STOCK, due , 189 . .
Less property tax at *d.* per £. .

Pay or bearer.

Examined

[ ].

The person to whom this warrant is payable must sign here

Warrants outstanding more than six months after date are required to be sent to for verification before being presented for payment.

FORM (K).

STOCK CERTIFICATE WITH COUPONS TO BEARER.

[ ] STOCK CERTIFICATE TO BEARER.

Dividend at £ per cent. per annum.

£50 A00000

This is to certify that the bearer of this certificate is entitled to FIFTY POUNDS [ ] stock with dividend thereon at the rate of £ per cent. per annum transferable at [ ].

Dated , 189 .

Signed .

Countersigned .

A00000 £50

The coupons attached to this certificate are payable at [ ].

When the coupons are exhausted this certificate will be exchanged on presentation at [ ] for a new certificate with fresh coupons attached.

Appendix II.

[*Coupons.*]

5 Div. [ ] **STOCK.** Coupon for shillings and pence, (less income tax), being three months' dividend at £ per cent. per annum A 00000 Due [1st *January*, 1892] on certificate for FIFTY POUNDS [ ] STOCK. £0 0 0. *Payable at*	5 Div. [ ] STOCK. *Due* [1st *Jan.* 1892.] A 00000 £0 0 0	4 Div. [ ] **STOCK.** Coupon for shillings and pence, (less income tax), being three months' dividend at £ per cent. per annum. A 00000 Due [1st *October*, 1891] on certificate for FIFTY POUNDS [ ] STOCK. £0 0 0. *Payable at* .	4 Div. [ ] STOCK. *Due* [1st *Oct.* 1891.] A 00000 £0 0 0
3 Div. [ ] **STOCK.** Coupon for shillings and pence, (less income tax). being three months' dividend at £ per cent. per annum. A 00000 Due [1st *July*, 1891] on certificate for FIFTY POUNDS [ ] STOCK. £0 0 0. *Payable at*	3 Div. [ ] STOCK. *Due* [1st *July*, 1891.] A 00000 £0 0 0	2 Div. [ ] **STOCK.** Coupon for shillings and pence, (less income tax), being three months' dividend at £ per cent. per annum. A 00000 Due [1st *April*, 1891] on certficate for FIFTY POUNDS [ ] STOCK. £0 0 0. *Payable at* .	2 Div. [ ] STOCK. *Due* 1st *April*, 1891.] A 00000 £0 0 0

FEES.

	£	s.	d.
On original issue of stock receipt or stock certificate	0	2	6
On any new stock certificate	0	2	6
On transfer including certificate	0	5	0
On any issue of stock certificate to bearer in respect of every *ten* pounds of stock specified therein	0	0	6
On re-entry in stock register of stock specified in stock certificate to bearer .	0	5	0

* * * * * *

[*Here followed the form prescribed for the Abstract of Accounts. It is repealed and replaced by the following Order.*]

ORDER OF THE LOCAL GOVERNMENT BOARD, DATED APRIL 5TH, 1902, PRESCRIBING THE FORM OF ABSTRACT OF THE STOCK AND REDEMPTION FUND ACCOUNTS.

To THE SEVERAL LOCAL AUTHORITIES who have created or who may hereafter create Stock under the Stock Regulations, 1891, 1897, and 1901; To the Clerks to the said Local Authorities; And to all others whom it may concern.

Whereas by Article 44 of the Stock Regulations, 1891, duly made and confirmed in pursuance of the provisions of section 52 of the Public Health Acts Amendment Act, 1890, we, the Local Government Board, ordered and prescribed as follows (*a*):—

* * * * * *

And whereas . . . (*b*).

* * * * * *

And whereas the Stock Regulations, 1891, were amended by the Stock Regulations (Amendment), 1897, and the Stock Regulations (Amendment), 1901, also duly made and confirmed in pursuance of the provisions of section 52 of the Public Health Acts Amendment Act, 1890, and it is expedient that another form should be prescribed for the said abstract of accounts and that the St. Helens and Stockport Orders should be rescinded;

Now therefore, in pursuance of the powers given to us in that behalf, we hereby direct that, unless and until we in any case by Order otherwise direct, the abstract of the accounts which the clerk to the local authority is, by Article 44 of the Stock Regulations, 1891, required to send to us shall be in the form set forth in the schedule to this Order in lieu of any other form heretofore prescribed by us, and shall be made up to the thirty-first day of March in each year, and shall be forwarded to us within forty-two days after that day.

And we do hereby rescind the St. Helens and Stockport Orders.

(*a*) The article here recited appears on p. 3798, *ante*.

(*b*) This clause recites the St. Helens and Stockport Orders dated 2nd October, 1900, which are now repealed.

Appendix II.

SCHE

Abstract of Stock and Redemption Fund Accounts made

1. Name of local authority
2. Designation of stock in respect of which the abstract is made
3. Date of Consent Order under which the stock was issued

BORROWING POWERS.

Purpose and Account in respect of which Borrowing Power is exercised.	Act of Parliament, Provisional Order, or Sanction authorising borrowing.	Amount of Borrowing Power.	Amount of Borrowing Power authorised to be exercised by the issue of Stock.	Amount of Borrowing Power exercised up to commencement of Year.		Amount of Borrowing Power exercised up to end of Year.		Total Borrowing Power exercised by the issue or transfer of Stock and otherwise up to end of Year.	Period within which Loan is repayable.	Date when first annual payment to Redemption Fund became due.	Rate of Interest prescribed for accumulation of Redemption Fund.
				(a.) By the issue of Stock.	(b.) By the application of part of Redemption Fund and transfer to the Account of the Borrowing Power exercised of Stock previously issued. [Art. 2, Stock Regulations (Amendment), 1901.]	(a.) By the issue of Stock.	(b.) By the application of part of Redemption Fund and transfer to the Account of the Borrowing Power exercised of Stock previously issued. [Art. 2, Stock Regulations (Amendment), 1901.]				
7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.
		£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.			

REDEMPTION

Amount received and paid to Redemption Fund during Year from Sales of Surplus Land, &c.	Amount having formed part of any Sinking Fund, and paid into Redemption Fund during year.	Amount carried to Redemption Fund during the Year as Interest on Investments.	Amount carried to Redemption Fund during the Year as Interest on part of the Fund applied in Extinction of Stock or applied to Borrowing Power in accordance with Art. 2, Stock Regulations (Amendment), 1901.	Amount carried to Redemption Fund during Year and not included in previous Columns, showing separately the ordinary Annual Payment for Redemption of Stock and any other amounts.	Rate, Fund, or Revenue from which Payments in last two preceding Columns were made.	Total carried to Redemption Fund from all sources during Year.	Amount standing to credit of Redemption Fund at commencement of Year.
29.	30.	31.	32.	33.	34.	35.	36.
£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.		£ s. d.	£ s. d.

DULE.

in pursuance of Article 44 *of the Stock Regulations,* 1891.

4. Period for which abstract is made, viz., year ended
5. Rate of interest on stock
6. Average price of each issue of stock

STOCK ACCOUNT.

Amount of Stock issued on or transferred to each Account up to commencement of Year.		Issue, Transfers, and Extinction of Stock on each Account during the Year.							
(a.) Stock originally issued on the Account.	(b.) Stock transferred to the Account.	Amount of new Stock issued.	Amount of Stock transferred to the Account.	Amount of Stock transferred from the Account.	Account from or to which transferred.	Amount of Stock extinguished.	Total Amount of Stock transferred from or extinguished on each Account up to commencement of Year.	Total Amount of Stock transferred from or extinguished on each Acccount up to end of Year.	Amount of Stock remaining (*i.e.* neither transferred nor extinguished) on each Account at end of Year.
19.	20.	21.	22.	23.	24.*	25.	26.	27.	28.
£ *s. d.*	£ *s. d.*	£ *s. d*	£ *s. d.*	£ *s. d.*		£ *s. d.*	£ *s. d.*	£ *s. d.*	£ *s. d.*

* Give reference to the number of the line in this return on which the borrowing power from or to which the stock is transferred appears.

FUND ACCOUNT.

Amount paid for Extinction of Stock during Year.	Amount applied during Year to Borrowing Powers in accordance with Art. 2, Stock Regulations (Amendment), 1901.	Total carried to Redemption Fund for Redemption of Stock up to end of Year.	Total paid for Extinction of Stock up to end of Year.	Total applied up to end of Year to Borrowing Powers in accordance with Art. 2, Stock Regulations (Amendment), 1901.	Amount standing to credit of Redemption Fund at end of Year.		
					Uninvested.	Invested.	Description and Nominal Amount of Securities in which invested, and Interest payable thereon.
37.	38.	39.	40.	41.	42.	43.	44.
£ *s. d.*	£ *s. d.*	£ *s. d.*	£ *s. d.*	£ *s. d.*	£ *s. d.*	£ *s. d.*	

(Signature)

Given under the Seal of Office of the Local Government Board, this fifth day of April, in the year one thousand nine hundred and two.

(L.S.) CHAS. T. RITCHIE,
One of the Ex-officio Members of the Local Government Board.

H. C. MONRO, *Assistant Secretary.*

ORDER IN COUNCIL OF THE 3RD AUGUST, 1897.

At the Court at Osborne House, Isle of Wight, the 3rd day of August, 1897.

PRESENT,

The Queen's Most Excellent Majesty in Council.

Whereas the Local Government Board did, in pursuance of the powers conferred upon them by the Public Health Acts Amendment Act, 1890, on the third day of June, 1897, make certain regulations amending the regulations confirmed by Order in Council of 26th September, 1891, applicable to the creation, issue, transfer, and redemption of and other dealings with any stock which any urban sanitary authority create in exercise of any statutory borrowing power:

And whereas the said amending regulations, have as required by the said Act, been laid before both Houses of Parliament for a period of thirty days, and no resolution has been passed by either House that such amending regulations ought not to be proceeding with:

Now therefore, Her Majesty, having taken the said amending regulations (copy whereof is hereunto annexed) into consideration, is pleased, by and with the advice of Her Privy Council, to confirm and doth hereby confirm the same.

C. L. PEEL.

AMENDING REGULATIONS REFERRED TO IN THE FOREGOING ORDER.

PUBLIC HEALTH ACTS AMENDMENT ACT, 1890 (53 & 54 VICT. c. 59, s. 52).

REGULATIONS AS TO ISSUE OF STOCK. AMENDING ORDER.

Whereas by section 52 of the Public Health Acts Amendment Act, 1890 (which section forms Part V. of the said Act) [*the section* (ante, *p.* 914) *is recited*].

And whereas the Local Government Board by Order dated the 3rd day of July, 1891, made regulations under the said section (hereinafter called "the regulations"), and the same were confirmed by Order in Council dated the 26th day of September, 1891;

And whereas it is desirable that the regulations should be amended as hereinafter provided:

Now therefore, we, the Local Government Board, in pursuance of the powers given to us by the above-cited section, do hereby order and prescribe as follows:—

From and after the confirmation of these regulations by Order in Council the regulations shall be amended by the additions and alterations hereinafter contained, and as so amended shall apply to the creation, issue, transfer, and redemption of, and other dealings with, any stock which any council of a county borough or district council or other authority having adopted Part V. of the said Public Health Acts Amendment Act, 1890, or otherwise entitled to issue stock thereunder create with our consent under the regulations in exercise of any statutory borrowing power as defined in Article 1 thereof:

Provided that the said additions and alterations shall not apply to any stock issued before the confirmation of these regulations, except as hereinafter expressly mentioned, or as we may hereafter direct.

ARTICLE 1.—(1) An authority who shall have issued stock under the regulations, whether of one or more classes, and whether before or after the date of this Order, may, if the Board by a Consent Order so provide, from time to time create and issue stock, under and subject to the regulations as hereby amended, of another class, than any stock previously created by the authority, and so that some or all of the terms and conditions on which the same is issued, including the rate of dividend payable thereon and the period after which the same shall become redeemable, may not be the same as those of any stock previously created, but any stock shall rank equally with the stock previously issued, and (unless otherwise expressed in the resolution for the creation of the stock) with all other securities of the authority created or granted in pursuance of any statutory borrowing power at any time after the date of the first creation of any stock.

(2) There shall be a separate stock (dividends) fund and a separate stock (redemption) fund for every class of stock; the funds for each class of stock being distinguished by numbers or otherwise.

(3) So long as any money is payable under Article 15 of the regulations into the stock (redemption) fund for one class of stock, no moneys shall be payable under that article into the stock (redemption) fund for any other class of stock except that any money to which that article applies and which shall have arisen from any sale, lease, or other disposition of land or other property purchased or otherwise acquired by means of money raised by stock, or by means of any loan which shall have been converted into stock, shall be paid into the stock (redemption) fund for the stock by which the money was raised or into which the loan has been converted.

(4) In this Order the term "dividends fund" and "redemption fund" shall mean as well the stock (dividends) fund, and stock (redemption) fund under the regulations, as the stock (dividends) fund and the stock (redemption) fund for any class of stock created and issued by an authority under the provisions of this article.

ARTICLE 2. In any consolidation scheme, under Article 5 of the regulations, loans raised or authorised to be raised by stock under a previous Consent Order, may be included, whether such Consent Order has been made before or after this Order.

ARTICLE 3.—(1) If money to be raised by the issue of stock is to be lent by the authority, and to be repaid by instalments, or if in any other case the Board think fit, the Board may by the Consent Order prescribe, or may thereafter determine, that the amounts of the several contributions to the redemption fund in respect of such stock (subject to any reduction thereof authorised under the regulations) shall be determined by the provisions either of paragraph (*a*), paragraph (*b*), or paragraph (*c*) of this clause:—

(*a*) The said amounts shall be the same as would under the statutory borrowing power have been payable towards paying off the money represented by the stock, or to a non-accumulating sinking fund for the repayment of the same, if the same had been raised otherwise than by the issue of stock.

(*b*) The said amounts shall be such equal annual amounts as will be sufficient after payment of all expenses, to purchase the amount of stock at par within the time within which, under the statutory borrowing power or the Consent Order, the money represented by the stock is to be repaid.

(*c*) If the statutory borrowing power in exercise of which the stock is issued does not determine the amounts to be paid towards paying off or to a non-accumulating sinking fund in respect of the money to be borrowed thereunder, or the period within which the same is to be repaid, or if the Board approve a scheme for the consolidation of all or any of the loans raised or to be raised by the issue of stock, the amounts of the several contributions shall be such equal annual amounts as will be sufficient, after payment of all expenses, to purchase the amount of stock at par within such time, not exceeding sixty years from the first creation of the stock, as the Board shall prescribe in the Consent Order, or shall thereafter determine.

(2) Except as hereinafter provided, the provisions of clause (3) of Article 14 of the regulations, and so much of clause (7) of that article as requires interest to be paid into the redemption fund or any part of that fund applied in the redemption or purchase and extinction of such stock, and so much of Article 16 of the regulations as requires the interest and annual proceeds arising from the investment of the redemption fund to be invested and accumulated shall not apply to such part of the redemption fund as represents contributions made thereto under this article; provided that (without prejudice to the power reserved to the Board under clause (5) of Article 14 of the

regulations), if the Board shall at any time be of opinion that such part of the redemption fund as represents contributions made under this article will not in consequence of the depreciation of the securities in which the fund is invested, be sufficient to redeem or purchase the amount of stock in respect of which such contributions are made as required by the regulations as hereby amended, they may direct that the above-mentioned provisions of clause (7) of Article 14 and of Article 16 shall apply with such modifications as they may prescribe. Provided also, that so long as the above-mentioned provisions of Article 16 shall not apply, the interest and annual proceeds arising from the investment of such part of the redemption fund as represents contributions made under this article may be paid into the dividends fund, in reduction of the amount to be provided by contributions as required by Article 7 of the regulations.

ARTICLE 4.—(1) If the local authority create and issue stock for the purpose of raising any money to be paid under clause (2) of Article 20 of the regulations, to the holder of any security for his consent to or for otherwise compensating him for the payment off or redemption of his security, or to the substitution of stock for his security, the period within which provision shall be made for the redemption of the amount of stock created and issued for that purpose shall be such period, not exceeding the period within which the money representing the security paid off or redeemed or for which the stock is substituted is required to be paid off under the statutory borrowing power or the Consent Order, as the Board may by the Consent Order prescribe, or may thereafter determine.

(2) The amount of any payment under clause (2) of Article 20 of the regulations which may be raised by the issue of stock shall not exceed the amount which the Board may by the Consent Order authorise to be so raised.

ARTICLE 5. The following provisions shall be substituted for the last paragraph of Article 14 of the regulations, and shall apply to stock issued before or after this Order:—

> "When the local authority redeem or purchase and extinguish stock by the application of any part of the redemption fund, the stock so redeemed or purchased and extinguished shall be deemed to be stock issued in respect of such one or more of the statutory borrowing powers exercised by the issue of stock and, if in respect of more than one, in such proportions as the local authority shall before or within three months after the redemption or purchase direct, or, in default of such direction, as the Local Government Board shall determine: Provided that no larger amount of stock shall be deemed to be redeemed or purchased and extinguished in respect of any statutory borrowing power than the amount which, according to the actual price of redemption or purchase, could be redeemed or purchased with the contributions paid into the redemption fund in respect of that borrowing power and the accumulations (if any) thereon."

ARTICLE 6. The words "the statutory borrowing power which the authority could exercise for such other purpose" shall be substituted in Article 22 of the regulations for the words "such last-mentioned statutory borrowing power." This amendment shall apply to stock issued before or after this Order.

ARTICLE 7. The following provisions shall be substituted for Article 23 of the regulations, and shall apply to money raised by stock issued before or after this Order:—

> "The local authority may, and if required by the Local Government Board shall, from time to time invest temporarily on statutory securities any sum raised by stock and not for the time being required for the purpose for which it was raised."

ARTICLE 8. The following shall be substituted for clause (5) of Article 29 of the regulations:—

> "The registrar shall, after reasonable notice, and on delivery up of the old stock certificate, or on such proof that it cannot be produced, as the registrar, with the approval of the local authority, may require, deliver to the purchaser a new stock certificate under the seal of the local authority."

ARTICLE 9. Clause (1) of Article 57 of the regulations shall be amended by the substitution for the words "including any sum paid by them for composition for stamp duty thereon and any other expenses" of the words "so far as they are."

ARTICLE 10. These regulations shall be read as one with the regulations, and may be cited as "The Stock Regulations (Amendment), 1897," and with the regulations as "The Stock Regulations, 1891 and 1897," and the regulations may be cited as "The Stock Regulations, 1891."

Given under the Seal of Office of the Local Government Board, this third day of June, in the year one thousand eight hundred and ninety-seven.

(L.S.) HENRY CHAPLIN, *President.*

HUGH OWEN, *Secretary.*

ORDER IN COUNCIL OF THE 8TH AUGUST, 1901.

At the Court at St. James's, the 8th day of August, 1901.

PRESENT,

The King's Most Excellent Majesty in Council.

Whereas the Local Government Board did, in pursuance of the powers conferred upon them by the Public Health Acts Amendment Act, 1890, on the second day of July, 1901, make certain regulations amending the regulations, confirmed by Orders in Council of 26th September, 1891, and 3rd August, 1897, applicable to the creation, issue, transfer, and redemption of and other dealings with any stock which any urban sanitary authority create in exercise of any statutory borrowing power.

And whereas the said amending regulations have, as required by the said Act, been laid before both Houses of Parliament for a period of thirty days, and no resolution has been passed by either House that such amending regulations ought not to be proceeded with.

Now, therefore, His Majesty, having taken the said amending regulations (copy whereof is hereunto annexed) into consideration, is pleased, by and with the advice of His Privy Council, to confirm and doth hereby confirm the same.

A. W. FITZROY.

AMENDING REGULATIONS REFERRED TO IN THE FOREGOING ORDER. PUBLIC HEALTH ACTS AMENDMENT ACT, 1890 (53 & 54 VICT. c. 59, s. 52).

REGULATIONS AS TO ISSUE OF STOCK. AMENDING ORDER.

Whereas by section 52 of the Public Health Acts Amendment Act, 1890 (which section forms Part V. of the said Act) [*the section* (ante, *p.* 914) *is recited*].

And whereas it is provided by the Public Health Acts Amendment Act, 1890, that Part V. of that Act may be adopted by any urban sanitary authority, and by virtue of the Local Government Act, 1894, urban sanitary authorities other than the councils of county boroughs are to be called urban district councils;

And whereas we, the Local Government Board, made the Stock Regulations, 1891, and the Stock Regulations (Amendment), 1897, and the same were confirmed by Orders in Council dated respectively the 26th day of September, 1891, and the 3rd day of August, 1897;

And whereas it is desirable that the Stock Regulations, 1891, and the Stock Regulations (Amendment), 1897, should be amended as hereinafter provided:

Now, therefore, in the exercise of our powers in that behalf, we do hereby order and prescribe as follows:—

ARTICLE 1. Article 2 of the Stock Regulations, 1891, shall have effect as if in paragraph (1) thereof for the words "at such price, being not lower than ninety-five per centum," there were substituted the words "at such price being not lower, except where the Board otherwise consent, than ninety-five per centum."

ARTICLE 2. Article 16 of the Stock Regulations, 1891, shall have effect as if there were added to the said Article the following proviso; that is to say,—

"Provided as follows:—

"(1) Where the local authority have any statutory borrowing power and are authorised to exercise the statutory borrowing power by the creation and issue of stock, the local authority, instead of raising moneys in the exercise of the statutory borrowing power by the creation and issue of additional stock, may, subject to this proviso, exercise the statutory borrowing power, either wholly or partially, by using for the purpose any moneys for the time being forming part of the redemption fund and standing to the credit of any separate account or separate accounts forming part of the general account of that fund.

"(2) Where the local authority determine to proceed in the manner authorised by paragraph (1) of this proviso the local authority shall pass a resolution to that effect; and shall, by the resolution, prescribe all such matters or things as in or in pursuance of this proviso are referred to as prescribed or are required to be prescribed; and, after passing the resolution, the local authority shall—

"(*a*) withdraw from the redemption fund the prescribed sum which shall be equal to the amount of the statutory borrowing power proposed to be exercised, and such sum shall be deemed to be withdrawn from such separate account or separate accounts in the general account of the redemption fund as shall be prescribed; and

"(*b*) deduct, from the amount of stock for the time being chargeable to the undertaking or purpose or attributable to the exercise of the borrowing power to which a separate account prescribed as aforesaid has reference, a portion of stock at par value equal to the sum withdrawn from that separate account, and transfer that portion of stock, as from the prescribed date, to the separate account in respect of which the statutory borrowing power is exercised under this proviso.

"(3) These regulations, and any regulations amending these regulations, shall apply—

"(*a*) to the moneys withdrawn from the redemption fund and used as aforesaid as though the moneys so withdrawn had been applied in the redemption of stock at par on the separate account or separate accounts from which the moneys were withdrawn, and as though the moneys so used had been raised by the issue of additional stock for the purposes of the separate account in respect of which the statutory borrowing power is exercised under this proviso: and

"(*b*) to the stock deducted and transferred as aforesaid as though the stock so deducted had, in pursuance of the regulations, been redeemed by the application of the redemption fund on the separate account or separate accounts from which the stock was deducted but subject to the condition that such stock shall not be cancelled, and as though the stock so transferred were additional stock expressly issued for the purposes of the separate account in respect of which the statutory borrowing power is exercised under this proviso."

ARTICLE 3. Article 6 of the Stock Regulations (Amendment), 1897, and the proviso to Article 22 of the Stock Regulations, 1891, shall be rescinded; and the last-mentioned article shall have effect as if there were added to the said article the following proviso; that is to say,—

"Provided that if, after the raising of any money by stock under these regulations, it shall be found that any part of such money is not required for the purposes to which it is applicable as aforesaid, the local authority shall pay such money into the redemption fund, and shall carry the same to the proper separate account forming part of the general account of the redemption fund."

ARTICLE 4. For the purposes of this Order, the expression "local authority" includes any authority who, by the adoption of Part V. of the Public Health Acts Amendment Act, 1890, or otherwise, may be entitled to issue stock in the manner provided by and subject to the provisions of the said Part.

ARTICLE 5. The regulations in this Order shall be read as one with the Stock Regulations, 1891 and 1897, and may be cited as "The Stock Regulations (Amendment), 1901," and with the Stock Regulations, 1891 and 1897 may be cited as "The Stock Regulations, 1891, 1897, and 1901."

Given under the Seal of Office of the Local Government Board, this second day of July, in the year one thousand nine hundred and one.

(L.S.) WALTER H. LONG, *President*.

S. B. PROVIS, *Secretary*.

ORDER IN COUNCIL, DATED 10TH DAY OF AUGUST, 1921.

Whereas the Minister of Health has, in virtue of the powers conferred on him by the Public Health Acts Amendment Act, 1890, and the Ministry of Health Act, 1919, made regulations amending the Stock Regulations, 1891, 1897 and 1901:

And whereas the said regulations have, as required by the said Public Health Acts Amendment Act, 1890, been laid before both Houses of Parliament for the period of thirty days, and no resolution has been passed by either House that such regulations ought not to be proceeded with:

Now, therefore, His Majesty, having taken the said regulations (copy whereof is hereunto annexed) into consideration, is pleased by and with the advice of his Privy Council to confirm and doth hereby confirm the said regulations.

AMENDING REGULATIONS REFERRED TO IN THE FOREGOING ORDER:—

1. These regulations may be cited as the Stock Regulations, 1921, and shall be read as one with the Stock Regulations, 1891, 1897 and 1901, and these regulations and those regulations may be cited together as the Stock Regulations, 1891 to 1921.

2. Where stock has been issued at a price lower than one hundred pounds stock for one hundred pounds sterling, so much of the stock as represents the difference between the price of the stock as issued and its normal value shall for the purposes of Article 14 of the Stock Regulations, 1891, and of Article 3 of the Stock Regulations (Amendment), 1897, be treated as a loan authorised by a statutory borrowing power and repayable on or before the date at which the stock is first redeemable at par at the option of the local authority, and those articles shall be read and have effect accordingly.

3. Paragraph (6) of Article 14 of the Stock Regulations, 1891, shall have effect as if the words "on or before the date at which the stock is first redeemable at par at the option of the local authority" were substituted for the words "within the period within which the stock is to be extinguished" at the end of that paragraph.

4. The words "or at such other value as the Minister of Health may direct" shall be inserted after the words "at par value" in sub-paragraph (*b*) of paragraph (2), and after the words "at par" in sub-paragraph (*a*) of paragraph (3), respectively, of the proviso added to Article 16 of the Stock Regulations, 1891, by Article 2 of the Stock Regulations (Amendment), 1901.

Given under the Official Seal of the Minister of Health this thirteenth day of June, in the year one thousand nine hundred and twenty-one.

(An Order in Council in similar terms was made on the same date with regard to county stock.)

Appendix II.

TOWN PLANNING.

HOUSING, TOWN PLANNING, &c. ACT, 1909: PROCEDURE REGULATIONS (*a*).

(This Order was partially revoked by Order of 11th February, 1914, which has itself been revoked by Order of 29th March, 1921, *post.*)

To the several Local Authorities in England and Wales for the purposes of Part II. of the Housing, Town Planning, &c. Act, 1909; And to all others whom it may concern.

Whereas [*sections* 54, 55, 56, 65 (1), 66 (1), *and Schedule V. are recited*].

Now therefore, we, the Local Government Board, in pursuance of the powers given to us in that behalf, by this Order, make the following regulations; that is to say:—

Procedure Anterior to and for the Purpose of an Application for Authority to Prepare or Adopt a Scheme.

Notices of intention to apply for authority to prepare or adopt a scheme: Deposit of Map No. 1 showing land proposed to be included.

Article I.—(*a*) At least two months before making an application to the Local Government Board (hereinafter referred to as "the Board") for authority to prepare a town planning scheme, or for authority to adopt a town planning scheme proposed by all or any of the owners of any land with respect to which the local authority might themselves have been authorised to prepare a scheme, the local authority shall serve upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land proposed to be included in the scheme, and upon the council of any borough or of any urban or rural district within which any part of that land is comprised, and also, if any main road is or may be affected by the proposed scheme, upon the county council, a notice of their intention to make such application. The local authority shall also give notice of their intention to make such application by advertisement in some newspaper or newspapers circulating in the area of the local authority, and the advertisement shall be published at least two months before making the application.

(*b*) The local authority shall, not later than the date on which the first of the said notices is given, deposit at a place convenient for the purposes of inspection and shall keep deposited thereat, for a period not being less than one month from the date on which the latest of the said notices is given, a map of the land proposed to be included in the said scheme. The said map (to be marked and known as "Map No. 1") shall be on the scale of 25·344 inches to the mile, and shall be open for inspection by any person interested, without payment of any fee, at all reasonable hours on any week-day during the said period. The local authority shall also make suitable provision for affording to any person inspecting the map any necessary explanation in regard thereto.

(*c*) The said notices shall describe the land proposed to be included in the scheme and shall state the place at which a map of the land is deposited and the period and times during which the same will be open for inspection by any person interested.

(*d*) A certified copy of Map No. 1 shall be furnished by the local authority to the council of any borough or of any urban or rural district within which any part of the land proposed to be included in the scheme is comprised.

Special notice to councils interested [Section 56 (2) (*b*) of Act of 1909].

Article II.—With the view of securing that notice of the proposal to apply for authority to prepare or adopt a scheme in respect of any land shall be given at the earliest stage possible to any council interested in the land, the local authority, independently of the notices required to be given as aforesaid, shall, within seven days after they have decided to consider a proposal for authority to prepare or adopt a scheme in reference to any area of land, serve notice of their decision upon any council interested in the land.

(*a*) These regulations are in force only with respect to the adoption by local authorities of schemes proposed by owners (Art. 17 of the 1914 Order). The 1914 Order has been revoked, but it would seem that these regulations are still in force with the limited scope referred to.

Consideration by local authority of objections, etc. Conferences: Meeting of parties interested.

ARTICLE III.—The local authority before making an application to the Board for authority to prepare or adopt a scheme shall consider any objections or representations made to them in writing in reference to the proposed scheme whether by owners or other persons interested in the land proposed to be included in the scheme, or by owners or other persons interested in any lands in the neighbourhood of the land proposed to be included in the scheme which may be affected by the scheme, or by the council of any borough or of any urban or rural district within which any part of the land proposed to be included in the scheme is comprised, or by any other council who may be interested in or affected by the scheme; and shall endeavour, by conferences between the local authority or their officers and such owners, persons, or councils and by any other means available, to secure the co-operation of such owners, persons, or councils in promoting the scheme.

The local authority shall arrange for at least one meeting being held, at which all such owners, persons, or councils as aforesaid shall be entitled to attend or be represented, for the purpose of considering the proposed scheme. Notice of the time and place fixed for such meeting shall be served by the local authority upon all such owners, persons, or councils so far as they can ascertain the same, not less than fourteen days before the time fixed for the meeting.

The mayor (if the local authority are the town council of a borough) or the chairman of the council (if the local authority are the London County Council or an urban or rural district council) shall be the president of the said meeting, or, in the event of the mayor or chairman being unable or unwilling to act, any person appointed for the purpose by the local authority shall be the president, or, in default of such appointment, the meeting shall choose some person present at the meeting to be president thereof. On opening the meeting the president, or a member or officer of the local authority, shall give such explanation of the proposed scheme as he thinks expedient.

Application to the Board to be by resolution: Map No. 2 to be prepared in connection with resolution.

ARTICLE IV.—(*a*) An application to the Board by a local authority for authority to prepare or adopt a scheme shall be made by a resolution of the local authority.

(*b*) The resolution shall define, by reference to a map prepared on a scale of not less than 25·344 inches to the mile (to be marked and known as "Map No. 2"), the land in reference to which it is desired to prepare or adopt the scheme, and shall state whether the land is entirely within the area of the local authority or wholly or partly within a neighbouring area. In addition to any other particulars required by these regulations to be shown thereon the said map shall show clearly by means of boundary lines sharply defined in colour the area of the land included in the proposed scheme, distinguishing between the parts of the land included within the area of the local authority and within the area of any other local authority. If the area of the land includes any piece of land already built upon or any piece of land not likely to be used for building purposes, any such lands shall be indicated on the map by distinctive colours and any necessary reference notes, and there shall also be shown on the map in like manner the positions of any buildings which have been erected on the land or of any buildings which are in course of erection.

(*c*) A copy of the resolution certified by the clerk to the local authority shall be transmitted without delay to the Board by the clerk, with a covering letter, and accompanied by a statement as to the total number of members of the local authority, the number who voted for the resolution, the number who voted against the resolution, the number who were present at the meeting but did not vote, and the number absent from the meeting.

Documents, etc., to accompany application: Map No. 3 to be prepared.

ARTICLE V.—The application to the Board shall be accompanied by:—

(*a*) The statutory declaration and exhibits required by Article XXXI. of these regulations in proof of compliance with the requirements of Article I.

(*b*) Map No. 2 or a copy thereof duly certified by the clerk to the local authority.

(*c*) A map on the scale of 1 inch to the mile (to be marked and known as "Map No. 3"), showing, by distinguishing colours or boundary lines in colour, the district of the local authority, the land included in the proposed scheme, and the area within a distance of five miles from any part of the district of the local authority:

Provided that, if the scheme is proposed to be made or adopted by the council of a rural district, it shall not be obligatory that the map shall extend to the whole of the rural district, but it shall extend to the contributory place or places therein in which any part of the land included in the scheme is comprised, and to the area within a distance of five miles from such place or places:

Provided also that, if in any case the land included in a scheme is wholly outside the district of the local authority, the map shall show at least the area within a distance of five miles from any part of such land.

(*d*) A copy of all objections made in writing in reference to the proposed scheme so far as the objections have not been withdrawn or removed.

(*e*) If the application relates to the adoption of a scheme proposed by owners, a copy of the scheme so proposed and a statement of any modifications which the local authority are of opinion should be made in the scheme.

Additional particulars to be shown on Map No. 2 in a case of preparation of scheme by local authority.

ARTICLE VI.—If the application relates to the preparation of a scheme by the local authority there shall be shown on Map No. 2 the lines and widths of the principal roads which the local authority propose shall be made as part of the scheme, the connections of the proposed roads with existing roads, and the lines of any existing sewers or any existing pipes or mains for the supply of water, gas, or electricity. Any existing roads or ways which it would be necessary to stop up or divert shall also be indicated on the said map, and if the local authority contemplate that the scheme to be prepared shall provide for certain areas being used for the purpose of open spaces or for other special purposes those areas shall as far as possible be indicated on the said map.

Additional particulars to be shown on Map No. 2 in a case of adoption of scheme by local authority.

ARTICLE VII.—If the application relates to the adoption of a scheme proposed by owners of land there shall be shown on Map No. 2 the lines and widths of all roads proposed as part of the scheme, the connections of the proposed roads with existing roads, and the lines of any existing sewers or any existing pipes or mains for the supply of water, gas, or electricity. Any existing roads or ways which it is proposed to stop up or divert shall be indicated on the said map, which shall also indicate the areas proposed by the scheme to be allocated for the purpose of open spaces, private or public, or to be used for any other special purposes. The said map shall also show all such further particulars in relation to the scheme proposed to be adopted as are suitable for indication thereon, *e.g.*, any proposals as to lines of sewers, or of pipes or mains for the supply of water, gas, or electricity.

Information to be furnished to the Board in connection with all applications.

ARTICLE VIII.—In connection with an application for authority to prepare or adopt a scheme, the local authority shall furnish the Board with a statement or statements giving the particulars and information hereinafter indicated:—

(*a*) A general description of the scheme including information as to the general character of the land proposed to be included in the scheme, the extent to which the scheme applies to land in course of development, the extent to which it applies to land likely to be used for building purposes, and, as regards the last-mentioned land, the grounds for considering that the land is likely to be so used.

(*b*) The reasons on which the local authority rely in support of their application.

(*c*) If the scheme includes land already built upon or land not likely to be used for building purposes, the reasons which, in the opinion of the local authority, render it necessary or desirable to include such lands in the scheme; particulars of the buildings on the lands; such information as the local authority may be in a position to give in regard to the extent to which it would be necessary to provide for the demolition or alteration of the buildings for the purpose of carrying the scheme into effect; and, as regards any land not likely to be used for building purposes, the grounds on which it is considered that such land would not be so used.

(*d*) Information as to the arrangements in operation in the area of the local authority in regard to sewerage, drainage and sewage disposal, water supply and lighting, and the like information in regard to the area of any other local authority in which any part of the land included in the scheme is comprised, and also information to show to what extent the arrangements as to sewerage, drainage, and sewage disposal would be available or would require alteration or modification for the purposes of the area included in the scheme. If any company, whether statutory or otherwise, is supplying or has power to supply water, gas, or electricity in the area included in the scheme, it should be so stated and particulars given in regard thereto.

(*e*) If the area of the land included in the scheme is not wholly within the area of the local authority making the application, information shall be supplied as to the proposals in regard to the authority who are to be responsible for enforcing the observance of the scheme and for the execution of any works which under such scheme, or under Part II. of the Act of 1909, may have to be executed by a local authority.

(*f*) Information as to any monuments or ancient monuments, within the meaning of the Ancient Monuments Protection Acts, 1882 to 1900, situate within the area included in the scheme, and as to the manner in which they would be affected.

(*g*) If any land or property of any Government department would be affected by the scheme, particulars in regard to any such property and as to the Government departments concerned.

Additional information to be furnished to the Board in a case of adoption of scheme by local authority.

ARTICLE IX.—In connection with an application for authority to adopt a scheme, the local authority shall furnish the Board with a statement or statements giving the additional particulars and information hereinafter indicated:—

(*a*) The names and addresses of the owners, lessees, and occupiers of each parcel of the land included in the scheme, and the approximate extent of each such parcel.

(*b*) Information showing in what respects the proposals in the scheme would involve the suspension of any statutory enactments, byelaws, regulations or other provisions which are in operation in the area included in the scheme.

(*c*) Information as to the extent to which it may be contemplated or necessary under the scheme that land included in the scheme shall be acquired (1) by the local authority making the application or (2) by any other local authority.

(*d*) Definite information as to whether any of the owners by whom the scheme is proposed will, in the event of the scheme being adopted by the local authority and approved by the Board, claim compensation on the ground that his property would be injuriously affected by the making of the scheme; and particulars of any information in the possession of the local authority in regard to the probability of any other person making a claim for compensation on that ground.

(*e*) If, in the opinion of the local authority, any property will be increased in value by the making of the proposed scheme, information as to such property and as to the estimated increase in value.

Estimate as to cost of scheme: Information as to area, population, rates debt, &c.

ARTICLE X.—(*a*) In connection with an application for authority to prepare or adopt a scheme the local authority shall state as nearly as may be practicable the estimated cost of carrying out the scheme, so far as the cost is expected to be borne by (1) the local authority making the application, and (2) any other local authority. The local authority shall also furnish the Board with such information as they may require as to the manner in which the estimated cost is arrived at.

(*b*) Subject to the proviso hereinafter contained, the local authority shall also furnish a statement showing the following particulars with respect to the district of the local authority, that is to say:—

(i) the acreage;
(ii) the population according to the last census;
(iii) the rateable value for the purposes of the poor rate;
(iv) the amount in the £ of every rate levied during the three last preceding financial years;
(v) the amount of the balances of the outstanding loans contracted by the local authority and the sum included in such amount in respect of loans for sanitary purposes; and
(vi) the amount of the loans sanctioned but not raised though proposed to be raised, and the sum included in such amount in respect of loans for sanitary purposes:

Provided that if it is proposed that the cost of the scheme to be borne by the local authority shall be charged upon any contributory place or places in their district the particulars required under heads i., ii., iii., and iv. hereof shall be given with respect to such place or places only.

(*c*) If any part of the cost of the scheme is expected to be borne by a local authority other than the local authority making the application, the first-mentioned local

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authority shall make a statement showing in regard to their district the several particulars indicated in paragraph (*b*) of this article, and shall supply the same to the last-mentioned local authority, who shall transmit it to the Board with the said application.

Notice by advertisement of application having been made to the Board.

ARTICLE XI.—When the local authority have transmitted to the Board an application for the approval of the Board to the preparation or adoption of a scheme, the local authority shall forthwith give notice of such application and of the date of the resolution making the application by advertisement in some newspaper or newspapers circulating in the area of the local authority.

PROCEDURE DURING, ON, AND AFTER THE PREPARATION OR ADOPTION AND BEFORE THE APPROVAL OF THE SCHEME.

Notices of authority having been given to prepare or adopt a scheme, and of intention to prepare or adopt a scheme. Persons desiring to be heard to give notice to local authority.

ARTICLE XII.—(*a*) When authority has been given by the Board to the preparation by a local authority of a scheme with reference to any land or to the adoption by a local authority, with or without modifications, of a scheme proposed by owners of land, the local authority shall forthwith serve upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land in reference to which authority to prepare or adopt a scheme has been so given, and upon the council of any borough or of any urban or rural district within which any part of that land is comprised, and also, if any main road is or may be affected by the scheme, upon the county council, a notice that such authority has been given and that a copy of the Order or instrument giving such authority may be inspected, and any necessary explanation or information in regard thereto may be obtained, without payment of any fee, at a place which shall be specified in the notice, at all reasonable hours (specifying the same) on any week-day pending the preparation or adoption of the scheme. They shall also give notice to the same effect by advertisement in some newspaper or newspapers circulating in the area of the local authority.

(*b*) If the land in reference to which authority to prepare or adopt a scheme has been given as aforesaid excludes any land in regard to which an application under Article IV. of these regulations was made to the Board the local authority shall serve notice of the exclusion of such land upon the owners or reputed owners, lessees or reputed lessees, and occupiers of such excluded land and upon the council of any borough or of any urban or rural district within which any part of the excluded land is comprised, and also, if any main road would or might have been affected by the inclusion of the excluded land, upon the county council.

(*c*) The notices to be served on owners or other persons or to be given by advertisement under paragraph (*a*) of this article shall also state that the local authority propose to prepare a scheme or, as the case may be, to adopt with or without modifications the scheme proposed by owners, and that any person interested or affected desiring to be heard in reference to such proposal, including any persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme, should give notice in writing to the clerk to the local authority within twenty-one days from the date of the notice.

(*d*) The local authority shall make a suitable provision for affording to any person interested or affected inspecting the Order or instrument of the Board giving authority to prepare or adopt a scheme any necessary explanation or information in regard thereto.

Consideration by local authority of objections, etc.

ARTICLE XIII.—In connection with the preparation or adoption of a scheme the local authority shall carefully consider all objections and representations made to them in writing by any persons or councils interested or affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the proposed scheme.

Preparation of scheme by local authority: Draft scheme to be printed and Map No. 4 to be prepared

ARTICLE XIV.—When the local authority have fully considered and developed their proposals and have decided to prepare a scheme in regard to an area of land in respect of which they have been authorised to prepare a scheme, they shall cause to be printed a draft scheme embodying their proposals and shall cause a map or, if the case so require, maps (to be marked and known as "Map No. 4" or "Map showing details of proposals.

No. 4 (A)," "Map No. 4 (B)," etc.) to be prepared on a scale of not less than 25·344 inches to the mile, showing clearly by means of boundary lines sharply defined in colour the area of the land included in the proposed scheme distinguishing between the parts of the land included within the area of the local authority and within the area of any other local authority, and also showing thereon all such particulars and details in relation to the proposed scheme as can conveniently be indicated thereon by the aid of reference letters or numbers, descriptive notes, distinguishing colours, or otherwise; and especially there shall be indicated and distinguished on the said map or maps:—

Existing main roads;
Roads repairable by the inhabitants at large;
Roads or footways over which the public have a right of way;
Roads on which tramways or light railways (*a*) have been constructed or (*b*) are authorised to be constructed;
Roads which the local authority propose shall be made as part of the scheme, indicating the widths thereof and any proposals as to the parts thereof to be appropriated or set apart for special purposes, and the connections of such roads with existing roads;
Roads or ways which it is proposed to stop up or divert;
Land already built upon;
Land not likely to be used for building purposes;
Land proposed to be allocated for use as open spaces, (*a*) private or (*b*) public;
Land to be used for any other purposes, including, *e.g.*, buildings for manufacturing purposes or buildings of a special character in reference either to the purposes to which they are to be applied or to their height or otherwise, indicating any restrictions proposed as to the number of buildings which may be erected on any portion of land or each acre in any portion of land;
Land to be acquired by the local authority for any purpose;
Lines of existing sewers or any existing drain pipes or mains for the supply of water, gas or electricity;
Proposals as to lines of sewers or of pipes or mains for supply of water, gas, or electricity.

Adoption of scheme by local authority: Scheme of owners to be printed and also memorandum of any modifications proposed and Map No. 4 to be prepared showing details of proposals.

ARTICLE XV.—When the local authority have fully considered the scheme proposed by owners in respect of an area of land in regard to which the local authority have been authorised to adopt a scheme with or without modifications and have decided to adopt the same with or without modifications, they shall cause to be printed a copy of the scheme proposed by owners, and shall prepare and cause to be printed a memorandum of all modifications which they propose should be made in such scheme and shall obtain from the owners or shall themselves provide a map or maps (to be marked and known as "Map No. 4" or "Map No. 4 (A)," "Map No. 4 (B)," etc.) on a scale of not less than 25·344 inches to the mile, showing thereon all such particulars and details as are required to be shown on the map or maps referred to in Article XIV. of these regulations.

Notices of scheme prepared or of scheme intended to be adopted by local authority: Deposit of draft scheme, etc., and of Map No. 4 for inspection.

ARTICLE XVI.—(*a*) At least one month before deciding upon the scheme to be submitted to the Board for approval, whether in regard to a scheme prepared by the local authority or a scheme proposed by owners and proposed to be adopted by the local authority, the local authority shall serve upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land included in the scheme, and upon the council of any borough or of any urban or rural district within which any part of the said land is comprised, and also, if any main road is or may be affected by the scheme, upon the county council, a notice that a draft scheme has been prepared by the local authority or (as the case may be) that the local authority intend to adopt a scheme proposed by owners, and that it is proposed to submit the same, with or without modification, to the Board for approval; and shall also give notice of such proposal by advertisement in some newspaper or newspapers circulating in the area of the local authority, and the advertisement shall be published at least one month before deciding upon the scheme to be submitted to the Board.

(*b*) The local authority shall, not later than the date on which the first of the said notices is given, deposit at a place convenient for the purposes of inspection and shall keep deposited thereat, for a period not being less than twenty-one days from the date on which the latest of the said notices is given, the draft scheme and the map or maps referred to in Article XIV. of these regulations or (as the case may be) the scheme and memorandum and the map or maps referred to in Article XV. of these regulations, and the same shall be open for inspection by any persons interested or affected, without payment of any fee, at all reasonable hours on any week-day during the said period. The local authority shall also make suitable provision for affording to any such person inspecting the said documents and maps any necessary explanation or information in regard thereto.

(*c*) The said notices shall describe the land proposed to be included in the scheme, and shall state the place at which the documents and maps referred to in paragraph (*b*) of this article are deposited and the period and times during which the same will be open for inspection by any persons interested or affected. The notices shall state that the local authority will be prepared to consider any objections or representations which may be made to them in writing during the said period, and the notice to be given by advertisement shall also state that the local authority will be prepared to consider any objections or representations made in writing by any persons affected, including any persons representing any architectural or archæological society or otherwise interested in the amenity of the proposed scheme.

Application of Article III. of regulations.

ARTICLE XVII.—Article III. of these regulations shall apply also in regard to procedure before the local authorities decide upon the scheme to be submitted to the Board for approval, whether in regard to a scheme prepared by the local authority or a scheme proposed by owners and proposed to be adopted by the local authority.

Making or adoption of scheme to be by order of local authority and Map No. 5 to be sealed in connection with the order.

ARTICLE XVIII.—When the local authority have decided upon the scheme to be submitted to the Board for their approval, whether in regard to a scheme prepared by the local authority or a scheme proposed by owners and proposed to be adopted by the local authority, they shall make an order under their seal, authenticated by the signature of their clerk or deputy clerk, making the scheme, or (as the case may be) adopting the scheme proposed by owners with such modifications as may have been decided upon by the local authority.

A map or, if the case so require, maps prepared in the manner and containing the particulars and details required by Article XIV. of these regulations, but to be marked and known as "Map No. 5" or "Map No. 5 (A)," "Map No. 5 (B)," etc., shall be sealed with the seal of the local authority in connection with the order:

Provided that if the map or maps required by this article to be prepared and sealed in connection with the order would be identical in all respects with the map or maps prepared in accordance with Article XIV. or (as the case may be) Article XV. of these regulations, the last-mentioned map or maps may, if the local authority think fit, be used for the purposes of this article, but if so used they shall also be marked as indicated in this article as well as in the manner required by Article XIV. or Article XV.

Application to the Board to approve scheme to be by resolution.

ARTICLE XIX.—An application to the Board to approve the scheme as made or adopted by the local authority by an order in pursuance of Article XVIII. of these regulations shall be made by a resolution of the local authority; and a copy of the resolution, certified by the clerk to the local authority, shall be transmitted without delay to the Board by the clerk, with a covering letter, and accompanied by a statement as to the total number of members of the local authority, the number who voted for the resolution, the number who voted against the resolution, the number who were present at the meeting but did not vote, and the number absent from the meeting.

Documents, etc., to accompany application for approval of a scheme: Map No. 6 and Map No. 7 to be prepared.

ARTICLE XX.—When the local authority transmit to the Board the resolution of the local authority requesting the approval of the Board to the scheme as made or adopted by the local authority, they shall transmit to the Board:—

(*a*) The statutory declarations and exhibits required by Article XXXI. of these regulations in proof of compliance with the requirements of Articles XII. and XVI.

(*b*) A sealed copy and three other copies of the Order of the local authority containing the scheme as made or adopted by them, and a certified copy of every map referred to in the Order.

(*c*) A map on the scale of 6 inches to the mile to be marked and known as "Map No. 6," showing, by distinguishing colours or boundary lines in colour, the district of the local authority and the land included in the scheme :

Provided that, if the scheme is made or adopted by the council of a rural district, it shall not be obligatory that the map shall extend to the whole of the rural district but it shall extend to the contributory place or places therein in which any part of the land included in the scheme is comprised :

Provided also that, if in any case the land included in a scheme is wholly outside the district of the local authority, the map shall show all the area intervening between that land and the district of the local authority.

There shall also be shown on the map by some distinctive colours and any necessary reference notes all recreation grounds or public open spaces and public elementary schools in the area required to be shown on the map, and also the buildings which have been erected in that area up to the time when the map is sent to the Board, distinguishing so far as regards the land included in the scheme the buildings begun to be erected after the application was made to the Board for their approval to prepare or adopt the scheme.

(*d*) A map on a scale of not less than 25·344 inches to the mile, or a plan drawn to some larger scale (to be marked and known as "Map No. 7") showing the area of the land included in the scheme so divided as to indicate as nearly as may be the portions of such land belonging to different owners. The map or plan shall show as regards each portion of the land the name of the owner, or shall bear numbers having reference to a statement, to be annexed to the map or plan, showing the names of the owners.

(*e*) A copy of all objections made in writing in reference to the scheme so far as the objections have not been withdrawn or removed in the scheme as finally prepared or adopted by the local authority.

Information to be furnished to the Board in connection with an application for approval of a scheme.

ARTICLE XXI.—(*a*) The local authority shall furnish the Board with a statement or statements giving in regard to the scheme prepared or adopted by the local authority the particulars and information indicated in Articles VIII. and IX. of these regulations so far as such particulars and information are not contained in the scheme.

The said particulars and information shall be given in regard to every scheme whether prepared by the local authority or adopted by them :

Provided that where the particulars and information furnished to the Board in accordance with Article VIII. or Article IX. or any division of either of those articles represent fully and accurately the particulars and information required by this article in regard to the scheme as prepared or adopted by the local authority it shall be sufficient if a reference be made to the particulars and information previously furnished under Article VIII. or Article IX. or any division thereof.

(*b*) The local authority shall also furnish the Board with a statement or statements giving the particulars and information indicated below so far as they are not contained in the scheme :—

(i) Information to show whether the scheme admits of satisfactory provision being made in regard to the supply of water, gas, or electricity within the area included in the scheme.

(ii) Information in regard to any tramways or light railways constructed or authorised to be constructed in the area included in the scheme or in the immediate neighbourhood thereof.

(iii) In regard to any lands proposed to be acquired by (*a*) the local authority submitting the scheme or (*b*) any other local authority, any information available as to the probability of the lands being acquired by agreement.

(iv) Particulars in regard to any land included in the scheme which belongs to (*a*) the local authority submitting the scheme or (*b*) any other local authority; the purposes for which and the authority under which such land was acquired or is held; and also information as to any proposal in regard to its use for any other purposes under the scheme.

(v) If the local authority are of opinion that any property will be injuriously affected by the making of the scheme, within the meaning of the Act of 1909, information, so far as it is practicable to give the same, in regard to such property and as to the extent to which the local authority consider that it may be injuriously affected.

(vi) Detailed particulars of any works which are to be executed under the scheme by any person or local authority, so far as any such particulars are available.

(vii) If the scheme contains provisions suspending any enactment contained in a public general Act, a full explanation of any such provisions and the reasons which are considered to justify their insertion.

(viii) If the scheme contains provisions suspending any other statutory enactments, byelaws, regulations or other provisions which are in operation in the area included in the scheme, a full explanation of any such provisions and the reasons which are considered to justify their insertion.

(ix) Particulars of any land forming part of any common, open space, or allotment, within the meaning of section 73 of the Act of 1909, which is within the area included in the scheme, and of any part of that land which under the scheme is authorised to be acquired or appropriated to any other purpose, and particulars in regard to any land proposed to be given in exchange for the land so to be acquired or appropriated ;

(x) Particulars of any land included in the scheme which is situate within the distance prescribed by regulations made by the Board under section 74 of the Act of 1909 from any of the royal palaces or parks.

Estimate and particulars as to cost of scheme : Information as to area, population, rates, debt, local Acts, orders, byelaws, etc.

ARTICLE XXII.—(*a*) In connection with an application to the Board for their approval of the scheme prepared or adopted by the local authority, information shall be furnished in regard to the estimated cost of carrying out the scheme, so far as the cost is to be borne by (1) the local authority making the application and (2) any other local authority. Separate particulars shall be given under the following heads :—

EXPENDITURE.

Purchase of land for open spaces.
Purchase of land for other purposes, specifying them.
Purchase of buildings.
Demolition or alteration of buildings.
Compensation in respect of property injuriously affected by the scheme.
Making or alteration of roads or ways.
Sewerage or drainage.
Cost of preparing the scheme.
Other purposes, specifying them.

RECEIPTS.

In respect of property increased in value.
From other sources, specifying them.

(*b*) If the statement or statements of particulars furnished under Article X. (*b*) or (*c*) of these regulations has or have owing to lapse of time or other circumstances become inaccurate in any material respect, an amended statement or amended statements of such particulars shall be supplied.

(*c*) There shall also be supplied a list and a copy of all local Acts, Provisional Orders, byelaws, or regulations in force in the area of any local authority any part of whose district is included in the scheme ; and in the case of any part of a district other than that of the local authority making the application to the Board being so included, such list and copy shall be supplied by the local authority of that district to the local authority making the application, who shall transmit them to the Board.

Notice by advertisement of submission of scheme to the Board : Objections, etc., may be made to the Board.

ARTICLE XXIII.—When the local authority have submitted to the Board for their approval the scheme prepared or adopted by the local authority they shall forthwith give notice of such submission by advertisement in some newspaper or newspapers circulating in the area of the local authority. The notice shall also state that a copy of the scheme submitted to the Board may be inspected by persons affected, including persons representing architectural or archæological societies or otherwise interested in the amenity of the scheme at a place to be specified in the notice, without payment of any fee, at all reasonable hours (specifying the same) on any week-day within a period of one month from the date of the notice, and that any objections and representations by any such persons should be made in writing and addressed to the Board, at their office, within the said period. A copy of the newspaper or newspapers containing such advertisement shall be forwarded to the Board by the clerk to the local authority.

Notices of modifications or conditions proposed by the Board: Objections, etc., may be made to the Board.

ARTICLE XXIV.—(*a*) If the Board propose to make any modifications in, or to attach any conditions to, the scheme submitted for their approval and transmit to the local authority a draft Order for approving the scheme with such modifications and conditions, the local authority shall within fourteen days after the receipt of the draft Order serve a copy of the draft Order upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land included in the scheme, and upon the council of any borough or of any urban or rural district within which any part of the said land is comprised, and also, if any main road is affected, upon the county council, together with a notice that any objections or representations in regard to such modifications and conditions should be made in writing and addressed to the Board at their office within a period of one month from the date of the serving of such draft Order and notice.

(*b*) The local authority shall also within fourteen days after the receipt of the draft Order give notice by advertisement in some newspaper or newspapers circulating in the area of the local authority that the Board have caused a draft Order to be prepared for approving the scheme subject to modifications or conditions, that a copy of the draft Order may be inspected and any information in regard thereto may be obtained, without payment of any fee, at a place which shall be specified in the notice, at all reasonable hours (specifying the same) on any week-day during the period of one month from the date of the notice, and that any objections or representations in regard to such modifications and conditions should be made in writing and addressed to the Board at their office within a period of one month from the date of the notice.

(*c*) The local authority shall furnish the Board within a period of one month from the receipt of the draft Order for approving the scheme with modifications or subject to conditions any objections or representations which they may desire to make in regard to the proposed modifications and conditions, and shall also within the same period transmit to the Board the statutory declaration and exhibits required by Article XXXI. of these regulations in proof of compliance with the requirements of this article.

Notice by advertisement of intention of the Board to approve scheme and to publish notice of such intention in London Gazette.

ARTICLE XXV.—(*a*) When the Board have decided to approve the scheme submitted for their approval, with or without modifications, and notify the local authority of the decision and transmit to the local authority a draft Order for approving the scheme, the local authority shall within fourteen days after the receipt of such notification give notice by advertisement in some newspaper or newspapers circulating in the area of the local authority that the Board intend to approve the scheme and propose, after the receipt by the Board of a copy of the newspaper or newspapers containing the advertisement, to publish forthwith in the London Gazette, in accordance with sub-section (4) of section 54 of the Act of 1909, a notice of such their intention, and that any person or authority interested and deciding to object to the scheme being approved should make his or their objection in the manner prescribed by Article XXVI. of these regulations within twenty-one days from the date of such publication in the London Gazette.

(*b*) A copy of the newspaper or newspapers containing the advertisement shall be forwarded to the Board by the clerk to the local authority immediately on the publication thereof.

(*c*) The local authority shall deposit at a place convenient for the purposes of inspection and shall keep deposited thereat the draft Order forwarded to them under this article, for the full period of twenty-one days from the date of the said publication in the London Gazette, and the draft Order shall be open for inspection by any person interested, without payment of any fee, at all reasonable hours on any week-day during the said period.

Prescribing manner of objections to approval of

ARTICLE XXVI.—When the notice of the intention of the Board to approve a scheme has been published in pursuance of sub-section (4) of section 54 of the Act of 1909, any person or authority interested and deciding to object to the scheme

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scheme under and for the purposes of section 54 (4) of the Act of 1909.

being approved shall make his or their objection in the following manner; that is to say:—

The objection shall be made to and be brought before the Board by means of a letter, or other representation in writing, which shall be addressed and posted, or shall be otherwise given, sent, or delivered to the Board at their office. The letter or representation shall indicate clearly the scheme to which the objection is taken, and shall state fully in what respects the person or authority objecting claims or claim to be interested in the scheme and the grounds on which the objection is made.

PROCEDURE AFTER THE APPROVAL OF THE SCHEME.

Notices of approval of scheme by the Board.

ARTICLE XXVII.—(*a*) The local authority, on receipt of a copy of the Order of the Board approving a scheme, shall without delay first publish notice of the approval of the scheme by advertisement in some newspaper circulating in the area of the local authority. The notice shall state that the scheme has been approved, with or without modifications or conditions as the case may be, and that the Order of the Board giving the approval and a copy of any map or plan referred to in the Order or scheme may be inspected and any necessary explanation or information in regard thereto may be obtained without payment of any fee at a place which shall be specified in the notice at all reasonable hours (specifying the same) on any weekday during the period of three months after the date of the Order. They shall also, not earlier than the second day after the first publication in a newspaper as aforesaid, serve upon the owners or reputed owners, lessees or reputed lessees, and occupiers of the land included in the scheme, and upon the council of any borough or of any urban or rural district within which any part of the said land is comprised, and also, if any main road is or may be affected by the scheme, upon the county council, a copy of the Order approving the scheme and a notice that a copy of any map or plan referred to in the Order or scheme may be inspected, and any necessary explanation or information in regard thereto may be obtained as above mentioned.

(*b*) The local authority shall make suitable provision for affording any person inspecting the Order or scheme or any map or plan referred to therein within the said period any necessary explanation or information in regard thereto.

(*c*) The local authority shall within fourteen days after the receipt of the said Order transmit to the Board the statutory declaration and exhibits required by Article XXXI. of these regulations in proof of compliance with the requirements of paragraph (*a*) of this article.

GENERAL.

Notices, &c., to Board of Agriculture and Fisheries and to Commissioners of Works in certain cases.

ARTICLE XXVIII.—Wherever in these regulations any notice or Order or scheme or draft Order or scheme is required to be served by the local authority upon any owner of land, the local authority shall send a like notice or Order or scheme or draft Order or scheme to the Board of Agriculture and Fisheries at their office if in the scheme or proposed scheme there is any provision for the acquisition or appropriation to any other purpose of any land forming part of any common, open space, or allotment within the meaning of section 73 of the Act of 1909 and to the Commissioners of Works if any land included in the scheme or proposed scheme is situate within the distance prescribed by regulations made by the Board under section 74 of the Act of 1909 from any of the royal palaces or parks.

Notices, &c., to Board of Trade and to Light Railway Commissioners in certain cases.

ARTICLE XXIX.—Where in a scheme proposed to be prepared or adopted by a local authority any land is proposed to be included on which tramways or light railways are constructed or are authorised to be constructed, the local authority shall, when they give the notices required to be given under Article I. of these regulations, also give notice to the Board of Trade and, as regards light railways, to the Light Railway Commissioners, of the intention of the local authority to apply for authority to prepare or (as the case may be) to adopt a scheme in regard to the said land, and shall from time to time thereafter furnish all such information as the Board of Trade or the Light Railway Commissioners may require in regard to the proposals so far as any tramways or light railways or an authorised route of any tramways or light railways may be affected.

Service of notices.

ARTICLE XXX.—A notice required to be served in pursuance of these regulations shall be served :—

(*a*) by delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent; or

(*b*) by leaving the same at the usual or last known place of abode of such person as aforesaid; or

(*c*) by post addressed to the usual or last known place of abode of such person; or

(*d*) in the case of a notice required to be served on a local authority or corporate body or company, by delivering the same to their clerk or secretary or leaving the same at his office with some person employed there, or by post addressed to such clerk or secretary at his office:

Provided that if the owner of any land is not known to and after diligent inquiry cannot be found by the local authority then the notice may be served by leaving it, addressed to the owner, with some occupier of the land, or, if there be not an occupier, then by causing it to be put up on some conspicuous part of the land:

Provided also that a notice required to be given to an occupier may be addressed by the description of the "occupier" of the land or premises (describing it or them) in respect of which the notice is given, without further name or description.

Proofs of compliance with certain regulations to be furnished by statutory declarations.

ARTICLE XXXI.—Proofs of compliance with the requirements of Articles I. XII., XVI., XXIV., and XXVII. of these regulations as extended by Articles XXVIII. and XXIX. shall to the extent herein mentioned be furnished to the Board by statutory declarations (*a*) made by the clerk to the local authority or other person competent to make the same. The declarations shall in each case specify the manner in which the notices required by those articles to be served upon owners, lessees, and occupiers, and upon any other local authority or council, were served, and the names of the persons so served, and shall also show that the other requirements of those articles as to notices required to be given and as to the deposit of maps or plans or any documents required to be deposited have been duly complied with. There shall also be annexed to the declarations as exhibits :—

In regard to Article I.,—

(1) a copy of the form of notice served, (2) a copy of the map deposited for inspection, and (3) a copy of each newspaper containing the advertisement.

In regard to Article XII.,—

(1) copies of the forms of notices served, and (2) a copy of each newspaper containing the advertisement.

In regard to Article XVI.,—

(1) a copy of the form of notice served, (2) a copy of each newspaper containing the advertisement, (3) a statement showing the several parcels of land in respect of which notice was served upon each owner, lessee and occupier, (4) a copy of the draft scheme prepared by the local authority and deposited for inspection, or (4A) a copy of the scheme proposed by owners and deposited for inspection, together with a copy of any memorandum prepared by the local authority of modifications in such scheme and deposited with the scheme for inspection, and copies of the maps deposited for inspection.

In regard to Article XXIV.,—

(1) a copy of the form of notice served, and (2) a copy of each newspaper containing the advertisement.

In regard to Article XXVII.,—

(1) a copy of the Order, (2) a copy of the form of notice served, and (3) a copy of the newspaper containing the advertisement.

(*a*) The Local Government Board, after communication with the Board of Inland Revenue in regard to the question of the exemption from Stamp Duty of Statutory Declarations required to be made in pursuance of Article XXXI. of the Town Planning Procedure Regulations (England and Wales), 1910, were informed that the Board of Inland Revenue would regard such declarations as "required by law" within the meaning of those words in exemption (2) sub-tit. Affidavit and Statutory Declaration in the First Schedule to the Stamp Act, 1891 (amended by s. 6 of the Finance Act, 1907), and as therefore not liable to Stamp Duty by virtue of that exemption (Circular of March 31st, 1913).

Provisions as to maps.

ARTICLE XXXII.—(*a*) The maps required in pursuance of these regulations shall be Ordnance maps wherever such maps are published in respect of the district or area in relation to which the maps are required, shall be on a scale not less than that specified in each case, shall be mounted on linen and folded in book form, and shall have a scale properly drawn thereon.

(*b*) Any person interested in or affected by any scheme or proposed scheme shall be entitled to a copy of or extract from any map or plan required in pursuance of these regulations, on payment of a reasonable fee to be determined by the local authority, and shall be entitled to inspect at all reasonable times any map or plan referred to in Article XXVII. of these regulations. Any fees received by the local authority shall be carried to the credit of the fund liable to be charged with the expenses of the local authority in connection with the scheme.

Local authority to furnish all information, etc., required by the Board.

ARTICLE XXXIII.—The local authority shall prepare and furnish to the Board all such maps, plans, sections, elevations and specifications, and all such particulars or information as the Board shall require to be prepared and furnished in connection with any scheme or proposed scheme at any stage of the proceedings in relation thereto.

Board may consent to departures from regulations.

ARTICLE XXXIV.—Where the Board are satisfied that there is reasonable cause for dispensing, either conditionally or unconditionally, with compliance with any requirement of these regulations, or for varying any such requirement, the Board may, by Order or otherwise as they think fit, give the necessary dispensation, or may make and give effect to the necessary variation and to any incidents or consequences of that variation; and, in the case of any such dispensation when given subject to any condition, or in the case of any such variation, the local authority or other authorities or persons, as the case may be, shall comply in all respects with the condition or variation and with any requirement of the Order or other writing or direction of the Board giving the dispensation or making the variation as if the condition, variation or requirement formed part of these regulations:

Provided that the Board shall not exercise their powers under this article in such a manner as to dispense with any provisions of these regulations which are necessary to give effect to the requirements of the Act of 1909 or as so to vary any such provisions that they would cease to give effect to those requirements.

Interpretation.

ARTICLE XXXV.—In these regulations "the Act of 1909" means the Housing, Town Planning, etc. Act, 1909.

Short title.

ARTICLE XXXVI.—These regulations may be cited as the Town Planning Procedure Regulations (England and Wales), 1910.

Given under the Seal of Office of the Local Government Board, this third day of May, in the year one thousand nine hundred and ten.

(L.S.) JOHN BURNS, *President.*

H. C. MUNRO, *Secretary.*

S. R. AND O., 1921, No. 373.

THE MINISTRY OF HEALTH (TOWN PLANNING) REGULATIONS, 1921, DATED MARCH 29TH, 1921, MADE BY THE MINISTER OF HEALTH, UNDER SECTION 56 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1909, AND SECTION 43 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919. (*a*)

THE MINISTER OF HEALTH in pursuance of the powers conferred on him by section 56 of the Housing, Town Planning, etc. Act, 1909, and section 43 of the Housing, Town Planning, etc. Act, 1919, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Title and Interpretation.

1.—(1) These regulations may be cited as the Ministry of Health (Town Planning) Regulations, 1921, and shall come into force on the 2nd day of May, 1921.

(2) The Town Planning Procedure Regulations (Preparation of Schemes by Local

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(*a*) See now the Town Planning Act, 1925, *ante*, p. 1491.

Authorities), 1914, are hereby revoked, provided that those regulations shall, save in so far as they are inconsistent with any of the provisions of the Housing, Town Planning, etc. Act. 1919, and subject to the provisions of Article 17 of these regulations, continue to apply in all cases where before the 31st day of July, 1919, a local authority have been authorised to prepare a town planning scheme.

2.—(1) In these regulations, unless the context otherwise requires:—

"The Minister" means the Minister of Health;

"Interested local authority" means the council of the county in which, or any local authority in whose area, land proposed to be included in a town planning scheme is situate;

"Map" means a map on a scale of not less than 25 inches to the mile or such smaller scale as the Minister may in any particular case approve, and includes a plan or a series of maps or plans;

"Owners" has the same meaning as in the Lands Clauses Acts, but does not include persons holding or entitled to the rents and profits of land or premises under any lease or agreement the unexpired portion whereof is less than three years;

"Prescribed person" means:—

(*a*) any owner of land included or proposed to be included in a town planning scheme;

(*b*) any interested local authority;

(*c*) the Minister of Agriculture and Fisheries, where a town planning scheme provides for the acquisition or appropriation to any other purpose of any land forming part of any common, open space, or allotment;

(*d*) the Commissioners of Works, where a town planning scheme includes any land situate within the prescribed distance from any of the royal palaces or parks;

(*e*) the Minister of Transport, where a town planning scheme provides for the inclusion of any land on which any railways, tramways or light railways are constructed or are authorised to be constructed.

"Advertisement" means an advertisement published at least once during each of two successive weeks in a newspaper or newspapers circulating in the area of the local authority.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Resolution to Prepare Town Planning Scheme.

3.—(1) The resolution of a local authority deciding to prepare a town planning scheme shall define the area of the proposed scheme by reference to a map (hereinafter called "Map No. 1") showing by means of boundary lines defined in colour or otherwise the area of the land to which the resolution applies.

(2) The local authority shall as soon as may be after passing the resolution give notice thereof by advertisement and shall include in the notice a statement that Map No. 1 or a copy thereof will be open for inspection at a specified place or places, and that any suggestions for the inclusion or exclusion of any lands in or from the area of the proposed scheme may be sent in writing to the local authority within a specified period not being less than twenty-one days from the date of the first advertisement.

(3) A certified copy of the resolution and of Map No. 1 and of each advertisement shall be sent as soon as may be by the local authority to the Minister, together with the documents and full particulars of the matters specified in the First Schedule to these regulations.

(4) A certified copy of the resolution shall be sent to any interested local authority, and, if they so require, of Map No. 1, or a map on a scale of 6 inches to the mile certified to show accurately the area of the land to which the resolution applies.

(5) Where the approval of the Minister is required to the resolution of a local authority deciding to prepare a town planning scheme, the local authority shall give notice by advertisement that the Minister has approved the resolution as soon as may be after the date of such approval.

Preliminary Statement of Proposals for Development.

4.—(1) Within a period of six months from the date of a resolution deciding to prepare a town planning scheme, or, where the resolution extends to land not within the area of the local authority, within a period of six months from the date of the approval of the resolution by the Minister, the local authority shall prepare and adopt by resolution a preliminary statement of proposals for development (hereinafter called " the preliminary statement "), and shall for that purpose take into consideration any representations in writing made by persons interested or by any interested local authority with respect to the area of the proposed scheme or otherwise with respect to the development of the area.

(2) The preliminary statement shall contain particulars of the matters specified in the Second Schedule to these regulations and shall refer to a map (hereinafter called " Map No. 2 ") showing by means of boundary lines defined in colour or otherwise the area to be included and illustrating, so far as possible, the said particulars.

5.—(1) The local authority shall, before adopting a preliminary statement by resolution, give notice of their intention so to do by advertisement and shall take such other steps as they may think fit by means of public posters or otherwise to bring their intention to the notice of persons interested.

(2) The said notice or other public announcement shall include a statement that a draft of the preliminary statement proposed to be adopted and a map illustrating the particulars in the draft preliminary statement will be open for inspection at a specified place or places, and that any objections or representations with regard to the draft statement may be sent in writing to the local authority within a specified period not being less than twenty-one days from the date of the first advertisement.

(3) The local authority shall send to any interested local authority the draft of the preliminary statement, and, if so required by them, a map of so much of the land as is situate in the area of that authority, illustrating the particulars in the draft statement so far as it relates to that land.

(4) The local authority shall take into consideration any objections and representations in writing which they may receive within the period specified under paragraph (2) of this article, and shall take such steps as they may think necessary by means of conferences or otherwise to secure so far as may be possible the agreement and co-operation of persons interested.

6.—(1) As soon as may be after the passing of a resolution adopting a preliminary statement the local authority shall send to the Minister a certified copy of—

(*a*) the resolution, the preliminary statement and Map No. 2 ;

(*b*) each advertisement or other public announcement ;

(*c*) any objections or representations in writing received by the local authority which have not been removed or met in the preliminary statement adopted ;

(*d*) particulars of the matters specified in the Third Schedule to these regulations.

(2) Where the preliminary statement relates to land not within the area of the local authority, the local authority shall send to the local authority of the district in which such land is situate a certified copy of the resolution, of the preliminary statement, and of Map No. 2 so far as it relates to such land.

(3) Where any land to which the resolution deciding to prepare a town planning scheme applied is not included in the land to which the preliminary statement relates, the local authority shall notify the fact thereof to the owner of such land.

7.—(1) The Minister shall thereupon take the preliminary statement into consideration and shall notify the local authority that he approves or disapproves it, as the case may be, or that he approves it with modifications, provided that any such approval shall be without prejudice to any provisions of the town planning scheme to be submitted by the local authority to the Minister as hereinafter mentioned or to the approval or disapproval by the Minister of that scheme.

(2) Where the Minister notifies the local authority that he disapproves the preliminary statement, the local authority shall, within three months from the date of such notification, prepare and adopt by resolution another preliminary statement, and the provisions of this and the two preceding articles shall, with the necessary modifications, apply to such further statement.

8. The local authority shall as soon as may be after the receipt of a notification

from the Minister approving the preliminary statement with or without modifications give notice thereof by advertisement, and shall include in the notice a statement that a print of the preliminary statement and Map No. 2, as approved by the Minister, will be open for inspection at a specified place or places, and that the local authority propose to proceed forthwith with the preparation of the town planning scheme for submission in due course to the Minister.

Preparation of Town Planning Scheme.

9.—(1) A draft of the town planning scheme (*a*) (hereinafter called "the draft scheme") shall be adopted by resolution of the local authority not later than twelve months after the date of the approval by the Minister of the preliminary statement.

(2) The draft scheme shall refer to a map (hereinafter called "Map No. 3") showing by means of boundary lines defined in colour or otherwise the area included in the scheme, and illustrating such particulars and details in relation thereto as can conveniently be indicated by reference letters, numbers, distinguishing colours or otherwise, and more particularly the matters specified in the Fourth Schedule to these regulations.

10.—(1) The local authority by whom a resolution has been passed adopting a draft scheme shall forthwith give notice thereof by advertisement and shall include in the notice a statement that a print of the draft scheme and Map No. 3, or a certified copy thereof, will be open for inspection at a specified place or places, and that any interested local authority or other person desiring to object or make representations with respect to the draft scheme or any part thereof may send the representations or objections in writing to the local authority within a specified period not being less than four weeks from the date of the first advertisement.

(2) The local authority shall as soon as may be after the passing of the resolution adopting the draft scheme, in addition to the publication of the said advertisement, serve a notice in the same terms on the prescribed persons.

(3) A certified copy of the resolution and of each advertisement together with a certified copy of the draft scheme and of Map No. 3, shall be sent forthwith by the local authority to the Minister.

11. The local authority shall take into consideration all objections and representations in writing received by them within the period specified under paragraph (1) of Article 10, and shall give full opportunity to any interested local authority and to persons making such objections or representations, including persons representing architectural or archæological societies or otherwise interested in the amenities of the scheme, to be heard in such manner as the circumstances and the justice of the case may require.

Submission of Town Planning Scheme to Minister.

12.—(1) The local authority shall within six months from the date of the resolution adopting the draft scheme pass a resolution finally approving the scheme with or without modifications and directing that the scheme as approved by them and the map to which the said scheme refers (hereinafter called "Map No. 4") shall be sealed with the seal of the authority and submitted to the Minister for his approval:

Provided that if the map required by this article to be sealed is identical in all respects with the Map No. 3 prepared in accordance with Article 10 hereof, the last-mentioned map, if the local authority think fit, may with the consent of the Minister be used for the purposes of this Article, but if so used it shall be marked as Map No. 4 in addition to being marked as Map No. 3.

(2) The local authority shall as soon as may be thereafter submit a sealed duplicate of the scheme and of Map No. 4 to the Minister for his approval, together with the documents and information specified in the Fifth Schedule to these regulations, and shall send to the Minister copies of all objections and representations in writing received by them which have not been removed or met in the scheme.

(3) A print of the scheme shall be sent by the local authority to every interested local authority.

(*a*) The latest model clauses for a town planning scheme are set out at pp. 3850, *et seq. post.*

13.—(1) A local authority who have submitted a scheme to the Minister for his approval shall forthwith give notice thereof by advertisement, and shall include in the notice a statement that a print of the scheme submitted and Map No. 4, or a certified copy thereof, will be open for inspection at a specified place or places, and that any objections or representations relating thereto shall be sent in writing to the Minister within a period of not less than twenty-one days from the date of the first advertisement.

(2) A certified copy of each advertisement shall be sent to the Minister as soon as may be after the publication thereof.

14.—(1) The Minister shall, before taking the scheme into his consideration, cause a public inquiry to be held at which any local authority or persons interested in or affected by the scheme may be heard, and shall cause a report of such inquiry to be made to him.

(2) The Minister shall, after duly considering the scheme and the said report, notify the local authority of his intention to approve or disapprove the scheme, as the case may be, or to approve it with modifications.

(3) Where the Minister notifies the local authority that he disapproves the scheme, the local authority shall, within six months from the date of such notification, prepare and adopt by resolution another scheme, and the provisions of Articles 9 to 13 inclusive and of this article shall, with the necessary modifications, apply to such further scheme.

15.—(1) The local authority shall, on receipt of a notification from the Minister approving a scheme with or without modifications, forthwith give notice thereof by advertisement and shall include in the notice a statement that a print of the scheme in the form in which the Minister has notified his intention to approve it may be inspected at a specified place or places.

(2) The local authority shall in addition to the publication by advertisement as aforesaid serve a notice upon the owners of the land included in the scheme and upon any interested local authority to the like effect, but including also a statement that any owner or interested local authority desiring to object to the approval of the scheme by the Minister may within twenty-one days from the date of the service of the notice send any objections or representations in writing with the grounds thereof to the Minister.

(3) The local authority shall send to the Minister certified copies of the said notice and of each advertisement.

Approval of Scheme by Minister.

16.—(1) The Minister shall take into consideration any objections or representations so received by him and shall thereafter by Order finally approve the scheme with or without modifications and shall notify the local authority accordingly.

(2) The local authority shall on receipt of the Order of the Minister approving the scheme forthwith serve upon the prescribed persons a copy of the Order approving the scheme and shall also give notice of the Order by advertisement and shall include in the notice a statement that a copy of the Order of the Minister approving the scheme may be inspected at a specified place or places.

(3) A certified copy of each advertisement shall be sent by the local authority to the Minister.

Supplemental.

17.—(1) Where before the 31st day of July, 1919, a local authority have been authorised to prepare a town planning scheme, the Minister may by Order direct that these regulations shall apply with such modifications as, in the opinion of the Minister, the circumstances of the case may require.

(2) Where after the 31st day of July, 1919, and before the date on which these regulations come into force, a local authority have passed a resolution deciding to prepare a town planning scheme, these regulations shall apply as though the resolution had been passed on the day on which these regulations come into force, or, where the resolution extends to land not within the area of the local authority, on the day on which these regulations come into force or on which the approval of the Minister is given, whichever is the later.

18. A local authority may, if they think fit, adopt by resolution a draft scheme within the period prescribed by these regulations for the adoption by resolution of a preliminary statement, and in that case the draft scheme shall, if the Minister so directs, be substituted for the preliminary statement, and these regulations shall apply accordingly with such modifications as, in the circumstances of the case, the Minister may direct.

19.—(1) The Minister may, if he thinks fit in any particular case, and subject to such conditions as he may impose, extend the period during which anything is required to be done under these regulations, or dispense with any of the requirements of these regulations, other than requirements made obligatory by any statute, provided that he is satisfied that there is reasonable cause for such extension or dispensation and that the interests of any person will not be prejudiced thereby.

(2) The local authority may, if they think fit and subject to such conditions as they may impose, extend the time during which any suggestions, objections, or representations in writing may be sent to the authority under the provisions of Articles 3, 5 and 10 of these regulations.

20. A local authority shall furnish the Minister with all such further information or particulars as the Minister may from time to time require.

21. All maps, documents and notices deposited for inspection under these regulations shall be available for inspection at all reasonable hours and without payment of any fee.

22. A notice required to be served in pursuance of these regulations shall be served:—

(*a*) by delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent; or

(*b*) by leaving the same at the usual or last known place of abode of such person as aforesaid; or

(*c*) by post addressed to the usual or last known place of abode of such person; or

(*d*) in the case of a notice required to be served on a local authority or corporate body or company, by delivering the same to the clerk or secretary or leaving the same at his office with some person employed there, or by post addressed to such clerk or secretary at his office:

Provided that if the owner of any land is not known to and after reasonable inquiry cannot be found by the local authority, then the notice may be served by leaving it, addressed to the owner, with some occupier of the land, or, if there be not an occupier, then by causing it to be put up on some part of the land or in some conspicuous place in the immediate neighbourhood thereof:

Provided also that an accidental omission to serve a notice required under these regulations shall not render any proceedings thereunder invalid.

SCHEDULES.

FIRST SCHEDULE.

DOCUMENTS AND PARTICULARS TO BE SENT TO THE MINISTER OF HEALTH AFTER THE PASSING OF A RESOLUTION DECIDING TO PREPARE A TOWN PLANNING SCHEME.

Article 3.

(1) Documents required under Article 3 (3) of these regulations.

(2) Copies of all suggestions received by the local authority under Article 3.

(3) Where the resolution extends to land not within the area of the local authority passing the resolution, the reasons for the inclusion of land outside the area of the local authority.

(4) Information, in the form required by the Minister, as to the responsible authority under the scheme; the acreage and general character and development of the area; and the inclusion of any land already built upon or not likely to be used for building purposes, or of any Crown land.

Appendix II.

SECOND SCHEDULE.

Article 4.

PARTICULARS TO BE INCLUDED IN THE PRELIMINARY STATEMENT OF PROPOSALS FOR DEVELOPMENT.

(1) Area to be included in the town planning scheme (to be defined by the inner edge of a boundary line shown on Map No. 2) (*a*).

(2) (*a*) The principal new streets or roads which it is proposed shall be made as part of the scheme, with their position, and any proposed widenings of any existing streets or roads.

(*b*) Building lines or spaces about buildings proposed to be prescribed in relation to the principal new streets or widenings.

(3) Roads, streets, or ways which it is proposed to stop up or divert.

(4) Restrictions proposed, and the areas to which the several restrictions are to apply, as regards—

- (*a*) character of buildings to be erected (*e.g.*, whether dwelling-houses, public buildings, business premises, factories or workshops for light industries, or factories or workshops for heavy industries, or partly one class of building and partly another);
- (*b*) density of buildings (that is, number of dwelling-houses to the acre, and proportion of site to be covered by buildings);
- (*c*) height of buildings.

The proposed restrictions and the areas to which they are to apply (as well as open spaces or other areas not to be built upon: *see* next clause) should be shown by distinctive colours or hatchings on Map No. 2.

(5) Areas proposed to be reserved for open spaces or other areas not to be built upon.

THIRD SCHEDULE.

Article 6.

MATTERS WHEREOF PARTICULARS ARE TO BE SENT TO THE MINISTER IN CONNECTION WITH AN APPLICATION FOR APPROVAL OF A PRELIMINARY STATEMENT.

(1) Documents required under Article 6 (1) (*a*), (*b*), and (*c*) of these regulations.

(2) Particulars, in the form required by the Minister, respecting lands in the possession of local authorities, housing schemes, and ancient monuments in the area.

FOURTH SCHEDULE.

Article 9.

MATTERS WHEREOF PARTICULARS AND DETAILS ARE TO BE SHOWN ON MAP NO. 3.

(1) The area included in the draft scheme (to be defined by the inner edge of a boundary line shown on the map).

(2) (*a*) New streets, and widenings of any existing streets or roads, proposed to be made as part of the scheme.

(*b*) Building lines or spaces about buildings proposed to be prescribed.

(3) Particulars required under paragraphs (3), (4), and (5) of the Second Schedule. As regards areas not to be built upon, the purposes for which they are to be reserved should be indicated.

FIFTH SCHEDULE.

Article 12.

DOCUMENTS AND PARTICULARS TO BE SENT TO THE MINISTER OF HEALTH IN CONNECTION WITH THE SUBMISSION OF A TOWN PLANNING SCHEME FOR APPROVAL.

(1) Documents required under Article 12 (2) of these regulations.

(2) Six prints of the scheme and a certified copy of the resolution directing that the scheme be submitted to the Minister for approval.

(*a*) The following particulars are also to be shown on Map No. 2:—

- (*a*) Existing county roads;
- (*b*) Roads repairable by the inhabitants at large;
- (*c*) Roads or footways over which the public have a right of way;
- (*d*) Land already built upon within the area of the scheme or in the immediate neighbourhood thereof, distinguishing factories;
- (*e*) Railways, tramways or light railways constructed or authorised to be constructed within the area of the scheme or in the immediate neighbourhood thereof;
- (*f*) Land forming part of any common, open space or allotment within the meaning of Sched. III. Pt. II. 4, of the Town Planning, Act, 1925, within the area of the scheme or in the immediate neighbourhood thereof.

(3) A map on a scale of not less than 25 inches to the mile (to be marked and known as "Map No. 5") showing the area of the land included in the scheme so divided as to indicate as nearly as may be the portions of the land belonging to different owners, and showing as regards each parcel of land by reference to a list of owners the name of the owner thereof.

(4) A list of all local Acts, Provisional Orders, byelaws or regulations in force in the area of any local authority any part of whose district is included in the scheme, and copies of those which contain any provisions affecting the scheme, with references thereto.

(5) Particulars, in the form required by the Minister, of proposed acquisition of land by local authorities under the scheme; of works to be executed; of proposed appropriations of commons, open spaces, or allotments; of any enactments or other provisions which it is proposed to suspend, with the reasons for the proposal; of the estimated cost of carrying out the scheme; and of the acreage, population, rateable value, etc., of the districts concerned.

CIRCULAR TO TOWN COUNCILS, ETC.

MINISTRY OF HEALTH, WHITEHALL, S.W.1,
March 30*th*, 1921.

TOWN PLANNING.

SIR,—1. I am directed by the Minister of Health to forward to you the enclosed copies of revised regulations governing the procedure to be adopted in preparing town planning schemes. A summary of the regulations is appended to this Circular Letter. They come into force on the 2nd May, 1921.

2. The new regulations have been prepared in consultation with persons familiar with town planning, and have been generally approved by associations representative of local authorities. They will supersede the existing ones, and have been devised so as to simplify the preparation of town planning schemes, and also to avoid the "sterilization" of land during the time that a town planning scheme is being prepared, hitherto a serious difficulty and hindrance to development.

The importance of providing for the systematic development of areas cannot be too highly estimated. Now less than ever can we afford the waste which has been the result of the haphazard growth of towns in the past; and therefore, in conformity with the measures which are now being taken for economy, wise action is necessary as regards town planning. For industry, even more than for housing, the gains of proper town planning are great, by locating factories, workshops, and businesses in the places best adapted for them and by providing betimes for proper roads and other communications, and thus avoiding the later necessity of costly street improvements. The works or measures for which provision is made in town planning schemes will need to be carried out, of course, only as and when development makes them necessary. On the 1st January, 1923, town planning becomes compulsory, by the operation of section 46 of the Housing, Town Planning, etc. Act, 1919, in all boroughs and urban districts with a population exceeding 20,000.

Local authorities should, at the outset at least, make their town planning schemes as simple as possible, concentrating on the two essentials—settling the principal lines of communication, and allocating areas for the purposes for which they are best suited (zoning), whether industrial, business, residential, or as open spaces; this procedure will make for economy and for efficiency. In order to save time and expense, the Minister has now in preparation a series of model clauses to be used by local authorities in their schemes.

3. It will be seen that the new regulations provide for the preparation of a town planning scheme in three stages—the resolution to prepare; the preliminary statement; the scheme. It is open to any local authority to merge the two former or two latter stages where they are in a position to do so.

The maps required should be Ordnance Maps, and the copies sent to the Ministry should be folded in book form. While maps on a scale of not less than 25 inches to the mile are generally necessary, a scale of 6 inches to the mile will be accepted for maps Nos. 1 and 2, where the required particulars can be shown with sufficient accuracy on this scale.

Appendix II.

The Minister has arranged that, if application is made to him by the local authority, the Commissioners of Inland Revenue will authorise the district valuers to supply the authority with such information as they possess as to the names and addresses of the owners of land included in the authority's scheme. In many cases this procedure will save time and expenditure in obtaining the necessary particulars.

4. It is desirable that there should be one town planning scheme for the whole of an area forming one economic unit. If, therefore, there is more than one local authority in that unit, it is necessary that these local authorities should co-operate closely, to the extent, where advantageous, of forming a joint committee for preparing a scheme. The Minister will be prepared to help in any cases of this kind by calling conferences of the local authorities concerned.

The Minister will be glad at all times to place the assistance of his officers at the disposal of local authorities in the preparation of their schemes.

I am, etc.

APPENDIX.

SUMMARY OF TOWN PLANNING REGULATIONS, 1921.

The procedure to be followed by a local authority is divided into three stages.

Stage I. Resolution deciding to prepare Scheme.

The resolution deciding to prepare the scheme must define by means of a map, known as Map No. 1, the exact area which is to be included in the scheme. This map must be deposited for inspection and advertisement of the fact given in the local Press. A copy of the resolution and of a map of the area must be sent to the council of the county in which any part of the area is situated, and, if the area covered by the scheme includes land under the jurisdiction of another local authority for town planning purposes, also to that authority.

Where the area covered by the scheme includes land under the jurisdiction of another local authority for town planning purposes, the approval of the Minister is required to the resolution; and, when this approval has been obtained, the local authority must give notice of the fact by advertisement.

Stage II. Preliminary Statement of Proposals.

Within six months of their resolution deciding to prepare a scheme (or of the Minister's approval of the resolution, where required), the local authority must prepare a preliminary statement and map, known as Map No. 2, showing their main proposals for the development of the area covered by the scheme, *e.g.*, the principal new roads to be constructed, open spaces to be reserved, and the restrictions proposed in regard to character of buildings (whether dwelling-houses, factories, etc.), density of buildings (that is, number to the acre and proportion of site to be covered), and height of buildings. (In any restrictions limiting the number of dwelling houses to the acre, each dwelling intended for separate occupation should count as one.) In preparing the statement consideration must be given to any representations from interested persons or any interested local authority as to the area of the scheme or its development.

Before adopting the statement, the authority must give notice in the Press of their intention to do so; and they must make arrangements for any interested person to inspect the map and the draft statement. A copy of the draft statement and the map must also be sent to the county council or other local authority that may be concerned. Any objections are to be carefully considered and conferences arranged with a view to securing, so far as possible, agreement on matters covered by the statement.

A copy of the statement, when adopted, with the map and other particulars must be sent to the Minister; and, where any part of the land is within the area of another local authority for town planning purposes, a copy of the statement and of the map so far as it relates to such land, must be sent to that authority. The Minister after arranging for any necessary visit to the area by one of his inspectors, will inform the local authority of his approval, with or without modifications, or of his disapproval of the statement. If the proposals are approved by the Minister the authority must advertise the fact and their intention to proceed at once with the preparation of the detailed scheme.

Stage III. Preparation and Approval of Scheme.

(*a*) *Preparation of Draft Scheme.*

Within 12 months of the date on which the preliminary statement is approved by the Minister, the local authority must prepare and adopt a draft scheme, illustrated by a map, to be known as Map No. 3; and must advertise the fact in the Press, intimating how objections may be made to the draft scheme. They must also serve notice on all owners of land interested in the scheme, as well as on any county council or other local authority or Government department that may be concerned.

(*b*) *Submission of Scheme to Minister.*

After all objections have been considered and within six months of the date of the resolution adopting the draft scheme, the local authority must pass a resolution finally approving the scheme, modified as may have been found necessary, after considering all representations. The scheme when so approved and the map referred to in it, known as Map No. 4, must be sealed and submitted to the Minister for his approval and a print sent to any county council or other local authority concerned. The authority must advertise in the Press the fact that the scheme has been submitted to the Minister and that any objections may be made direct to him, and must arrange for a print of the scheme and Map No. 4 to be open to public inspection.

(*c*) *Approval of the Scheme by the Minister.*

On receipt of the scheme, the Minister will first arrange for a public local inquiry to be held, and, after considering the inpector's report, will inform the local authority of his intention to approve the scheme, with or without modifications, or to disapprove it.

The authority must give notice in the Press of the Minister's intention; and, if it is proposed to approve the scheme, with or without modifications, must arrange for a print of the scheme in the form proposed to be approved by the Minister to be open to public inspection. They must also write to the same effect to all owners of land affected by the scheme as well as to any county council or other local authority concerned. These measures are taken in order to afford any interested parties full opportunity to state their objections, if any, to the Minister, before a final decision is reached on the scheme.

The Minister will take into consideration any objections that may be raised; and, if satisfied that the scheme should be approved, will issue an Order accordingly. A notice of the fact that the Order has been made must be inserted in the Press and the authority must arrange for a copy of the Order to be open to public inspection. Copies are also to be sent to all owners of land affected by the scheme, as well as to any county council or other local authority or Government department concerned.

TOWN PLANNING.

MINISTRY OF HEALTH, WHITEHALL, S.W.1,
August 23rd, 1922.

SIR,—I am directed by the Minister of Health to forward the enclosed copy of a General Order which he has made under section 45 of the Housing, Town Planning, etc. Act, 1919, for the purpose of enabling development to proceed in areas for which resolutions have been passed or authority given to prepare town planning schemes. An explanatory memorandum accompanies the Order.

The section in question provides that if works are carried out in accordance with the conditions prescribed in an Order made by the Minister, a claim for compensation under the scheme in respect of the works shall not be prejudiced.

It is highly important that persons wishing to develop shall not be delayed on account of the preparation of a town planning scheme, and the General Order has been made with the object of preventing any such delay.

At present local authorities can allow development, but the consent of the Minister has to be obtained in each individual case. This is a cumbersome procedure, and under the General Order local authorities will be able to allow development themselves without reference to the Minister, except in disputed cases.

The Minister considers that the local authority should take steps to make the Order as widely known as possible locally (through the local Press, local associations and otherwise), and that opportunity should be given for its inspection by persons interested.

Adequate records must be kept of all permissions granted under the Order and should be available for reference when required.

The Minister considers it important that permission to develop under the protection of section 45 of the Act of 1919 should not be withheld, unless there are very strong reasons; and he would urge the local authority to do everything possible to facilitate genuine proposals for development submitted to them during the preparation of schemes.

The Order will be placed on sale, so that further copies may be purchased, either directly or through any bookseller, from His Majesty's Stationery Office, at the following addresses :—Imperial House, Kingsway, London, W.C.2, and 28, Abingdon Street, London, S.W.1 ; 37, Peter Street, Manchester ; and 1, St. Andrew's Crescent, Cardiff.

I am, etc.

MEMORANDUM.

TOWN PLANNING—DEVELOPMENT DURING PREPARATION OF PRELIMINARY STATEMENT. ORDER UNDER SECTION 45 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919.

Object of Order.

1. The Minister considers it of the greatest importance that private development should not be arrested while a town planning scheme is in course of preparation and that owners should be able to proceed with genuine building plans without fear of the subsequent effects of a scheme. The accompanying Order will enable the local authority concerned to permit development to proceed in town planning areas under the protection of section 45 of the Housing, Town Planning, etc. Act, 1919, while ensuring that the development shall be as far as practicable in harmony with the maturing plan.

2. The Order does not remove the obligation of the local authority to prepare comprehensive proposals for the guidance of development in the form of a preliminary statement as quickly as possible, so that they may be empowered to permit development in accordance with it, when approved. The early determination of the main outlines of the proposals to be included in the statement is, in fact, all the more urgent, to avoid any necessity for allowing development of a piecemeal kind.

In some cases, where it is known that development is imminent or probable within a limited and sufficiently self-contained portion of a town planning area, it will be possible to prepare a preliminary statement rapidly for that portion of the area in advance of the statement for the area as a whole. This course is open to local authorities under the Town Planning Regulations, and they should adopt it, especially where a number of owners are concerned.

Explanation of Order.

3. The Order empowers the local authority on the submission of plans to permit development in accordance with such requirements as they may reasonably impose, and gives the applicant a right of appeal to the Minister where he feels aggrieved by any proposed requirement or by any refusal of permission. It is hoped that agreement will generally be reached between the local authority and developing owners and that appeals will be found in practice to be infrequent.

The local authority's requirements should be as few and simple as possible. Some notes on the subject are attached.

Main Streets.

4—(i) *Abstention from Building.*—Where new roads are projected under the Scheme of more than byelaw width, it will be necessary to require abstention from building on the sites of the roads.

(ii) *Charges.*—As a general rule an owner should not, except by agreement, be required to construct a road in a manner involving more than the cost of an ordinary byelaw street, or, if the road is to be constructed by the council, to contribute more than such cost in respect of the frontage to be developed.

It may not always be reasonable to require an owner to pay full byelaw cost, *e.g.*, where owing to special circumstances there is some damage involved to the owner in the reservation of the site of the street, compensation for which may properly be set off against street charges. On the other hand, there may at times be special betterment which would justify an owner being asked to contribute more. Where an arrangement is made for setting off compensation or betterment against street charges, there should be agreements abandoning possible claims in respect of the same matter under the scheme.

(iii) *Construction by Stages.*—Where an owner wishes to construct a road on a site reserved for a road under the scheme before the council are prepared to do so, and the whole width of the road as contemplated would involve more than byelaw cost, the council may be prepared to pay the difference, or may be able, without requiring the whole width to be constructed, to control the position of the carriage way, footpaths, etc., so that they shall fit in with the ultimate lay-out. This may be facilitated by allowing the street to be laid out at first of less than byelaw width and reasonable departures from the byelaws would be permitted for this purpose.

Widenings.

5. Abstention from building should be required on the sites of proposed widenings, as in the case of new streets. The general rule as regards costs of works of widenings should be that owners should not be required, as a condition of development, to pay for widenings to which they could not be required to contribute under the local authority's statutory powers apart from town planning, though special circumstances may here also justify departure from the general rule.

Subsidiary Streets.

6. In view of the restrictions on density of development which may be imposed, it is desirable that owners should have the benefit of any relaxations of byelaw standards on estate streets that may properly be granted, and reasonable relaxations are justified where the streets are laid out so that they are not likely to be required for through traffic.

The Minister is prepared to consent under Clause 6 of the Order to the relaxation involved in the types of streets set out in the accompanying schedule, which he considers generally appropriate. He is prepared, however, to consider modifications of these types, if desired, or alternative types adapted to special local circumstances, where necessary. The lengths and lay-outs of the streets in the schedule have been selected on the assumption of a development of twelve to the acre in a normal residential neighbourhood. The conditions may require to be further relaxed or tightened according to variations in density or in the general character of the locality.

Open Spaces.

7. Where it is desired that part of any land for which permission to develop is sought, should be reserved for an open space, abstention from building or other development thereon, except so far as consistent with the use for which it is reserved, will have to be imposed. This will ordinarily be sufficient to safeguard the position pending the settlement of the scheme, which can subsequently provide for permanent reservation.

If the reservation of land under this paragraph would involve (at once or subsequently) appreciable loan expenditure, the Minister's approval of the reservation should be obtained.

Building Lines.

8. It is not considered that, in the absence of agreement, building lines should normally be required of more than 15 to 25 feet from the boundary of the street, except on streets where a less than byelaw width has been allowed and where, in consequence, a deeper set-back may be required to secure a reasonable minimum space between buildings. Special circumstances, *e.g.*, the levels of the land, will sometimes indicate a shallower set-back.

Character of Buildings.

9. Requirements under this head should be in harmony with the intended general character of the area or part of the area concerned, but buildings which might other-

wise be incongruous (*e.g.*, in a residential area) are frequently permissible on special sites and subject to compliance with reasonable conditions. Proposals for factories in non-industrial neighbourhoods will, of course, require careful consideration.

Density.

10. Twelve, ten and eight houses per gross acre are common density requirements according to the nature of the neighbourhood, but no fixed standards can be laid down, and circumstances may indicate higher or lower densities in particular cases. Great caution should, however, be exercised in requiring specially low densities. They must be in the public as well as the owners' interest, and care must be taken to avoid any possible risk of checking the development of the land concerned. Low densities cannot as a rule be safely imposed unless and until there is clear evidence that the land concerned is being or will be developed for high-class property.

Where streets have already been laid out prior to the inception of a scheme, a greater density will generally be justified than would have been the case had the owner been free to adapt himself to the new conditions in this respect.

Execution of Agreements.

11. It is considered reasonable that an owner who wishes to develop in advance of the approval of the scheme should be required to make such payments towards the cost of roads constructed by the council, as he might reasonably have been required to pay under the scheme in respect of the development covered by the permission. There would, however, be no adequate means of securing compliance with such a requirement, apart from a supporting agreement, and it is therefore desirable to secure agreements where necessary. The general limits of the requirements that may normally be made in this respect are indicated in paragraph 4 under the heading "Main Streets."

Other circumstances may arise in which it may be advisable to obtain agreements (*e.g.* where it is necessary to attach conditions to the erection of a factory in a residential neighbourhood).

Compensation and Betterment.

12. No power of paying compensation or claiming betterment is available under the Town Planning Acts in advance of an approved scheme. Agreements contingent on the approval of the scheme can, however, be made with owners for the purpose. The local authority's powers of purchase may also enable them to meet special cases of real and immediate injury where the powers can appropriately be exercised. Adjustments can also be effected, where suitable, by variation of the street charges or requirements.

Relaxation of Byelaws.

13. Clause 6 provides that relaxations of byelaws should not be permitted except with the permission of the Minister.

Permission should be sought to departures intended to be of general application, and not to departures in individual cases.

As indicated in paragraphs 4 (iii) and 6, relaxations of byelaws will be permitted in the case of streets on the lines there set out. It is not considered that other departures will normally be needed, especially in connection with interim development. In any case, the departure should be one that can be justified as applicable to the town planning area specially, as distinct from the district as a whole.

Procedure.

14. Clause 7 requires the council to notify their decision and, when permission is granted, their requirements to the applicant in writing. Requirements can normally be indicated by reference to a plan attached to the notification, but, where any agreement is required, it should be scheduled to the notification, which should contain a reference to it.

Appendix II.

Before permitting any proposed development, the council should consult any neighbouring owners whose interests are likely to be affected, and in some instances (*e.g.*, a proposal to erect a shop or factory in a residential area, or requirements as to streets or density which would affect the streets or density allowed on neighbouring lands in separate ownership) it may be advisable to give notice by advertisement in a local newspaper of any proposal to consent, before the consent is given. The notice should indicate that objections may be made and will be considered.

Officers of the Ministry will be pleased to discuss any proposals with representatives of the council, where the proposals are of such a character as to make this desirable, but such advice cannot be given so as to prejudice the Minister's decision on any appeal that may subsequently be made to him.

Appeal.

15. Applicants are given a right of appeal to the Minister against any requirements imposed by the council as a condition of permission to develop, or against any refusal of permission, and the Minister's decision will operate as a decision of the council.

Duration of Order.

16. Unless previously revoked or varied by the Minister, the Order will remain in force until the approval of a preliminary statement for the area concerned, under the Town Planning Regulations, 1921, or, where a preliminary statement has been dispensed with or the Regulations of 1921 are not applicable, until the approval of a scheme.

MINISTRY OF HEALTH, WHITEHALL, S.W.1,
August, 1922.

Appendix II.

SCHEDULE.

"Streets: Relaxation of Local Acts, Regulations or Byelaws."

Type.	Maximum length of street.	Minimum width of street.	Minimum width of carriageway.	Minimum number of footways.	Minimum width of each footway.	Conditions as to junction with other streets.	Conditions as to provision of turning spaces.
A.	1,500 ft.	* ft.	16 ft.	2 (1, *if street built up to on one side only.*)	4 ft. 6 ins.	The street shall communicate at each end with a street of a minimum width of * feet with a carriageway of a minimum width of * feet, or at one end with such a street and at the other end with a street of Type E or with a highway having a carriageway existing at the date of permission to develop. Provided that where the street communicates at one end with a street of Type E, its length together with the length of the street of Type E shall not exceed 700 feet, but it may communicate at the other end with another street of Type A.	If the street exceeds 500 feet in length a turning space (or turning spaces) shall be provided at a distance not exceeding 500 feet apart or from either end of the street.
B.	750 ft.	30 ft.	16 ft.	1	4 ft. 6 ins.	The street shall communicate at each end with a street of Type A or with a street of a minimum width of * feet with a carriageway of a minimum width of * feet or at one end with a street of either of such types, and at the other end with a street of Type E or a highway having a carriageway existing at the date of permission to develop. Provided that where the street communicates at one end with a street of Type E, its length together with the length of the street of Type E shall not exceed 700 feet, but it may communicate at the other end with a street of Type A or another street of Type B.	Ditto.

C.	450 ft. (600 *ft. if the minimum width of the carriageway is* 16 *ft.*)	24 ft.	14 ft.	—	—	The street shall communicate at one end with a street of Type A or with a street of a minimum width of * feet with a carriageway of a minimum width of * feet or with a highway having a carriageway existing at the date of permission to develop, and shall communicate with no other street.	A turning space shall be constructed at the other end of the street.
D.	200 ft.	16 ft.	8 ft.	—	—	The street shall communicate at one end with a street of Type A or of Type B or with a street of a minimum width of * feet with a carriageway of a minimum width of * feet or with a highway having a carriageway existing at the date of permission to develop, and shall communicate with no other street.	Ditto.

Type.	Maximum length of street.	Minimum width of street.	Minimum width of carriageway.	Special conditions.	Conditions as to junction with other streets.	Conditions as to construction of surface of streets.
E. Applicable only to streets intended to give access solely to dwelling-houses forming three sides of a quadrangle or arranged in some other similar manner so as to front on to an open space.	500 ft.	14 ft.	10 ft.	All the dwelling-houses to which the street gives access shall be on the same side of the street. No footway need be provided.	The street shall communicate at each end with a street of Type A or Type B, or with a street of a minimum width of * feet with a carriageway of a minimum width of * feet, or with a highway having a carriageway existing at the date of permission to develop, and shall communicate with no other street.	Notwithstanding any provisions of the byelaws to the contrary, the whole surface of the carriageway may be so constructed as to fall to a channel at one side of the carriageway, such fall being calculated at a minimum rate of half an inch for every foot of the width of the carriageway.

CONDITIONS APPLICABLE TO ALL THE ABOVE TYPES OF STREETS.

(*a*) The street shall be one which, in the opinion of the Council, is not likely to be required for through traffic and in which no buildings other than dwelling-houses or such public buildings as the Council may approve, are proposed to be erected.

(*b*) Any portion of the surface of the street not constructed as carriageway or footway shall be planted with grass, trees, or shrubs, or treated in some other suitable manner to the reasonable satisfaction of the Council.

(*c*) Any turning space which is required by the conditions set out in the Schedule shall be of such dimensions that a circle with a diameter of 30 feet could be inscribed within the carriageway of the street.

* Ordinary byelaw width.

Appendix II.

S. R. AND O., 1922, No. 927.

THE TOWN PLANNING (GENERAL INTERIM DEVELOPMENT) ORDER, 1922, DATED AUGUST 12TH, 1922, MADE BY THE MINISTER OF HEALTH, UNDER SECTION 45 OF THE HOUSING, TOWN PLANNING, ETC. ACT, 1919.

In exercise of the powers conferred on him by section 45 of the Housing, Town Planning, etc. Act, 1919, the Minister of Health hereby orders as follows :—

1. This Order may be cited as the Town Planning (General Interim Development) Order, 1922.

2. In this Order the following expressions have the meanings hereby assigned to them respectively :—

"The Minister" means the Minister of Health ;

"Area" means any area in respect of which a resolution deciding to prepare a town planning scheme has been duly passed and (where necessary) approved by the Minister under section 42 of the Housing, Town Planning, etc. Act, 1919, or for which authority to prepare a scheme has been given under section 54 of the Housing, Town Planning, etc. Act, 1909 ;

"The local authority" means the local authority who have decided or been authorised to prepare a scheme for the area concerned.

3. For the purpose of section 45 of the Housing, Town Planning, etc. Act, 1919, the local authority may permit the development of estates and building operations to proceed in the area pending the preparation and approval of a town planning scheme, subject to the conditions contained in this Order.

4. A person who desires to apply for permission under the last preceding article, shall apply to the local authority for permission in writing and shall furnish to the local authority, together with his application and in the form required by them, a plan in duplicate showing the proposed method of development and proposed buildings and such further particulars as the local authority may require.

5. The development of estates and building operations shall comply with all such requirements as the local authority may reasonably impose.

6. The local authority shall not, except with the consent of the Minister, permit any development or building operations inconsistent with the provisions of any local Acts, regulations, or building byelaws in force in the area.

7. The local authority shall, as soon as may be, inform the applicant in writing that his application for permission to proceed is granted or refused, as the case may be, and, if the application is granted, shall state in writing the terms of any requirements which they may impose.

8. Any applicant aggrieved by the neglect or refusal of the local authority to grant permission, or by any requirements imposed by the local authority, may appeal to the Minister, whose decision shall be final and shall have effect as if it were the decision of the local authority.

9. Subject and without prejudice to the power of the Minister to revoke or vary this Order, the Order shall remain in force in an area or part of an area until the date of the approval by the Minister of a preliminary statement for that area or part under the Ministry of Health (Town Planning) Regulations, 1921, or, where a preliminary statement is not required to be prepared, the date of the approval by the Minister of a scheme for that area or part.

TOWN PLANNING (GENERAL INTERIM DEVELOPMENT) ORDER, 1922.

MINISTRY OF HEALTH, WHITEHALL, S.W.1,
January 29th, 1923.

SIR,—The Minister thinks it desirable, in view of some cases which have recently come before him, to issue some further guidance to local authorities in connection with the administration of this Order.

If there is not an approved town planning scheme in force, local authorities have no power to prevent development which complies with the byelaws or other statutory provisions in force; but, if a resolution to prepare a town planning scheme has been passed, any person who develops without special consent is prejudiced if the particular development should contravene the scheme ultimately approved. By the Interim Development Order, local authorities are enabled to give consent to development in anticipation of a scheme; and a person who has received such consent is placed exactly in the same position, as regards compensation, as if the development had been undertaken before the resolution was passed.

The Minister considers that the presumption should always be in favour of the person who wishes to undertake development.

Town planning is new, and it would not be right to attempt so close a control at the early stages as may later be warranted. Further, it would not be reasonable to expect as strict authority to be exercised over development before as after a scheme has been approved, when the views of the various interests affected will have been heard and fully considered. It is also particularly desirable that no obstacles should be placed in the way of proposed development unless it is clearly detrimental to important local needs or interests.

The Minister considers, therefore, that consent under the Interim Development Order should be refused only if the development contravenes a definite proposal which the local authority intend to include in their town planning scheme, and this proposal is clearly of first importance; and he proposes to follow this course in deciding appeals which may be made to him under the Order (*a*).

It is highly desirable that cases should be settled locally, and that appeals should be very few indeed; and the Minister is satisfied that, with a reasonable spirit of compromise on the part of the local authorities and of those who wish to develop, there should not be any serious difficulty in achieving this result.

Any agreements between local authorities and developing owners in connection with the Order should always be put into writing.

I am, etc.

S. R. & O., 1926, No. 439/L. 9.

TOWN PLANNING, ENGLAND.

DETERMINATION OF QUESTIONS AS TO COMPENSATION.

THE TOWN PLANNING (DETERMINATION OF QUESTIONS AS TO COMPENSATION) RULES, 1926, DATED 31ST MARCH, 1926, MADE BY THE REFERENCE COMMITTEE FOR ENGLAND AND WALES UNDER THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919 (9 & 10 GEO. 57), AS EXTENDED BY SECTION 10 OF THE TOWN PLANNING ACT, 1925 (15 GEO. 5, C. 16).

In pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919, as extended by section 10 of the Town Planning Act, 1925, the Reference Committee for England and Wales constituted under the first mentioned Act hereby make the following rules:—

1.—(1) These rules may be cited as the Town Planning (Determination of Questions as to Compensation) Rules, 1926.

(2) The Town Planning (Determination of Questions as to Compensation) Rules, 1923, are hereby revoked.

2.—(1) The expression "question" in Rule 2 of the Acquisition of Land (Assessment of Compensation) Rules, 1919 (*b*) (in these rules referred to as "the Rules of 1919"), shall include any question which by virtue of section 10 of the Town Planning Act, 1925, is to be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (in these rules referred to as "a question relating to compensation under a town planning scheme").

(*a*) The decisions of the Minister on such appeals with the reasons for such decisions are printed annually in the separate portion dealing with Town Planning of the Annual Report of the Minister, which may be obtained from H.M. Stationery Office.

(*b*) See these Rules at p. 3435, *ante*.

Appendix II.

(2) In the application of the Rules of 1919 to a question relating to compensation under a town planning scheme, references in those rules to the acquiring authority and to the claimant shall respectively mean the responsible authority mentioned in section 10 of the Town Planning Act, 1925, and the person whose property is alleged to have been injuriously affected or increased in value by the scheme and by or against whom a claim has accordingly been made under that section, and the expression " claim " shall mean a claim under that section.

3.—(1) The time at which an application for the selection of an arbitrator may be sent to the reference committee shall, in the case of a question relating to compensation under a town planning scheme, be any time after the expiration of fourteen days from the date on which the claim for compensation was made.

(2) In the case of a question relating to compensation under a town planning scheme, the form of application set out in the schedule to these rules shall be substituted for Form A set out in the schedule to the Rules of 1919.

4. The Rules of 1919 shall, in their application to a question relating to compensation under a town planning scheme, have effect as if the following paragraphs were substituted for paragraphs (1) and (6) respectively of Rule 7 thereof:—

" (1) Where claims have been made under section 10 of the Town Planning Act, 1925, by or against two or more persons having different interests in the same property, the responsible authority may, subject as hereinafter provided, either on making the application for the selection of an arbitrator to hear the claims or at any time thereafter, make an application to the Reference Committee to have the same person selected as the arbitrator to hear and determine all the claims:

" Provided that no such application shall be made as respects a claim if an arbitrator has already entered on the consideration of the claim.

" (6) If any person to whom any such notice of intention has been sent objects to have the claim made by or against him heard with the other claims he shall within seven days after the receipt of the notice aforesaid send notice of his objection to the responsible authority and the arbitrator."

HEWART, C.J.
HANWORTH, M.R.
JOHN D. WALLIS, P.S.I.

The Reference Committee for England and Wales under the Acquisition of Land (Assessment of Compensation) Act, 1919.

31*st March*, 1926.

SCHEDULE.

Form of application for selection of Arbitrator in case of a question relating to compensation under a Town Planning Scheme.

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919,

AND

TOWN PLANNING ACT, 1925, SEC. 10.

APPLICATION FOR SELECTION OF OFFICIAL ARBITRATOR.

To the Reference Committee, 121, Royal Courts of Justice, Strand, London, W.C.2.

I, being the person whose property is affected by a town planning scheme [*or*, We being the responsible authority] specified in the annexed particulars, hereby apply for the selection, pursuant to the above Acts, of an official arbitrator to hear and determine the question of which particulars are annexed.

*Signed ....

Date ....

* *If the application is signed by an agent, add* " *by*....................................*his* [*or their*] *agent.*"

PARTICULARS.

Name and address of responsible authority :

....

....

....

Name and address of responsible authority's solicitor or agent :

....

....

....

Name and address of person whose property is affected :

....

....

....

Name and address of his solicitor or agent :

....

....

....

Description of property affected :

....

....

....

Situation of property affected :

County ....

Parish ....

Nature of question :

....

....

S. R. & O., 1926, No. 1133.

TOWN PLANNING, ENGLAND.

ACQUISITION OF LANDS.

THE TOWN PLANNING (COMPULSORY PURCHASE) (*a*) REGULATIONS, 1926, DATED 23RD SEPTEMBER, 1926, MADE BY THE MINISTER OF HEALTH UNDER THE TOWN PLANNING ACT, 1925 (15 GEO. 5, C. 16).

The Minister of Health, in pursuance of the powers conferred on him by the Town Planning Act, 1925, and of all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Town Planning (Compulsory Purchase) Regulations, 1926, and shall come into operation on the date hereof.

2.—(1) In these Regulations, unless the context otherwise requires—
"The Minister" means the Minister of Health ;
"The Act" means the Town Planning Act, 1925.

(2) The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

3. An Order made by a local authority under Part I. of the Third Schedule to the Act (hereinafter referred to as "the Compulsory Order") shall be in the form set forth in the schedule hereto, or in a form substantially to the like effect.

4.—(1) Before submitting the Compulsory Order to the Minister for confirmation, the local authority shall cause the same to be published by advertisement in two

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(*a*) For restrictions on acquisition of certain lands *see* section 8, sub-section (6) and Part II. of the Third Schedule of the Town Planning Act, 1925, *ante*, pp. 1499, 1514.

successive weeks in one or more of the local newspapers circulating in the district of the local authority and in the parish or parishes in which the land to which the Compulsory Order relates is situated.

(2) The advertisements shall be headed respectively " First Advertisement " and " Second and Last Advertisement," and the first of the said advertisements shall be published not later than the seventh day after the making of the Compulsory Order.

(3) Each of the said advertisements shall contain in addition to a copy of the Compulsory Order a notice setting out the following particulars :—

(*a*) a statement that any objection to the Compulsory Order must be presented to the Minister within the period of fourteen days from and after the date of the publication of the first advertisement ; and

(*b*) a statement of the period, times, and place or places during and at which the deposited plan referred to in the schedule to the Compulsory Order may be inspected by or on behalf of any person interested in the land to which the Compulsory Order relates.

(4) The plan referred to in the schedule to the Compulsory Order shall be deposited by the local authority not later than the seventh day after the making of the Compulsory Order at a place convenient for the purposes of inspection, and shall be kept deposited thereat for a period not being less than fourteen days from the date of the publication of the first advertisement ; and the said plan shall be open for inspection by any person interested or affected, without payment of any fee, at all reasonable hours on any week-day during the said period. The local authority shall also make suitable provision for affording to any such person inspecting the said plan any necessary explanation or information in regard thereto.

(5) Notwithstanding anything contained in this Article, where the land to which the Compulsory Order relates is situated within a rural district and does not exceed five acres in extent, the said Order shall be deemed to have been sufficiently published if not later than the seventh day after the making of the said Order one copy thereof has been affixed to the land in some conspicuous position and a further copy to a notice board outside the offices of the local authority, each of the said copies having appended to it a notice setting out the particulars specified in paragraph (3) of this Article, and for this purpose the date on which the said notices are so affixed shall be treated as the date of the publication of the first advertisement.

5.—(1) The local authority shall, not later than the seventh day after the making of the Compulsory Order, cause notice thereof to be given to every owner, lessee, and occupier of the land to which the Compulsory Order relates, and every such notice shall include a copy of the Compulsory Order, to which shall be appended a notice containing the particulars mentioned in paragraph (3) of Article 4 of these Regulations.

(2) The local authority shall furnish a copy of the Compulsory Order, free of charge, to any person interested in the land to which the Compulsory Order relates, upon his applying for the same.

6. The period within which an objection to a Compulsory Order may be presented to the Minister by a person interested in the land to which the compulsory order relates shall be the period of fourteen days from and after the date of the publication of the first advertisement of the Compulsory Order.

7.—(1) The local authority shall as soon as practicable after the confirmation of the Compulsory Order cause a copy of the Compulsory Order as confirmed to be served on every owner, lessee, and occupier of the land to which the Compulsory Order relates.

(2) A copy of the Compulsory Order as confirmed shall be furnished free of charge by the local authority to any person interested in the land authorised to be purchased upon his applying for the same, and a copy of any plan to which reference is made in the Compulsory Order as confirmed shall also be furnished by the local authority to any such person, upon his applying for such copy and paying the reasonable cost of preparing the same.

SCHEDULE.

THE TOWN PLANNING ACT, 1925.

ORDER FOR THE PURPOSE OF THE COMPULSORY ACQUISITION OF LANDS.

The * hereby make the following Order:—

1. The provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement are, subject as hereinafter provided, hereby put in force as respects the purchase by the * of the lands described in the Schedule hereto for the purposes of the † Town Planning Scheme.

2. The Lands Clauses Acts (except section 127 of the Lands Clauses Consolidation Act, 1845), as modified, varied or amended by Part I. of the Third Schedule of the Town Planning Act, 1925, the Acquisition of Land (Assessment of Compensation) Act, 1919, and sections 77 to 85 of the Railways Clauses Consolidation Act, 1845, are, subject to the necessary adaptations, incorporated with this Order, and the provisions of those Acts shall apply accordingly.

3. ‡ The sums agreed upon or awarded for the purchase of the lands described in the Schedule to this Order, being glebe land or other land belonging to an ecclesiastical benefice, or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting any such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners, to be applied by them as money paid to them upon a sale, under the provisions of the Ecclesiastical Leasing Acts, of land belonging to a benefice.

[3.] This Order shall come into operation as from the date of its confirmation by the Minister of Health.

[4.] This Order may be cited as the § Order 19 .

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* Here insert title of the authority making the Order.

† Insert title of town planning scheme.

‡ Insert this article where the lands described in the Schedule to the Order include glebe land or other land belonging to an ecclesiastical benefice.

§ Here insert a suitable short title, which should include the title of the relevant town planning scheme.

THE SCHEDULE ABOVE REFERRED TO.

Numbers on Plan deposited at the offices of the *	Quantity, Description and Situation of the Lands.	Owners or reputed Owners.	Lessees or reputed Lessees.	Occupiers.

Given under the Seal of the * this day of 19 .

* Here insert title of the authority making the order.

S. R. AND O., 1926, No. 1465.

TOWN PLANNING, ENGLAND.

THE TOWN PLANNING (LAND IN NEIGHBOURHOOD OF ROYAL PALACES OR PARKS) REGULATIONS, 1926, DATED 18TH NOVEMBER, 1926, MADE BY THE MINISTER OF HEALTH UNDER SECTION 19 OF THE TOWN PLANNING ACT, 1925 (15 & 16 GEO. 5, c. 16).

The Minister of Health, after consultation with the Commissioner of Works, in pursuance of the powers conferred on him by section 19 of the Town Planning Act, 1925, hereby makes the following Regulations:—

Appendix II.

1. These Regulations may be cited as the Town Planning (Land in neighbourhood of Royal Palaces or Parks) Regulations, 1926, and shall come into operation on the date hereof.

2. The prescribed distance for the purposes of sub-section (1) of section 19 of the Town Planning Act, 1925, shall in the case of Windsor Castle, Windsor Great Park and Windsor Home Park, be two miles, and in the case of any other Royal Palace or Park, be half a mile.

MINISTRY OF HEALTH.

TOWN PLANNING.

MODEL CLAUSES FOR USE IN THE PREPARATION OF SCHEMES.

EXPLANATORY MEMORANDUM.

1. The Model Town Planning Clauses have been prepared in six parts, viz. :—

Part I.—General.
„ II.—Streets.
„ III.—Buildings and Building Lines.
„ IV.—Reservation of Lands.
„ V.—General Amenity.
„ VI.—Miscellaneous.

The insertion of many of the clauses in a scheme will no doubt often be unnecessary, but, so far as the clauses contain the provisions which it is desired to insert, it is intended that they should be regarded as the settled form for the purpose and utilised accordingly, with any necessary adaptations to meet the special circumstances of the particular scheme. Moreover, the issue of the clauses should not be regarded as prejudicing the Minister's view as to the propriety of including in any scheme provisions relating to any particular subject. It should also be recognised that the clauses are subject to revision by the Minister from time to time in the light of experience.

The clauses are drafted for the case of a local authority who are planning an area within their own district, and would need to be adapted and supplemented in the case of a scheme prepared by a local authority for an area outside their district or a scheme prepared by several authorities jointly.

PART I.—GENERAL.

2. Part I. contains a general interpretation clause in which all such definitions are inserted as cannot more appropriately be set out in later parts, a clause defining the area to which the scheme relates, and a clause defining the authority responsible for enforcing the scheme. There would not appear to be anything in this part of the models which calls for comment or explanation, except the definition of "owner" and the definition of the "erection of a building" (Clause 1).

The Public Health Act definition of "owner" has been adopted, but whenever in the text a more extended definition is required (*e.g.*, in the clauses relating to the right of entry on to land for the execution of street works, the acquisition of land for open spaces, etc.), the term "persons interested in" has been used.

The object of the definition of the "erection of a building" is to provide a comprehensive provision covering the re-erection, alteration, and extension of buildings, particularly existing buildings—*i.e.*, buildings in existence at the date of the initiation of the scheme or other operative date, where properly included in a scheme.

The definition determines the extent to which existing buildings are governed by the provisions of a scheme, subject to any special provision on the point in particular clauses, and is chiefly of importance in connection with the clauses limiting the erection of buildings on land reserved for new streets or widenings and open spaces or in advance of building lines (Clauses 9, 34 (1) and 37 (1)), and the provisions governing the character of the buildings to be allowed in different parts of the area of a scheme, as applied to the possible extension of existing buildings which do not conform to the type of building allowed (Clause 29).

The definition allows for limited additions being made to existing buildings without involving contravention of a scheme, on the view that restrictions ought not to be put on reasonable additions to an existing building pending its acquisition or appropriation to its reserved purpose (new street, open space, etc.) under the scheme or its voluntary removal and replacement by a new building conforming with the requirements of the scheme. Similar considerations have led to the fixing of one half as the least measure of alteration or reconstruction which should generally be regarded as constituting a new building.

The definition is expanded to cover the conversion of buildings by a special provision to that effect in the particular clauses in which conversion is material (*i.e.*, Clauses 20 and 29 (5)).

PART II.—STREETS.

Construction of New Streets.

3. The clauses contain provisions dealing with the construction of three categories of streets :—

(1) New "main thoroughfares" of which the sites and widths are determined by the scheme and are shown on the map ;
(2) Widenings of existing streets ;
(3) Subsidiary or estate streets.

Widenings are covered by the same clauses as other new streets on the map, subject to special provisions (contained in Clause 7 and explained in paragraph 11 below) dealing with the incidence of cost.

It is not contemplated that schemes themselves should, as a rule, fix more than the principal communications, leaving the less important connections and estate streets to be determined at the time of estate development, when estate requirements are more fully known.

Reservation of Sites of Main Thoroughfares and Widenings.

4. The lands forming the sites of the proposed main thoroughfares and widenings are intended to be numbered and coloured on the map. It is essential that nothing should be allowed to be done on these sites which, when the time comes for the streets to be constructed, would render the construction appreciably more costly, but it is also important to avoid sterilising the land more than is really necessary, particularly in the case of streets which are not likely to be constructed until a long time has elapsed. Accordingly, with the object of enabling a local authority to permit reasonable development without incurring the risk of a consequential increase in cost, a clause (Clause 9) is provided, under which the erection of buildings on the sites shown on the map or the carrying out of other permanent works is prohibited, except with the consent of the authority and on such terms (*e.g.*, in the matter of compensation) as to the removal of the buildings or works as they may require. The restriction is not, however, to operate against the use of land statutorily exempted from liability to compulsory purchase under town planning schemes by Part II. of the Third Schedule of the Town Planning Act, 1925 (railway land, etc.), so long as it is used for the specified purposes.

Declaration of Sites of Main Thoroughfares and Widenings to be Streets.

5. It is desirable that provision should be made for enabling the authority to construct any of the main thoroughfares and widenings shown on the map, when needed for general traffic. They are accordingly empowered, after giving three months' notice to the owner, to declare any of the lands reserved for streets (except the lands which they are precluded from purchasing compulsorily) to be a street (Clause 6 (2)), with a view to entering on the land and undertaking the necessary street works. Power is also given to the authority to enter (without declaring the land to be a street) on land which is not intended to form part of a new street (and is therefore not coloured on the map), but is required for the execution of incidental works, *e.g.*, an embankment.

Cost of Construction of Streets.

6. The streets declared by the authority under Clause 6 will fall into two classes, namely: (1) those which are required in the interests of the general public and, subject to any agreements with owners, the whole cost of which the authority should bear; and (2) those which can fairly be regarded as being, in part at least, in anticipation of development which owners would eventually undertake, and to the cost of which it is accordingly reasonable that the frontagers, being directly benefited, should contribute. It is considered that normally it will be practicable to decide beforehand to which class each of the new streets and widenings should be assigned, and it is intended that the class to which each belongs shall be indicated by its number on the map.

Declared Streets the whole cost of which the Authority are to bear.

7. Clause 6 accordingly provides that where the authority are to bear the whole cost of any street or widening on reserved land, the land, when declared to be a street, shall be deemed to be a highway repairable by the inhabitants at large. The object of this is to put the land into the same position as if it had been purchased for a street site by the authority under the general law, *i.e.*, the authority will be able to enter upon it and execute any street works, but it will not be open to them to impose any cost on frontagers, nor will they be required to carry out any of the procedure under section 150 of the Public Health Act, 1875, or the Private Street Works Act, 1892, which will be necessary where other streets are concerned. These provisions do not, of course, preclude the possibility of equitable arrangements with owners as to the terms (*e.g.*, free dedication of the land) on which these streets are to be constructed.

Declared Streets to the cost of which Owners are to contribute.

8. In the case of any other land reserved for streets (*i.e.*, land intended to form the sites of streets or widenings to the cost of which it is considered reasonable that owners should contribute), the clause provides that the land when declared by the authority to be a street shall be deemed to be a private street dedicated to the public, *i.e.*, a street to which section 150 of the Public Health Act, or the Private Street Works Act, as the case may be, is applicable. The authority will then be able to enter upon the land, execute street works and charge the cost upon frontagers by exercising their powers under either of the above-mentioned Acts, subject to certain limitations made necessary by the fact that the street will be constructed on the initiative of the authority instead of on the initiative of owners and that its width may be greater or its manner of construction more expensive than would be necessary in the case of an estate street. These limitations are:—

(i) A provision is inserted to prevent an owner from being charged with any part of the cost of construction before he needs the street. The authority are accordingly prohibited from recovering the sum apportioned upon any land in the case of a declared street, until the land becomes rated otherwise than as agricultural land (Clause 5 (2) (*f*)).

(ii) The authority are also prohibited from charging any owner, in the case of a declared street, with more than the cost of a "standard" street, a standard street being based upon the requirements of the byelaws and the specification of private street works ordinarily required by the authority (Clause 5 (2) (*a*)).

(iii) Owners are given the right to require the authority to take over a declared street when its construction has been completed by the authority or in accordance with the specification required by them (Clause 5 (2) (*e*)).

Procedure where the Authority purchase the Site of a Street.

9. The fact that the authority purchase instead of exercising the right of entry given by Clause 6 will not, of course, debar them from declaring the site of a street, when purchased, to be a private street, if the street in question is included in the category of those in respect of which charges may be imposed. It was felt, however, that difficulties might arise if the authority purchased any adjoining land required for the execution of incidental works, as they might thereby themselves become frontagers to the street and so incapable of recovering street charges. A provision

has therefore been inserted (Clause 6 (3)) empowering the authority to declare any such adjoining land which belongs to them to be a private street.

Where the authority purchase the site of a street the whole cost of construction of which is to be borne by them, it is contemplated that they will proceed under their ordinary powers as highway authority.

Construction by Stages.

10. Where the authority desire to construct only a portion of the full projected width of a street or to execute part only of the full permanent works in the first instance, with the intention of completing the construction of the street at a later date, their powers to execute any or all of the street works authorised by the Private Street Works Act or the Public Health Act will enable them to do so.

It is important, however, that the interests of abutting owners in the streets on the map should be duly recognised and that any street only partially constructed by the authority should not be left in a condition likely to prejudice building development. Clause 13 (1) therefore requires the authority in the case of streets constructed on their own initiative to lay out with grass margins or in other suitable manner any portion of the street not constructed as a carriageway or footway, and to provide convenient access to abutting premises, pending full construction.

Special Provisions as to Widenings.

11. It is contemplated that owners may be required to bear the cost of widenings (up to the requirements of a standard street) in cases where it may fairly be presumed that, if they developed the land abutting on the site of the widening in the ordinary course (whether the widening be of a highway repairable by the inhabitants at large or not), they would incur a liability to widen the existing street or highway in order to comply with byelaw requirements or any statutory provisions, and in such cases the land required for the site of the widening may be numbered as land which may be declared to be a private street. Clause 7 (1) provides that the private street shall include the existing highway, and enables charges to be made on the frontagers on both sides of the street.

Where, however, the highway to be widened was, before declaration, a highway repairable by the inhabitants at large and a certain amount of development had already occurred, it would not seem generally equitable that the owners of such frontages should bear any part of the cost of the street improvements, and it is accordingly provided (Clause 7 (3) (*a*)) that no part of the cost of widening shall be apportioned against any land rated otherwise than as agricultural land at a specified date, which should not be earlier than the date on which notice is first given of the intention to charge for the widening as a private street.

The general limitations on street work charges, described in paragraph 8 above, will, of course, apply also in the case of widenings, so that the authority will not be able to impose upon owners any greater cost than the cost of turning the existing highway into a standard street.

Construction of Streets by Owners.

12. The new streets in the area, other than streets declared by the authority in accordance with the procedure outlined above, will be of two kinds, viz. :—

(i) Streets shown on the map which owners wish to commence before the authority are ready to declare them.

(ii) Ordinary subsidiary or estate streets, not shown on the map.

The measure of control conferred upon the authority is, however, the same in both cases, *i.e.*, in both cases the plan of the proposed street and the specification of the proposed street works must be submitted to the authority, who can approve them with or without modification, or disapprove them, subject to appeal (Clause 10).*

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* *Note.*—Clauses 10 and 11 are drafted on the assumption that existing byelaws as to streets (and corresponding provisions in local Acts) will be repealed in the area of the scheme and the matter dealt with wholly in the scheme, a course which it is considered will tend to prevent confusion. Alternative clauses can, however, be supplied for use where repeal of the byelaws may for any reason prove inconvenient or undesirable.

Appendix II.

As it may sometimes be necessary, especially in the case of streets shown on the map, for the authority to require a street to be constructed of such a width or in such a manner as to involve more than the cost of a standard street, provisions have been inserted to protect the owners in such cases. These provisions are:—

(i) Where the owner himself undertakes the construction of the street, the authority are not to alter the owner's specification so as to involve more than the cost of a standard street, unless they agree to pay the difference (Clause 10 (3)).

In the case, however, of a wide street shown on the map, it may often be possible for the authority, without requiring the whole street width to be constructed, to control the position of the carriageway, footpaths, etc., so that these shall fit in with the ultimate lay-out without sacrificing immediate convenience or amenity. This may be facilitated by the power under sub-section (5) of the clause to allow the street to be laid out at the first stage of a less width than the intended final width (*e.g.*, if the street is intended ultimately to have two carriageways, both being of less than standard width, one carriageway only may be constructed in the first instance).

(ii) Where the owner merely lays out the street, executing, perhaps, temporary works (outside the specification) or some only of the specified permanent works, and the local authority make up and complete the street, the ordinary law is left to operate unaltered, provided that the local authority have not imposed a specification involving more than standard cost, *i.e.*, the authority make up the street (in accordance with required specification) and charge the cost on frontagers in pursuance of their powers under the Private Street Works Act (or Public Health Act).

If, however, the authority have required a specification which involves more than standard cost, it would clearly be inequitable if the owner could be made to bear the entire cost as private street works, and Clause 5 (3) therefore provides that in such case the authority are not to impose under the Private Street Works Act (or Public Health Act) charges in excess of standard cost, *i.e.*, limitation (ii), referred to in paragraph 8 as applicable to streets which the authority themselves declare, is applied to these cases also.

Types of streets with reduced carriageway and footway standards are prescribed for use as non-through traffic streets (Part II. of First Schedule), and other types may be approved by the Minister under Clause 10 (2). The lengths and lay-out of the typical streets have been selected on the assumption of a development of twelve to the acre in a normal residential neighbourhood. It is recognised that the conditions may need tightening or relaxing according to variations in density or in the general character of the locality.

Provision for Reserving Land for Additional Streets.

13. Clause 10 (preceding paragraph) deals with street proposals submitted by individual owners. Special provision may, however, sometimes be needed to secure new streets and connections (in addition to those shown on the map), independently of any submission of street plans by owners, *e.g.*, where a proposed new building would block the way for a street needed to secure through communication, or co-ordination between estates, or where particular streets have been approved on separate estates with the express object of securing a through connection between them, but the owners are unwilling to lay out the whole length of the approved streets and so make the connection effective. Power to secure these objects is given in Clause 6 (5), which would enable the authority to reserve the site of an additional street over land in several ownerships, or to " declare " a street or length of street already approved, but not actually laid out by the owner. Clause 12 requires the authority, when considering street plans, to invite neighbouring owners likely to be affected to submit their own street plans for consideration at the same time, and thus affords the authority an opportunity of judging whether any excerise of the powers of Clause 6 (5) is needed.

Other Provisions as to Streets.

14. The only other provisions under the Streets Clauses on which it seems necessary to comment are :—

(i) The street works which can be executed under the Private Street Works Act (or Public Health Act) are extended to include "incidental works," *i.e.*, slopes, embankments, retaining walls, grass margins, etc. (Clause 5 (1)). These works will accordingly be chargeable as street works, but the ordinary appeals under the respective Acts as to reasonableness, etc., as well as the limitation of the total cost chargeable to the cost of a standard street, if the street is declared by the authority under clause 6, or if a specification involving more than standard cost is required by them, will safeguard the position of owners.

(ii) Power is given (Clause 8) to include in an apportionment of street work costs the cost of a sewer constructed on land coloured on the map before the land becomes a street, subject, of course, to the necessary easement being obtained under the authority's statutory powers apart from the scheme. The sewer could always be constructed without an easement when the street has been declared, but where a sewer is needed in the absence of a street, *e.g.*, for purposes of connection with other land in course of development, it may be more convenient to obtain an easement than to declare the land or any part of it a street at once. In that case it would not appear inequitable that an owner should bear his fair share of the cost of the sewer, when the street is declared or becomes a private street and he develops to it.

(iii) The rights of occupiers and others to access to streets over land purchased for new streets and widenings, and not immediately applied for the purpose, are preserved, on the analogy of sub-section (9) of section 33 of the Public Health Act, 1925, relating to improvement lines (Clause 13 (2)).

Compensation and Betterment.

15. The effect of the clause relating to the construction by the authority of streets shown on the map is, as has been indicated : (1) to give the authority power, when the proper time comes, to declare any land reserved for streets to be a street ; (2) to limit the use of the land in the meantime, by preventing the unconditional erection of buildings, or carrying out of other permanent works.

Claims for compensation in respect of limitation of the use of land or other injurious affection, if any, arising immediately upon the making of the scheme should be settled as soon as possible after the scheme is approved, and in the compensation and betterment clause (Clause 62) it is provided that such claims shall be made within twelve months after the date of approval.

Where, however, the authority declare land for the purpose of street construction, the injurious affection (if any) arising out of the consequent entry and disturbance would not be known until the right was exercised, and it is therefore considered that owners should not be precluded from making such claims within a fixed period after the actual exercise of the right.

The time for claims in respect of the authority's requirements in connection with streets not shown on the map is similarly extended.

Claims for betterment can be made at the same time as claims for compensation.

Appeals.

16. The only appeals expressly given in Part II. of the Model Clauses are those relating to an authority's requirements as to streets dedicated by owners (whether shown on the map or not) which are detailed in Clause 10 (8). The usual appeals under the Private Street Works Act (or Public Health Act, as the case may be) are, however, operative with the adapations incidental to the application of the Acts to the scheme, including the additions to the grounds on which objection may be taken to the apportionment of street work costs specified in Clauses 5 (2) (*c*) and 7 (3) (*b*).

Appendix II.

PART III.—BUILDINGS AND BUILDING LINES.

Density and Character Zoning.

17. For the purpose of indicating the restrictions directly imposed by the scheme in regard to the density and character of buildings, density and character zones are prescribed.

Density.

18. The prescribed density is to be measured over "land units," the extent of which will be determinable by the authority, subject to appeal, though no doubt it will frequently be found convenient to constitute as land units the land included in building plans submitted for the approval of the authority. The density is to be calculated in terms of dwelling-houses for single families (which for this purpose are referred to in the clauses as "building units"), other buildings being reckoned as equivalent to such number of building units as the authority may determine in each case, subject to appeal.

It is not considered that it will normally be necessary to constitute land units for the purpose of buildings other than dwelling-houses and residential buildings, the density in the case of other buildings being sufficiently governed by the provisions as to space about buildings (Clause 32) in any zone in which they are allowed freely, and by the conditions attached to their permission in any zone in which they are allowed with special consent.

In determining the number of building units to which a building other than a dwelling-house should be reckoned as equivalent, the number of building units (*i.e.*, single family dwelling-houses) that could, under the density provisions, be erected upon the site of the building in question if the site formed a separate land unit would normally be a useful guide (any additional space required under the clause dealing with the proportion of site which may be covered by buildings being taken into account). In the case of "residential buildings" (*e.g.*, blocks of flats), account may also be taken of, *e.g.*, the number of families that the buildings are designed to accommodate.

It is not intended that density restrictions should apply to buildings erected before the initiation of the scheme, and therefore the sites of buildings erected before that date are not to be included in a land unit except with the consent of the owner.

It is, however, contemplated that the sites of roads and private open spaces should be included in the unit. It has been thought necessary to refer specifically in the clause to roads dedicated to the public in order to obviate any doubt as to their inclusion on the score of ownership. The inclusion or exclusion of public open spaces given to the local authority or acquired by them after the date of their resolution to prepare the scheme is left to the determination of the local authority, but it is contemplated that open spaces given to the local authority or acquired by them on specially favourable terms on that understanding would normally be included so far as practicable.

It has not been considered necessary to impose a restriction as to the maximum number of building units to be permitted on any one acre. The restriction would involve somewhat complex provisions as to the method of measuring the acre, and its purpose would seem to be sufficiently met by the limitation imposed as to the proportion of the site of a building that may be built on (Clause 32).

Plot Plans.

19. It is recognised that in some cases developing owners may wish to have the exact number of buildings permitted to be erected under the density restrictions upon their land determined before the land is sold for building purposes. In order to facilitate this, a clause (Clause 23) has been inserted, enabling owners to submit plot plans for the approval of the authority. The plot plans, without indicating the exact position of proposed buildings, will show the building plots into which the land affected is proposed to be divided and the number of building units allowed on each plot, thus obviating any necessity for further calculation when the plots are sold off for building purposes.

It is thought that the plot plan machinery will also be of use in facilitating the re-development of any built-up areas of a density higher than that permitted under the scheme that may have been legitimately included in a scheme. Apart from the plot plan clause, it would be necessary in such cases, before any re-development could take place, that sufficient ground should be cleared to allow a building to be erected if the ground cleared formed a land unit by itself. If a plot plan were approved, however, it would be possible to show the proposed re-development plot plan over the existing buildings and to begin re-building as soon as any plot was cleared. Thus, in a zone restricted to an average of 12 to the acre, under the land unit machinery alone no re-building could take place until one-twelfth of an acre was cleared, whereas if a plot plan had been approved it could be begun as soon as an area of land sufficient to satisfy the requirements as to space about buildings of Clause 32 was clear. In this connection it may be well to emphasise that, in considering a plot plan, it will be necessary to have regard to the restrictions imposed under Clause 32, so as to avoid any risk of a plan which conforms with the density restrictions none the less providing for plots too small to accommodate buildings of the size intended.

Variation of Land Units and Plot Plans.

20. Provision is made for land units and plot plans to be varied if in any exceptional circumstances this should be found necessary. The clause (Clause 25) permitting variations to be made provides, however, that they are not to be sanctioned if they would involve any violation of the intentions of the scheme in regard to density. Thus it will be necessary for the local authority, before varying a land unit, to be satisfied, for example, that land is not excluded from the unit which is already appropriated in the sense that it is required to enable buildings already on the unit to continue to comply with the density requirements. Similarly no building should be permitted to be excluded from a land unit in such a way that it would no longer have a sufficient area of un-built on land attached to it.

Variations in plot plans may be made by owners with the consent of the local authority, subject to the above-mentioned safeguard as to infringement of the density restrictions.

Density Standards.

21. Averages of twelve, eight, and six to the acre are common density standards according to the character of the locality. Great caution should, however, be exercised in imposing low densities. They must be in the public as well as the owners' interest, and care must be taken to avoid any possible risk of checking the development of the land concerned. Low densities cannot, as a rule, be safely imposed unless there is clear evidence that the land concerned is being or will in the near future be developed for a class of property for which large plots are generally required. Land so restricted should usually be relatively small in extent and care should be taken to make sure that the area is not in excess of the probable demand for the class of property concerned.

Provision has been made for a reasonable relaxation of the prescribed density standards, where necessary, in the case of land on streets laid out prior to the scheme or held in limited amounts at that date.

Character.

22. It is contemplated that the areas to be zoned will normally be divisible into two classes, viz. :—

(i) Areas likely to be developed at an early date.

(ii) Areas not likely to be developed for a considerable period (*e.g.*, areas included in a scheme primarily for the purpose of preserving the lines of arterial roads).

Determination of Predominant and Subsidiary Uses in Zones.

23. As regards (i) the governing clause (Clause 29) has been drafted on the assumption that, in determining the kinds of buildings to be allowed in the several zones covering such areas, the normal course will be to determine the predominant use of

the zone concerned and to specify accordingly the uses which will and will not be permitted in that zone, or will be permitted only with the consent of the authority and on conditions imposed by them, subject to appeal.

Normally it is contemplated that the local authority's consent will be given only in the case of buildings designed for purposes in harmony with the predominant use of the zone. Where buildings that might conflict with the predominant use of a zone can be permitted therein by the authority, the authority are required before giving consent to advertise their intentions in order to give any adjoining owners or other interested persons who might object to the proposals an opportunity of appealing.

Modified Control in Areas not Ripe for Early Development.

24. In the case of areas not likely to be developed for a considerable period it may often be impossible to forecast the trend of development with sufficient certainty to prescribe the predominant use with safety. The clauses accordingly provide for a modified control only over such areas until the course of development becomes sufficiently clear to justify more definite determination of the character of the area by means of supplementary zoning (paragraph 27).

Method of Imposing Restrictions.

25. The actual restrictions in each zone are to be indicated by means of a table. An illustrative table is given at the end of this Memorandum, but the table is intended only as an example of the form in which the zoning provisions should be set out, and not as necessarily indicating the types of zone always to be adopted, or as suggesting that every area should include all the indicated zones.

The definitions employed have been framed to cover as many classes of buildings as seem likely to require to be differentiated for the purpose of determining the uses of zones, and all undefined buildings are classed as " special buildings," so that, by specifying them where necessary in the table, the local authority may be able to govern their introduction into any zone and so minimise the risk of injury through the erection of any class of buildings which may not have been foreseen. Experience will no doubt reveal other classes of buildings which ought to be defined, and the object should always be to limit the class of " special buildings " to the narrowest possible scope.

The schedule of " buildings for noxious trade or industry " is intended to cover buildings such as offensive trades under the Public Health Acts and works under the Alkali Works Regulation Act, 1906, which require to be specially placed, whether in an industrial area or not. Special provision is made in the clause to obviate the overlapping of the procedure for the control of offensive trades under the Public Health Acts and under schemes.

Types of Zone.

26. In drafting the illustrations given in the table at the end of the Memorandum, regard has been had to the consideration that it will generally be unwise, except in the case of small zones devoted to specialised purposes, to exclude entirely any class of buildings (except such a class as " noxious trades or industries "). Thus in zones I. and II. (residential zones), which may be applicable to large areas, uses other than the predominant use may be admitted with the consent of the authority, but where these uses are liable to be at variance with the predominant use, they are only to be admitted after advertisement in the manner indicated in paragraph 23. Zone VI., a general zone, is left practically unrestricted, so as to admit any buildings whose owners are prepared to dispense with protection against possible injury from incongruous forms of development.

It is contemplated that small specialised zones (zones III. and V.) will be adopted only in the case of peculiarly suitable areas in which development of the kind provided for can be confidently anticipated.

The last illustration is of a zone intended to be applied to areas of the kind already referred to in paragraph 24, in which there is no prospect of early development, and the natural trend of development cannot at the moment be foreseen.

Supplementary Zoning.

27. Provision has been made in the clauses (Clause 30) to enable supplementary zoning to be carried out as opportunity offers by orders approved by the Minister.

The object of this provision is, as regards character zoning, to enable more detailed zoning to be undertaken as the course of development reveals itself. It might, for example, be possible for the local authority with the aid of the clause to promote site plans for any parts of a residential zone forming natural units for the purpose, *e.g.*, by definitely limiting the use of the land to the erection of dwelling-houses, except on specified sites naturally suited for shops or other (*e.g.*, public) buildings, which could be permitted there by general consent. The shopping or other centre could also be made exclusive by the prohibition of the erection of other buildings, where circumstances justified this course and it could be adopted without injury to owners. Convenient groupings might similarly be secured in industrial or unrestricted zones in subordination to the general object of the zone. It is important that proposals to erect shops, factories, or other buildings to which consent is required in any zone should be considered in close relation to the site planning of adjacent land.

As regards density zoning, great caution must, as indicated in paragraph 21, be exercised in the imposition of low density restrictions, and areas in which the type of development cannot be adequately foreseen should usually be made subject only to the normal density limit of the scheme in the first instance. Moreover, while the density standard fixed for a zone may be that generally appropriate to the type of development to be expected in the zone, groupings at a higher or lower figure may be perfectly consistent with the maintenance of the standard of development contemplated, and may in some cases be essential, *e.g.*, in any extensive low density zone groups of closer building may be needed for the accommodation of gardeners, chauffeurs, and others engaged in the service of the zone itself, though the exact location of the closer building could not be fixed at the time of making the scheme. Adjustments of this kind, in harmony with the essential objects of a scheme, can appropriately be effected by means of the supplementary zoning order, the procedure in connection with which is devised so as to safeguard the interests of all concerned.

Supplementary Zoning Orders and Sterilisation of Land.

28. It should be borne in mind that the promotion of a supplementary zoning order would not have the effect of sterilising the land to which it relates or operate to preclude the erection of buildings in accordance with the restrictions previously in force, where steps had already been taken with that object. The provisions of a supplementary order would be covered by the certificate of reasonableness given by the scheme, and an order could not therefore be approved if its provisions involved unreasonable interference with the legitimate interests of owners in the circumstances existing at the time of its promotion.

Height of Buildings.

29. The standards suggested in the footnote to this clause (Clause 31) should not be regarded as invariable. A higher limit may, for example, be desirable in particular areas or selected parts of an area, and the clause is capable of adjustment to meet the contingency.

It is not contemplated that it will normally be necessary to control the height of industrial buildings in industrial areas, and these are exempted from the operation of the clause. Where industrial buildings are allowed in residential areas with consent, the height can be controlled as a condition of consent as well as by the provisions of the clause.

Sub-clause 2 is only intended for use in specially selected areas and not as a restriction generally applicable.

Space about Buildings.

30. The main restriction under this head is the determination of the proportion of a site which may be covered by buildings, and this is effected by means of a table (Clause 32). An illustrative table is given at the end of the Memorandum.

The proportions indicated in the table are not, however, necessarily to be followed rigidly in all schemes, but would be susceptible of variation to suit local conditions, particularly in areas where a good deal of building development has already taken place before the inception of the scheme.

The table discriminates between new and existing building plots, so as to make provision for existing plots of relatively small dimensions, where it would not be reasonable to expect compliance with the same standards as can generally be observed without difficulty, where land is newly plotted.

Sub-clause 2 (*a*) is intended to meet the case of particular areas (as distinct from scattered plots) in which a less restriction is necessary on special grounds, and to allow the greater freedom for development necessary at street junctions.

Building Lines.

31. The provisions relating to building lines contained in Clauses 34 and 35 do not appear to call for comment. It is contemplated that building lines for the principal streets on the map (whether new or existing) will normally be shown on the map so far as practicable.

It will, however, be realised that, owing to the decision given in the case of *Re, Ellis and Ruislip-Northwood U.D.C.* ([1920] 1 K. B. 343 ; 122 L.T. 98), compensation can, in certain circumstances, be claimed in respect of building line provisions, and the importance of avoiding injurious affection has been borne in mind in drafting the clauses. The time for making claims for compensation or betterment in respect of building lines fixed after the approval of the scheme is extended in the general compensation clause (Clause 62).

PART IV.—RESERVATION OF LANDS, OPEN SPACES, &c.

32. The general object of these clauses is to provide machinery for reserving lands likely to be required for public purposes, *e.g.*, public parks, playing fields, allotments or the erection of public buildings, and, by the timely assignment of the lands to their intended use, to prevent any development of the lands which would materially add to their value pending acquisition or involve the execution of expensive works when the lands come to be converted to their intended use. Accordingly a restriction is imposed upon all such lands under which they are to be used only in ways which will not conflict with the use for which they are ultimately designed, though the restriction will not operate to prevent the lands continuing to be used as they are used at the date of the approval of the scheme. An owner will, of course, be entitled to claim compensation in respect of any injury which he may suffer through the imposition of the restriction.

It is contemplated that the actual acquisition of the lands will normally be carried out under the appropriate Public General Acts. In the case, however, of lands required for public parks, walks and recreation grounds, or for playing fields, their acquisition is specifically declared to be a purpose of the scheme, with the result that the authority will be able to acquire under the procedure of section 8 of the Town Planning Act, 1925. Where circumstances justify a local authority acquiring land before the time is ripe for its conversion to its new use, Clause 48 enables them, with the consent of the Minister, to let the land for the time being.

Machinery is also provided for cases in which the particular circumstances are considered to justify reservation of open spaces as private open spaces, including a definition of "private open space" considered to be suitable for general application.

It is not contemplated that land will be scheduled as a private open space unless it can be clearly required or expected both that the land should be withheld permanently from building development and that it should be permanently devoted to the limited uses covered by the definition. Somewhat more elasticity in use may be secured in suitable cases by coupling "market gardens," "allotments," or other agricultural purposes with "private open spaces" in the first column of the table in the clause as uses for which the land is reserved. In other cases it may be found desirable to limit and adapt the definition according to the character and intended use of the land concerned.

Additional private open spaces beyond those reserved under the scheme may often be subsequently reserved in the course of development. It has not, however, been thought necessary to provide special machinery in the scheme for effecting such reservations, as any necessary restrictions and conditions can be secured by agreement.

Power is given to the authority to determine a date in each case on which the full restrictions imposed upon private open spaces reserved under the scheme shall come into operation. Prior to that date the lands in question may continue to be used as they are used at the date of approval of the scheme, or may be used for agriculture or horticulture or for such other purposes as the authority permit. In some cases the appropriate date may be the date of the approval of the scheme and the wording of the clause would then be adapted so as to fix that date definitely in the particular case.

Clause 38 permits the withdrawal by order of a reservation of land under this part of the scheme in special cases, *e.g.*, where land reserved for a public building can no longer be used for that purpose through circumstances over which the local authority have no control. It is not intended that the power should be used in other than exceptional cases, where the interests of owners would not be likely to be seriously prejudiced. An order could not effect an adjustment of any compensation already paid in respect of a reservation, and lands should not be reserved under the clause in the absence of a confident expectation that they will in fact be used for the assigned purpose.

PART V.—GENERAL AMENITY.

33. This part of the model clauses is intended to contain any clauses inserted with the object of securing general amenity and convenience, and model clauses dealing with " Preservation of Trees " and " Display of Advertisements. Maintenance of Private Gardens and Private Open Spaces " (Clauses 40 and 41) have been prepared.

Preservation of Trees.

34. Clause 40 (Preservation of Trees) is designed to enable the authority to prevent the ruthless destruction of trees in the area, an object which has been shown to be an important one for the purpose of protecting amenity. Some difficulty was, however, experienced in drafting a clause to meet the situation, as it was recognised that any general prohibition of the cutting down of trees would be unfair on owners, and it was accordingly considered that the onus of selecting trees for preservation should rest with the authority.

The clause provides that the authority may register any particular tree or group of trees the preservation of which they consider to be desirable from the point of view of amenity, and the destruction of any tree so registered, except with the consent of the authority or in cases of emergency, is made an offence. The owner is given a right of appeal to petty sessions against a refusal of consent on the part of the authority. The clause, of course, involves the extension of time for claims for compensation.

A height limit of 30 feet, and a girth limit (which is, of course, an alternative) of 2 feet 6 inches measured at a height of 5 feet are suggested for consideration as the minimum dimensions of trees to which the clause should apply, but they should not be treated as binding.

Regulation of Advertisements. Maintenance of Private Gardens and Private Open Spaces.

35. The control of the display of advertisements and of the maintenance of private gardens and private open spaces is dealt with by procedure modelled generally on the procedure of the Public Health Act, 1875, for the abatement of nuisances, *i.e.*, the local authority are empowered to require the abatement of serious injury to amenity due to the display of advertisements or the condition of gardens, curtilages, or private open spaces, but cannot enforce compliance with their requirements except in pursuance of an order of petty sessions to that effect (Clause 41). It is considered that this procedure will be sufficient to prevent serious

Appendix II. infringements of amenity, while at the same time providing reasonable protection to owners and other persons affected against any abuse of the powers.

In the case of advertisements machinery is also provided to enable any person who prefers to do so to apply to the local authority to " pass " his advertisement beforehand, with a view to securing him against any possible interference subsequently, and advertisements so approved by the authority are not to be regarded as an injury to amenity in respect of which proceedings can be taken under the clause. A right of appeal is given to petty sessions against a local authority's refusal to approve an advertisement on application.

The clause also enables the authority to consent generally to the display of particular classes of advertisements, *e.g.*, " to let " notices or advertsements in windows, as it is considered that this may save the authority from having to deal with numbers of applications for common forms or methods of advertisement.

As the clause provides that, if the authority do not notify their refusal to consent to the display of an advertisement within a month of the application, consent is to be deemed to have been given, a provision has been inserted enabling the authority to devolve their powers under the clause on to a committee in order to obviate any necessity for special meetings of the authority to be called. A similar provision has been inserted in Clause 40 (Preservation of Trees).

Certain classes of advertisement are also exempted altogether from the operation of the clause. The exemptions are based on model provisions adopted for the purposes of byelaws under the Advertisements Regulation Acts, 1907 and 1925.

Where the authority are not the local authority for the purposes of the Advertisements Regulation Acts, 1907 and 1925) (*i.e.*, in the case of rural district councils and councils of urban districts with a population of 10,000 or less, according to the last census for the time being) it is considered that the powers of giving special or general consent to advertisements beforehand (sub-clause 4) should be omitted, to avoid any risk of consent being given to advertisements which might come within the scope of byelaws made by a county council under the Advertisements Regulation Acts.

PART VI.—MISCELLANEOUS.

36. This part of the Models contains the general " machinery " clauses necessary to implement the preceding parts, and notes on any of the clauses which appear to call for comment are set out below.

Agreements.

37. Clause 42 deals with agreements made by the authority under the scheme and has three main objects: (1) it lays down the procedure to be followed in the case of agreements the terms of which will necessitate the raising of a loan by the authority; (2) it gives effect, where necessary, to agreements made prior to the approval of the scheme; (3) it empowers tenants for life to enter into agreements with the authority.

As regards (1) the Minister does not consider that all agreements made by every local authority under a scheme should be subject to his approval, but he is concerned that any agreements under which the authority incur a liability which will have to be defrayed by means of a loan should be provisional only until approved by him. It is, however, of the first importance that an owner who enters into an agreement with the authority should not be in any doubt as to whether the agreement is provisional or binding. Accordingly sub-clause (1) provides that it shall be stated in any agreement under which the authority undertake to bear any expenditure whether or not the authority propose to defray the expenditure by means of a loan and, where it is stated that they do so propose, the agreement shall not be operative unless and until approved by the Minister.

Sub-clause (2) provides for the incorporation in the scheme itself of any approved agreements whose provisions would otherwise be inconsistent with the scheme and inoperative on that account, and automatically validates other provisional agreements made by the authority pending the approval of the scheme and in anticipation of the powers conferred by it.

Minor Modifications.

38. Clause 44 empowers the authority to make minor modifications in the provisions of the scheme, the object being to enable, for example, a slight alteration to be made in the site of a street shown on the map, or the boundaries of character or density zones to be adjusted, if this should be found necessary. In order to obviate any risk of endangering owners' interests, the authority are required to advertise beforehand any modification proposed to be made, and a right of appeal to the Minister is given.

Effect of Scheme upon Orders under section 4 *of the Town Planning Act*, 1925.

39. Clause 46 provides that no building erected or other work done under an interim development order made under section 4 of the Town Planning Act, 1925, shall be deemed to contravene the scheme. In the absence of a provision to this effect, where development takes place in accordance with such an order, and the development contravenes any of the provisions of the scheme, it would be advisable for the owner to claim compensation as soon as the scheme is approved so as to safeguard his position if the authority should pull down the offending building or other work. (It will, of course, be appreciated that section 10 of the Act does not take away the authority's power to do this, but provides that, if they do, compensation shall be paid.) The clause has accordingly been inserted to render unnecessary any possible claims of this kind. It is recognised that special cases may possibly arise in which the authority will be prepared to pay, and may be justified in paying, compensation in order to demolish or alter development which has taken place under a section 4 order, but such cases should be rare and would have to be dealt with specifically.

The clause also provides for the right to continue under the scheme any user of land or buildings permitted under an interim development order during the preparation of the scheme. But for this provision, renewed consent would have to be obtained to the user under the scheme, thus in effect depriving the developer of the protection against the scheme which permission to interim development is designed to give. There are no rights to compensation in respect of approved zoning, which governs the use as well as the erection of buildings, and the right to continued user corresponds, as regards possible interference with use, to the right to compensation as regards possible interference with buildings.

Appropriation of Lands.

40. (Clause 49).—It was considered desirable to insert a clause on these lines in order to secure that the carrying out of the scheme shall not be jeopardised by any future difficulty as to the appropriation of land belonging to the authority from one purpose to another. Where it is necessary to obtain the consent of any Government department to the proposed appropriation, this will, of course, have to be secured before the scheme is approved. Sub-clause (2) of the clause is made necessary by paragraph 3 of Part II. of the Second Schedule to the Town Planning Act, 1925.

Recovery of Expenses.

41. (Clause 54).—A departure has been made in the clause on this subject from the form of clause adopted in previous schemes. There are four kinds of expenses for the recovery of which provision must be made, viz. :—

- (i) Expenses incurred by the authority in executing street works and chargeable on frontagers.
- (ii) Betterment.
- (iii) Expenses recoverable under section 7 of the Town Planning Act, 1925, *i.e.*, incurred in respect of contraventions of the scheme.
- (iv) Miscellaneous expenses, *e.g.*, cost of inserting advertisements.

As regards (i) it is contemplated that such expenses will be recovered under the Public Health Act or Private Street Works Act, as applied by the provisions of the scheme as to streets, and no separate provision for their recovery is made in the clause.

Sub-clause (1) of the clause, which gives power for the recovery summarily as a civil debt of expenses incurred under the scheme, whether by or from the local authority, is intended to cover (iii) and (iv). Sub-clause (1) also provides that expenses recoverable thereunder, where recoverable from the owner of any land in respect of which they have been incurred, shall be a charge on that land. A similar provision is inserted in sub-clause (2) as regards betterment, though it is not thought necessary to insert any machinery for the recovery of betterment, as this is provided in section 10 (5) of the Town Planning Act, 1925.

Sub-clause (3) gives the authority the powers of mortgagees in respect of expenses charged on land by the clause.

Appeals.

42. Clause 57 governs the procedure in the case of appeals to the Minister. It is thought right that a prospective appellant should obtain leave to appeal before doing so, in order that the Minister may have power to refuse to entertain appeals which are obviously frivolous or clearly unjustified. Where leave is granted, the application may itself be accepted as an appeal, and delay thus avoided.

Orders and Consents.

43. Where powers are granted in the scheme, which, if exercised, impose obligations that are binding on the land concerned (*e.g.*, the imposition of a building line or supplementary zoning), the powers must as a rule be exercised by means of orders of the local authority, whether requiring the approval of the Minister or not.

Clause 59 prescribes the procedure in the preparation of orders, making provision for advertising the proposals, considering objections, and similar matters. The orders, on coming into force, must be deposited with the scheme, of which they become part, so as to be open to the inspection of interested persons.

Clause 60 provides that any consent, authority or permission required to be given by a local authority under a scheme and not required to be given by means of an order, must be in writing under the hand of the clerk or other person duly authorised to act in place of the clerk, or under the seal of the authority.

Register of Consents and Conditions.

44. Clause 61 provides for the proper registration of any consent, permission or authority granted under a scheme, and of any conditions imposed or agreed upon in connection with the consent, permission or authority, so far as not included in the orders referred to in the last paragraph, and for the right of interested persons to inspect the register.

It will be remembered in connection with this and the preceding paragraph that the Local Land Charges Rules, 1927 (*a*), require the entry in the appropriate Local Land Charges Register of a copy of any approved scheme, and notice of the place at which any map referred to in the scheme, and any orders, consents, approvals or agreements made, given, or entered into under the scheme by the responsible authority, may be inspected. It is, therefore, important that proper records should be kept of any proceedings under schemes involving prohibition or restriction of the user of land.

Claims for Compensation and Betterment.

45 (Clause 62).—The general principles of this clause have already been discussed in connection with the clauses in respect of which claims for compensation or betterment are postponed. Briefly, they may be recapitulated as follows: All claims for compensation or betterment due to the making of the scheme must be made within twelve months of the date of its approval, except that, where the provisions of the scheme confer powers on the authority, claims arising out of the exercise of which could not reasonably be expected to be determined until the powers are actually exercised, the period within which such claims may be made is extended.

(*a*) These rules are set out at p. 3444, *ante*.

Protection of the Postmaster-General.

46 (Clause 67).—This clause has been drafted in consultation with the Postmaster-General, and the Minister considers that it should be inserted in all town planning schemes. The clause is intended to meet the following points :—

(i) Section 7 of the Telegraph Act, 1878, lays down the procedure to be followed where the removal or alteration of a telegraphic line is made necessary by the execution of street works, etc., under special statutory powers, but the section is so worded that it is applicable only where "provision is not otherwise made by enactment." Accordingly sub-clause (1) has been inserted to ensure that the scheme shall not be regarded as making alternative provision and so ousting the Telegraph Act ;

(ii) Under the Telegraph Acts a telegraph line laid upon private land can at any time be required to be removed by the owner of the land at the Postmaster-General's expense. The protection given by sub-clause (2) is therefore needed in order that, where a highway is stopped up and the land ceases to be a highway, the Postmaster-General shall not be liable for the removal of telegraph lines at his own cost.

CHARACTER ZONES.—ILLUSTRATIVE TABLE.

(See paragraph 25, p. 3858.)

Zone.	Reference to Map.	Buildings which may be erected without council's consent.	Buildings which may only be erected with council's consent.	Buildings not to be erected.
I.—Residential.	Coloured	Dwelling-houses.	Buildings other than dwelling-houses and buildings for noxious trade or industry.	Buildings for noxious trade or industry.
II.—Residential.	Coloured	Dwelling-houses and residential buildings.	Buildings other than dwelling-houses, residential buildings and buildings for noxious trade or industry.	Buildings for noxious trade or industry.
III.—Special Business.	Hatched	Shops and business premises.	Dwelling-houses, residential buildings, public buildings and special buildings.	Industrial buildings not included in the definition of a shop, and buildings for noxious trade or industry.
IV.—General Business.	Hatched	Shops, business premises, dwelling-houses, residential buildings and places of assembly.	Schools, institutions, industrial buildings not included within the definition of a shop, and special buildings.	Buildings for noxious trade or industry.
V.—Special Industrial.	Hatched	Industrial buildings and business premises.	Buildings other than industrial buildings and business premises.	—
VI.—General	Hatched	Buildings other than buildings for noxious trade or industry.	Buildings for noxious trade or industry.	—
VII.—Undetermined.	Hatched	Dwelling-houses, residential buildings, and public buildings.	Buildings other than dwelling houses, residential buildings and public buildings.	—

Appendix II.

SPACE ABOUT BUILDINGS.

PROPORTION OF SITE WHICH MAY BE COVERED BY BUILDINGS.

ILLUSTRATIVE TABLE.

(See Paragraph 30, p. 3859.)

PART I.—PLOTS LAID OUT FOR BUILDING AFTER ______________

Height of building.	Dwelling-houses.	Residential Buildings, institutions, schools and shops in which dwelling accommodation is provided.	Other Buildings.
Neither exceeding 30 feet in height nor being over the main part of the building of more than one storey above ground level.	1/3	1/2	3/4
Exceeding 30 feet in height or being over the main part of the building of more than one storey above ground level.	1/4	1/3	2/3

PART II.—PLOTS LAID OUT FOR BUILDING BEFORE ______________

Plots of 2,500 *square feet or over.*—The proportions in Part I. of this Table.

Plots of less than 2,500 *square feet.*—The proportions in Part I. of this Table increased in the ratio of 2,500 to the number of square feet in the plot, subject to a maximum proportion of three-fifths in the case of dwelling houses, two-thirds in the case of residential buildings, institutions, schools and shops in which dwelling accommodation is provided, and four-fifths in the case of other buildings.

CLAUSES.

Council of

TOWN PLANNING ACT, 1925.

Town Planning Scheme.

PART I.—GENERAL.

INTERPRETATION.

1.—(1) In this scheme, unless the context otherwise requires, the following words and expressions have the respective meanings hereby assigned to them :—

"The Council" means the ;

"The Borough (District)" means the ;

"The Minister" means the Minister of Health ;

"The Act" means the Town Planning Act, 1925 ;

"The Map" means the map which has been prepared in duplicate, each of such duplicates being sealed with the official seal of the Minister and with the official seal of the council, and marked "Map referred to in the Town Planning Scheme," of which duplicates one is deposited in the office of the Minister and the other in the office of the clerk to the council ;

"The Area" means the portions of the described in Clause 2 ;

"The Byelaws and Local Acts" means the provisions of any byelaws, local Acts or Regulations relating to new streets and buildings for the time being in force in the ;

"Owner" has the same meaning as in the Public Health Act, 1875;

"Order" means an order made in pursuance of the provisions of Clause 59 of this scheme;

"Existing" means existing on or commenced before ;

The "erection of a building" includes:—

1. in the case of any building other than an existing building, the re-erection or structural alteration of, or the making of any addition to, the building;
2. in the case of an existing building:—
   - (i) the re-erection or structural alteration of the building, if pulled down to the extent of more than one-half of the superficial area of its main containing walls, account being taken of any previous works of the kind undertaken subsequent to ;
   - (ii) the making of any addition to the building, whether structurally attached thereto or not, other than an addition which complies with all of the following conditions:—
     - (*a*) is accessory to the use of the building in accordance with its permitted use under this scheme; and
     - (*b*) does not, alone or together with any previous addition made subsequent to , measure in floor space more than one-fifth of the existing floor space within the main containing walls of the building, distributed, where the building is permitted to be used for more than one purpose under this scheme, in the same proportions as the existing floor space is permitted to be used; and
     - (*c*) does not project beyond the main front wall of the next existing building, if any, on either side of the building in the same street, or beyond any improvement or building line in force apart from this scheme, or any greater distance beyond any improvement or building line in force under this scheme than the main front wall of the existing building itself.

For the purposes of this definition measurement shall be as determined by the Minister on the application of the responsible authority (as defined in Clause 3) or the owner of the building, if any question arises between them as to the measurement.

(2) The Interpretation Act, 1889, applies to the interpretation of this scheme as it applies to the interpretation of an Act of Parliament.

AREA OF SCHEME.

2. The area to which this scheme applies shall consist of those parts of the which lie within the inner edge of the boundary line coloured dark blue on the map, excluding the parts edged black and hatched in black lines on the map, and any reference in this scheme to land is limited to land in the area.

RESPONSIBLE AUTHORITY.

3. The council shall be the authority responsible for enforcing the observance of this scheme and for the execution of any works which under this scheme or the Act are to be executed by a local authority.

PART II.—STREETS.

NOTE.—If the procedure of the Private Street Works Act, 1892, *is adopted, the words printed in italics and enclosed in square brackets should be deleted from the text. If the procedure of the Public Health Act,* 1875, *is adopted, the words printed in italics and not so enclosed should be deleted, and the words in the square brackets retained.*

INTERPRETATION.

4. In this part of the scheme, unless the context otherwise requires, the following words and expressions have the respective meanings hereby assigned to them:—

"Street" includes a part of a street;

"Width" applied to a new street means the space intended to be used as a public way, measured at right angles to the direction of the street;

"*The Act of* 1892" *means the Private Street Works Act,* 1892, *as amended by any subsequent Acts, whether public, local, or private;*

["*The Act of* 1875" *and* "*the Act of* 1925" *mean, respectively, the Public Health Act,* 1875, *and the Public Health Act,* 1925, *as amended by any subsequent Acts, whether public, local or private*];

"Private street" means a street within the meaning of the Act of 1892 [1875] [*not being a highway repairable by the inhabitants at large*];

"Incidental works" means any slopes, approaches, embankments, cuttings, retaining walls, bridges, arches, girders, culverts, drains, or other works necessary and incidental to the construction of a street, and includes any works required for fencing the street;

"Street works" includes *all private street works as defined in section* 6 *of the Act of* 1892, *including works which the council are empowered to do by section* 9 *of that Act* [*the works referred to in section* 150 *of the Act of* 1875], and the execution of any incidental works and of any works required for planting a street with grass, trees, or shrubs, and erecting guards therefor, or treating it in other suitable manner;

"The making" of a street means the execution of all necessary street works from the commencement to the final completion of the street;

A "standard street" means a street with the minimum dimensions specified for, and fulfilling the conditions attached to, the street of Type "A" described in the First Schedule to this scheme, and constructed in accordance with the specification which would ordinarily be required by the council at the time as a condition of declaring the street to be a highway repairable by the inhabitants at large (*a*).

[*An apportionment of the cost of street works against any land or premises means an apportionment of the cost according to the frontage of the land or premises under section* 150 *of the Act of* 1875, *and recovery of the cost means recovery in a summary manner or by means of a private improvement rate under section* 213 *of that Act.*]

APPLICATION OF PRIVATE STREET WORKS ACT, 1892 [PUBLIC HEALTH ACTS, 1875 AND 1925].

5. Subject to the provisions of this scheme, *the Act of* 1892 [*the provisions of the Act of* 1875 *relating to private streets and section* 82 *of the Act of* 1925] shall apply to and have effect in the area with the modifications set out below:—

(1) The Act of 1892 [1875] shall apply to all street works as defined in this part of the scheme.

(2) In the case of any private street declared to be a street under Clause 6—

(*a*) Where street works are executed by the council upon or in connection with the street, the cost of any works executed by the council and required for fencing the street or for constructing a bridge over or under any railway, river or canal, or any viaduct or subway, and any expense in excess of the cost of constructing upon the site of the street a standard street

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(*a*) Where the local authority prescribe specifications in the scheme, the words "attached thereto in the Schedule (including such works of sewering and lighting as may be required under the Act of 1892 [1875]), or such other specification as may from time to time be substituted by an order approved by the Minister in pursuance of Clause   " should be substituted for the words "constructed in accordance with the specification.......... highway repairable by the inhabitants at large" and provision made for the possible need for future changes in the specifications by the insertion of the following clause after Clause 12:—

"REVISION OF STANDARD SPECIFICATION OF STREET WORKS.

Where it appears to the council at any time that the standard specification of works and materials attached to the First Schedule to this scheme ought to be varied, they may make an order with the approval of the Minister varying the specification, and the specification as varied by the order shall thereupon be substituted for the specification in the Schedule."

shall be borne by the council and shall not be apportioned against any premises;

(b) In making an apportionment against any premises of the cost of street works executed upon or in connection with the street, account shall be taken of any apportionment previously made against the premises, and of the amount and value of any works, other than temporary works, previously done by any owner of the premises upon or in connection with the street;

(c) *The grounds of objection set out in section* 7 *of the Act of* 1892 *shall be deemed to include an objection upon the ground that expenses which under this clause are to be borne by the council have been apportioned against the premises of the objector;*

[*Any dispute arising out of the provisions of paragraphs* (a) *and* (b) *of this sub-clause shall be determined in the manner provided by the Act of* 1875 *for the determination of disputes and grievances as to the apportionment and recovery of expenses of private street works under that Act*];

(d) Any sum apportionable by the council under the Act of 1892 [1875] as modified by this scheme in respect of the cost of the execution of street works may be varied by agreement between the council and the person chargeable, and for giving effect to any such agreement the council may, if they think fit, themselves defray the whole or a part of the sum so apportionable;

(e) *The provisions of section* 20 [82] *of the Act of* 1892 [1925] *which require the council on the application of the persons therein mentioned to declare a street to be a highway repairable by the inhabitants at large shall apply to the street as soon as it has been made by the council or in accordance with the specification approved by the council under Clause* 10;

(f) Where street works are executed by the council upon or in connection with the street, no expenses incurred in executing the street works and apportioned against land which is rated as agricultural land only, or used as woodlands, whether rated as agricultural land or not, shall be recoverable until the land becomes rated otherwise than as agricultural land, or ceases to be used as woodlands;

If a part only of such land becomes rated otherwise than as agricultural land, or ceases to be used as woodlands, then only the portion of the expenses attributable to that part shall become recoverable;

Interest shall not be payable to the council on any moneys in respect of the time during which under this sub-clause they are irrecoverable;

(g) The council may, if they think fit, postpone the date on which any expenses which they are entitled to recover from any person under the Act of 1892 [1875] as modified by this scheme become recoverable.

(3) In the case of any other private street for which the council under Clause 10 approve a specification involving any greater cost than the cost of constructing on the site thereof a standard street, otherwise than by agreement with the owner, the modifications set out in this clause other than modifications 2 (f) and 2 (g), shall have effect.

SITES OF NEW STREETS AND WIDENINGS.

6.—(1) The purposes of this scheme shall include the execution of street works upon land coloured pink on the map, which land is in this scheme referred to as land reserved for streets, and the execution of incidental works upon adjoining land.

(2) (a) The council may declare any land coloured pink on the map to be a street, after giving not less than three months' notice of their intention so to do to the persons interested in the land.

The land so declared shall thereupon, in the case of land numbered on the map, be deemed to be a highway repairable by the inhabitants at large, and in the case of any other land be deemed to be a private street and to have been dedicated to the public, and the council may enter upon such highway or private street for the purpose of executing street works;

Appendix II.

(*b*) The council may, after giving not less than three months' notice to the persons interested in any land which adjoins any of the land reserved for streets, and is required for the purpose of executing any incidental works, enter upon such land and execute such works;

(*c*) So far as may be necessary for the purpose of executing street works the council may demolish or alter any buildings or other works on the aforesaid lands.

(3) Where any land reserved for streets becomes, by declaration under this clause, a private street, the council may declare any adjoining land belonging to them and required for the purpose of executing incidental works to be, and the same shall thereupon be deemed to be, a part of the private street.

(4) (*a*) The council shall have the same responsibility for maintaining any works executed by them upon or in connection with any private street declared to be a street under this clause, or for which under Clause 10 they approve a specification involving any greater cost than the cost of constructing on the site thereof a standard street, otherwise than by agreement with the owner, as they would have if the street were a highway repairable by the inhabitants at large;

(*b*) The council may at any time, after giving reasonable notice to the owner, enter upon land forming the site of any incidental works for the purpose of maintaining such works.

(5) If it appears to the council at any time that a new street or the widening of an existing highway is needed on any land not reserved for streets on the map, they may make an order with the approval of the Minister, declaring that the land shall be reserved for streets, and the land shall thereafter be subject to such of the provisions of this part of the scheme as are applicable to land reserved for streets by the scheme.

WIDENINGS CHARGEABLE UPON FRONTAGERS.

7. If any of the land reserved for streets which abuts on, and is intended to form the site of a widening of, an existing highway is declared under Clause 6 to be a private street, then—

(1) The part of the existing highway upon which the land abuts shall as to its whole width be deemed for the purposes of the Act of 1892 [1875] as applied by this part of the scheme to be a part of the private street.

(2) In the application of the provisions of Clause 5 to the street, the width of the existing highway shall be included in the measurement of the width of a standard street, and account shall be taken of the amount and value of any existing works on the highway in making any apportionment against any premises, whether the works were done by the owner of the premises or not.

(3) (*a*) Where the existing highway is a highway repairable by the inhabitants at large, no part of the cost of any street works executed by the council shall be apportioned against any land, except woodlands, which was rated otherwise than as agricultural land on   and is so rated at the date of the apportionment of such cost, and the part of such cost which by reason of this sub-clause cannot be apportioned against such land shall be borne and paid by the council;

(*b*) *The grounds of objection set out in section* 7 *of the Act of* 1892 *shall be deemed to include an objection on the ground that a part of such cost has been apportioned against land contrary to the provisions of this sub-clause.*

[*Any dispute arising out of the provisions of this sub-clause shall be determined in the manner provided by the Act of* 1875 *for the determination of disputes and grievances as to the apportionment and recovery of expenses of private street works under that Act.*]

CONSTRUCTION OF SEWERS.

8. Where a sewer is constructed by the council under any land reserved for streets before the land becomes, or is declared under this part of the scheme to be, a private street, the council may, after the land has become or been declared to be a private street, include the cost of the sewer in the expenses of any street works executed by them upon the street in the same manner and subject to the same conditions as if they had constructed the sewer under the street under the provisions of [*Section* 150 *of*] the Act of 1892 [1875] as modified by this scheme.

RESTRICTIONS UPON STREET SITES.

9. No building, whether permanent or temporary, shall be erected, or other work of a permanent character done upon any land reserved for streets, and no permanent excavation shall be undertaken on or near thereto, which, for the purpose of enabling street works to be executed, would require to be removed, pulled down, altered or restored, except with the consent of the council and upon such terms and conditions with regard to such removal, pulling down, alteration or restoration, or otherwise as the council may require.

CONSTRUCTION OF STREETS BY OWNERS.

10.—(1) Any person desiring to lay out or construct a new street, whether on land reserved for streets or not, shall, before laying out the street, submit to the council for approval:

(*a*) a plan showing the site of the proposed street, the lay out of the street to formation level (including turning and crossing places, if any), and the position of the street in relation to neighbouring streets; and

(*b*) sections showing the levels of the present surface of the ground above some known datum, the level and rate or rates of inclination of the proposed street, the level and inclination of all the existing or intended streets with which the street is to be connected, and, so far as necessary and practicable, the intended levels of the building sites on each side of the street;

and, before at any time executing street works, other than temporary works, for the construction of the street.

(*c*) specifications of the street works from time to time proposed to be executed and the materials to be used.

(2) Every proposed new street approved by the council under this clause shall be one of the following types of streets, namely:—

(*a*) if in the opinion of the council the street is likely to be used for through traffic, one of the types of streets described in Part I. of the First Schedule to this scheme, with such departures as the council think fit from the provisions of the said Schedule as regards levels and construction of surface (*a*);

(*b*) if in the opinion of the council the street is not likely to be used for through traffic, one of the types described in Part II. of the said Schedule or such other type as the Minister may from time to time authorise the council to approve.

Subject to the foregoing provisions, the council shall have power by order to approve the plans, sections and specifications of the proposed street, with or without modifications, or to disapprove them.

(3) Where the council under this clause require a street to be laid out at a higher cost than that of laying out a standard street on the site of the proposed street, or street works to be executed at a higher cost than that of executing corresponding street works for the construction of a standard street on the site of the proposed street, otherwise than by agreement with the owner, the council shall themselves bear the excess cost.

(4) Any person laying out or constructing a street shall lay it out and construct it in accordance with the plans, sections and specification approved by the council under this clause; and all the conditions applicable thereto contained in the First Schedule to this scheme or in the approval of the council shall be binding on him, and, in so far as they relate to the user of any adjoining land, on all persons deriving title under him to that land.

(5) The council may permit any street temporarily to be laid out or constructed of less width, or with narrower carriageway and footways, than authorised by them in approving the street, if they are satisfied that this may properly be allowed in the particular case.

(6) Where the council grant a permission under the preceding sub-clause, the

(*a*) Add "specification of works and materials," where specifications are prescribed (see note (*a*) on p. 3868, *ante*).

provisions of the Act of 1892 [1875 *and of section* 82 *of the Act of* 1925], as modified by this scheme, with regard to declaring streets to be highways repairable by the inhabitants at large shall apply to the part of the street which is allowed to be constructed in advance of the remainder ; but the council may subsequently proceed under the Act of 1892 [1875 *and section* 82 *of the Act of* 1925], as modified by this scheme, as regards the remainder of the street as though it were a new street.

(7) The council may, if they think fit, contribute towards the cost of constructing a street approved under this clause.

(8) (*a*) Any person who desires to lay out a new street and feels aggrieved by any neglect or refusal of the council to approve the plans or sections of the street under this clause or by any modifications made by them in those plans or sections, may apply to the Minister for leave to appeal to him.

In determining appeals under this clause the Minister shall have the same power of approval, with or without modification, and of disapproval, and of granting permission, as the council under this clause.

(*b*) *In the event of any dispute arising between any owner and the council as to any specification of street works under this clause, or as to whether the cost of laying out a street or executing any street works in pursuance of a requirement under this clause is in excess of the cost of laying out a standard street, or executing corresponding street works for the construction of a standard street, on the site of the proposed street, or as to the amount of the excess, the owner may apply to a Court of Summary Jurisdiction to determine the matter, after giving not less than* 14 *days' notice to the council of his intention so to do.*

The decision of the Court of Summary Jurisdiction on any application so made shall be binding and conclusive on the owner and the council.

[*In the event of any dispute arising between any owner and the council as to any specification of street works under this clause, or as to whether the cost of laying out a street or executing any street works in pursuance of a requirement under this clause is in excess of the cost of laying out a standard street, or executing corresponding street works for the construction of a standard street, on the site of the proposed street, or as to the amount of such excess, the owner may apply to the Minister for leave to appeal to him to determine the matter.*]

NOTICE OF COMMENCEMENT AND COMPLETION OF STREETS.

11.—(1) Any person who proposes to lay out or to construct a street, shall, before commencing to do so, give notice to the council of the date on which he proposes to commence the work.

If this notice is not given and the duly authorised officer of the council, on inspecting any work in connection with the street, finds that the work is so far advanced that he cannot ascertain whether anything has been done or omitted contrary to the provisions of this scheme or to the conditions upon which approval of the street has been granted, the officer may give notice, within a reasonable time after inspection, to such person requiring him, within a reasonable time to be specified in the notice, to remove, lay open, or pull down so much of the work as prevents the officer from ascertaining whether anything has been done or omitted as aforesaid.

If the said person fails or refuses to comply with the requisition, the council may themselves remove, lay open, or pull down so much of the work as aforesaid and may recover from him the expenses incurred by them.

(2) Every person who has laid out or constructed a street shall give notice thereof to the council within a reasonable time after the completion of the lay out or construction.

SUBMISSION OF SCHEMES OF DEVELOPMENT OF ESTATES.

12.—(1) Whenever a plan for a new street is submitted to the council for approval, they shall by written notice request the owner of any land within that part of the area, the development of which will, in their opinion, be affected by the construction of the street, to furnish them with plans and particulars showing generally a scheme for the development or laying out of the land.

(2) Before making an order approving the plan for the new street the council shall take into consideration any plans and particulars which are furnished to them by any such owner within a reasonable time to be specified in the notice, being not less than one month from the date of the notice.

POSTPONEMENT OF STREET CONSTRUCTION AND CONSTRUCTION BY STAGES—SPECIAL PROVISIONS.

13.—(1) Where the council execute street works upon any street declared under Clause 6, the council shall plant with grass, trees or shrubs, or treat in other suitable manner any part of the street not constructed as carriageway or footway, and shall provide convenient access from the carriageways and footways to any premises abutting on the street at the time of its construction, and shall execute any works necessary for fencing off the street from the adjoining lands or for replacing any fences removed.

(2) Where land reserved for streets is purchased by the council or any other local authority for the purpose of the widening of an existing street and the land is not forthwith added to the street, or where land so reserved is purchased for the purpose of the construction of a new street and a new street is constructed at first on a portion only of the land so purchased, the occupier of the land from which the land acquired is severed, and other persons with his permission, shall be entitled in the meantime to reasonable access across the land so purchased to and from the street, and shall have the same rights in regard to the laying, altering, maintaining, repairing and renewing of drains, mains, pipes, or electric lines in such land as if the same were part of the street.

DAMAGE TO STREET WORKS.

14. No person shall wilfully damage any tree, shrub, plant, or grass in any street or any fence or guard erected thereon, and no person shall wilfully ride or drive any horse, cattle or vehicle over or across any grass margin.

ADJUSTMENT OF BOUNDARIES OF STREETS.

15. For the purpose of adjusting the boundary of any street, the council may make an exchange of land forming part of the street for other land, with or without paying or receiving any money for equality of exchange.

DIVERSION OR STOPPING UP OF HIGHWAYS.

16.—(1) Each of the public highways coloured on the map and specified in the first column of the Second Schedule to this scheme is hereby declared to be diverted or stopped up, and all public rights therein are declared to cease, as from the date on which the proposed new street to be constructed on the lands, the number of which is set opposite to that highway in the second column of the said Schedule, is constructed to the satisfaction of the council and opened for public traffic.

(2) The council may within six months after the date on which a highway, or any portion thereof, is diverted or stopped up, remove therefrom, without payment, any road material of which the highway is constructed or which is lying thereon.

(3) The diversion or stopping up of a highway under this clause shall not affect the rights of the council or of any statutory undertakers or other persons in any sewers, gas or water mains, electric cables or wires, or other works lying on or under the highway, and the council and such statutory undertakers and other persons shall have the same powers of inspection, maintenance and repair of such works and connection thereto, and of entry upon the land for that purpose, as if the highway had not been diverted or stopped up:

Provided that the council may, if they think fit, divert or transfer any such works and execute any works necessary and incidental to such diversion or transfer, and may enter into agreements for the purpose, but no such diversion or transfer shall take place until notice has been given to any statutory undertakers affected.

SAVING FOR LANDS OF STATUTORY COMPANIES, ETC.

17. Nothing in this part of the scheme shall affect the site of any ancient monument or other object of archæological interest, nor, except in so far as may be agreed between the council and the persons interested in the land, any land held or used for any of the purposes referred to in paragraph 2 of Part II. of the Third Schedule to the Act, so long as the land continues to be held or used for those purposes.

PART III.—BUILDINGS AND BUILDING LINES.

INTERPRETATION.

18. In this part of the scheme, unless the context otherwise requires, the following words and expressions have the respective meanings hereby assigned to them :—

"Dwelling-house" means a house designed for use as a dwelling for a single family, together with such out-buildings as are ordinarily required to be used therewith ;

"Residential building" means any building, other than a dwelling-house, designed for use for human habitation, together with such out-buildings as are ordinarily required to be used therewith, and includes a hotel designed primarily for residential purposes and a residential club ;

"Place of assembly" means a building designed for use as a town hall, theatre, concert room, lecture hall, place of public worship, or other place of public assembly whether used for purposes of gain or not, and includes a non-residential club ;

"School" means a building designed for use as a college or school ;

"Institution" means a building designed for use as a hospital, workhouse, asylum, or other public or charitable institution, other than a place of assembly or a school ;

"Public building" means a place of assembly, institution or school ;

"Business premises" means a building designed for use as an office or for other business purposes, not being a shop or industrial building, or building for noxious trade or industry ;

"Shop" means a building designed for the purpose of carrying on retail trade, not being a building for noxious trade or industry, and includes an "industrial building" on the same premises and customarily incidental to the conduct of the retail business thereon ;

"Industrial building" means a building, other than a building for noxious trade or industry, designed for use as a factory or a workshop within the meaning of the Factory and Workshops Acts, 1901 and 1907, or as a warehouse ;

"Building for noxious trade or industry" means a building designed for the purpose of carrying on any industry, business or trade mentioned in the Third Schedule to this scheme, or any other industry, business or trade declared to be an offensive trade under section 112 of the Public Health Act, 1875, as amended by section 51 of the Public Health Acts Amendment Act, 1907, and certified by the Minister to be noxious for the purposes of this scheme ;

"Special building" means a building designed for any use other than one of the uses for which the buildings hereinbefore defined are designed ;

"Zone" means a portion of the area shown on the map by distinctive colouring, hatching or edging for the purpose of indicating the density or character of buildings prescribed therefor, and the terms "density zone" and "character zone" mean zones indicating restrictions as to density and character of buildings respectively ;

A "land unit" means a portion of land to be determined by the council in accordance with the provisions of this part of the scheme for the purpose of limiting the number of building units (as calculated in accordance with Clause 19 (3)), which may be erected thereon ;

The curtilage of a building includes the site of the building.

COMBINED BUILDINGS AND BUILDING UNITS.

19.—(1) Where a proposed building is designed for use both as a shop and as a dwelling for a single family, it shall be treated, for the purposes of this part of the scheme, as if it were a shop.

(2) Subject as aforesaid, where a proposed building is designed for more than one use, the council may decide for which of the uses the building shall be deemed to be designed for the purposes of this part of the scheme, and the council may decide that the building shall be deemed to be designed for different uses for different purposes of this part of the scheme.

(3) For the purposes of this part of the scheme a dwelling-house shall be reckoned as one building unit, and a building other than a dwelling-house as such number of building units as the council may decide.

(4) The owner of any building or of the site of any proposed building who feels aggrieved by a decision of the council under this clause in respect of the building or proposed building may apply to the Minister for leave to appeal to him.

PRIMARY ZONING.

A.—DENSITY OF BUILDINGS.

Erection of Dwelling-Houses and Residential Buildings.

20. No dwelling-house or residential building shall be erected upon land not included in a land unit.

The erection of a building for the purposes of this clause includes the conversion of any building into a dwelling-house or residential building.

Declaration of Land Units.

21.—(1) Subject to the following provisions the council shall, upon application being made to them by any owner of land or jointly by two or more owners of adjoining land, declare that the land in respect of which the application is made or such part thereof as they think fit shall form one or more land units.

For this purpose the submission by an owner of a building plan for a dwelling-house or residential building shall be deemed to be an application for the declaration of a land unit in respect of the land included in the plan.

(2) The council may include in a land unit land belonging to the applicant other than that to which the application relates, but shall not, except with the consent of the applicant, so include the curtilage of an existing building. The council may also include in the unit any land given by or acquired from the applicant for the purpose of a public open space or allotments after .

(3) The council may require the applicant to submit a plan showing the whole of his land which is not already included in a land unit or such part thereof as they think fit.

(4) No land unit shall exceed seven acres in extent.

(5) The half of the width of any road dedicated to the public upon which any land proposed to be included in a land unit abuts shall be included in the land unit.

(6) Where the curtilages of any new buildings erected on a land unit are partly within and partly without the area, the curtilages shall be treated as wholly within the land unit on which the buildings are erected for the purpose of any calculation of the number of building units on the land unit under the scheme:

Provided that the council may make it a condition of the curtilages being so treated that no building units, calculated in accordance with the provisions of this scheme, are erected on the portion of the curtilage outside the area in excess of the number that could have been erected in accordance with the provisions of this scheme, if the whole of the curtilage had been within the area and included in the land unit.

Calculation of Number of Building Units which may be Erected.

22.—(1) In the case of a land unit in respect of which a plot plan is not submitted to and approved by the council under the next succeeding clause, the number of building units on the land unit shall not at any time exceed the number obtained by multiplying the number of acres in the land unit by the average per acre specified in the table below for the density zone in which the land is situate, or, where the land unit is situate in more than one density zone, the sum of the numbers obtained by multiplying the number of acres in the land unit within each zone by the average per acre specified in the table below for that zone. For this purpose all buildings included in the land unit by consent of the owner under Clause 21 (2), shall be taken into account.

Table of Density Zones (*a*).

Zone. 1	Reference to map. 2	Average number of building units per acre over a land unit not to exceed 3
A.	Coloured	
B.	Coloured	
C.	Coloured	

(2) Where it appears to the council upon representation being made by any owner of land that it would be unreasonable to require compliance with the provisions of this clause owing to difficulty in developing the land in accordance with those provisions on account of :—

(i) the lay out of any street on or adjoining the land constructed before ,

(ii) the small amount of land in the possession of the owner on ,

the council may authorise a reasonable increase in the number of building units permitted to be erected on the land affected.

Plot Plans.

23.—(1) Any owner of land within a land unit may, for the purpose of having the number of building units permitted to be erected on that land determined prior to sale or for any other reason, submit for the approval of the council a plot plan showing the plots within the unit upon which it is proposed to build and the number of building units proposed to be erected on each plot.

(2) The council shall not approve a plot plan submitted to them under this clause unless the following conditions are complied with—

(*a*) The curtilage of every building existing or commenced upon the land unit at the date of submission of the plot plan must be included in one or more of the plots ;

(*b*) The average number of building units shown on the plot plan as proposed to be erected per acre over the land unit must not exceed the average per acre permitted under the last preceding clause.

Erection of Buildings upon Land for which a Plot Plan has been Approved.

24. Where a plot plan for a land unit has been submitted to and approved by the council under the last preceding clause—

(1) no building shall be erected on any land within the land unit not included in a plot shown on the plot plan ;

(2) there shall not be erected upon any plot a greater number of building units than would give (together with the equivalent in building units of any buildings existing or commenced upon the plot at the date of submission of the plot plan) the number marked on the plot on the plot plan.

Variation of Land Units and Plot Plans.

25.—(1) The council may from time to time vary any land unit, but before doing so they shall notify the owner of the land comprised within the unit.

(2) The owner of any land comprised within a plot plan may at any time, with the consent of the council, vary the plot plan in so far as it affects his land :

(*a*) See the remarks in paragraph 21 of the Explanatory Memorandum, *ante*, p. 3857.

Provided that no variation of a land unit or plot plan shall be made which would be inconsistent with the provisions of this part of the scheme in regard to the density of buildings.

Land Units vested in more than one Owner.

26. In the event of the land comprised in a land unit in respect of which a plot plan has not been approved by the council being or becoming vested in more than one owner and of the owners failing to agree as to the number of building units to be erected on their respective portions of the land, the council shall, upon the application of the owner of any portion of the land, determine as between the applicant and the remaining owners what proportion of the maximum permissible number of building units may be erected on the portion belonging to the applicant and on the remainder of the land unit respectively.

Registration.

27. The council shall keep, so as to be available for inspection by any person interested :—

(1) a register identifying each land unit by reference to a map, and showing the date on which the unit was fixed or varied, the number of building units fixed in pursuance of Clause 19 in respect of any building erected on the land unit, and the particulars and the date of any apportionment made by the council under the preceding clause as between owners of land included in the land unit ;

(2) a copy of each plot plan approved by the council.

Appeals.

28. The owner of any land within a land unit who feels aggrieved by a decision of the council declaring or varying a land unit, or any neglect or refusal of the council to approve, or consent to the variation of, a plot plan for the land unit, and the owner of any land who feels aggrieved by any neglect or refusal of the council to authorise an increase in the number of building units permitted to be erected on his land in pursuance of sub-clause (2) of Clause 22, may apply to the Minister for leave to appeal to him.

B. CHARACTER OF BUILDINGS.

Character Zones.

29.—(1) (*a*) The predominant use for which each of the several zones referred to in the first column of the following table is intended to be reserved is the use indicated in that column, and the classes of buildings which may be erected either with or without the consent of the council, as the case may be, or may not be erected in each zone, shall be as set out in the third, fourth and fifth columns of the table, but nothing in this clause shall prevent the erection of buildings required for agricultural or horticultural purposes upon land which is for the time being used for those purposes ;

Table of Character Zones (*a*).

Zone. 1	Reference to map. 2	Buildings which may be erected without council's consent. 3	Buildings which may be erected only with council's consent. 4	Buildings not to be erected. 5

(*a*) See the Illustrative Table in the Explanatory Memorandum at p. 3865, *ante*.

Appendix II.

(*b*) In giving their consent to the erection of a building the council may impose such conditions as they think fit;

(*c*) In the case of any building proposed to be erected in zone which may be erected only with the consent of the council, the council, in giving or withholding their consent or imposing any conditions, shall have regard to the likelihood of the use for which the building is designed injuring the amenity of the zone, including, in the case of an industrial building, the likelihood of any injury due to the emission of smoke or fumes, or to dust, noise or smell, or other cause.

(2) In any zone in which the erection of buildings designed for a particular purpose is not permitted, the user of a building for that purpose shall be a contravention of this scheme, and in any zone in which the erection of buildings designed for a particular purpose is permissible only with the consent of the council, the user of a building for that purpose without the consent of the council shall be a contravention of this scheme:

Provided that nothing in this sub-clause shall prevent—

(*a*) an existing building from being used for any purpose for which it was designed to be used or was used on , except that:—

(i) where the use of an existing building for any purpose for which it was designed to be used or was used on has been discontinued for a period of more than six months ending on any date after the commencement of this scheme, its use for that purpose shall not be resumed in virtue of this proviso without the consent of the council;

(ii) where an existing building is so designed as to be adapted for use for more than one of the types of buildings defined in Clause 18, it shall not in virtue of this proviso be used without the council's consent for any of the types for which it is adapted to be used other than the one first in order in the definition, unless already so used on ;

(iii) where a part only of an existing building was designed to be used or was used on for any purpose for which an existing building may be used under this proviso, the existing floor space used for that purpose shall not without the consent of the council be increased by more than one-fifth, whether the additional floor space is contained within the existing building or in additions to the existing building;

(*b*) the occupant of any dwelling-house or residential building, or any member of his family, from practising therein any profession or occupation not involving any public display of goods in a window or otherwise or the exhibition of any advertisement or sign, except signs or notices ordinarily exhibited on dwelling-houses to indicate the name and profession or occupation of the occupant;

(*c*) the occupant of any dwelling-house from letting lodgings or apartments therein otherwise than for occupation as separately rated premises (*a*).

(3) (*a*) The council shall, as soon as may be, give notice by advertisement in some local newspaper circulating in the area of any application made for their consent under this clause—

(i) to the erection in zone of an industrial building, a shop, business premises, or a special building, or to the user for the purpose of any such building of any building in that zone; or

(ii) to the erection in zone of any building other than an industrial building, or to the user of any building in that zone for any purpose other than the purpose of an industrial building.

The notice shall be at the cost of the applicant and shall state that any objections addressed to the council in writing within 14 days after the date of the advertisement will be considered;

(*b*) The council shall take into consideration any objections received within the said period of 14 days, and shall thereupon decide to give or withhold their

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(*a*) To be inserted where the table in sub-clause (1) includes a zone in which only dwelling-houses are allowed without consent.

consent or to give their consent upon such conditions as they think fit, and shall forthwith serve a notice of their decision upon the applicant and upon any person objecting to the application under paragraph (*a*) of this sub-clause;

(*c*) A decision of the council under this clause shall not take effect until the expiration of 21 days from the date on which the applicant and the objectors, if any, are notified of the decision, or, if an appeal has been made to the Minister under the provisions of this clause, until such appeal is disposed of.

(4) (*a*) Any person who has applied for any consent of the council under this clause and feels aggrieved by any neglect or refusal of the council to give consent or by any conditions imposed by the council may apply to the Minister for leave to appeal to him;

(*b*) Any person who feels aggrieved by any decision of the council to give consent to the erection of, or user of a building as, an industrial building, a shop, business premises or a special building in zone , or to the erection of any building other than an industrial building in zone , or to the user of any building in that zone for any purpose other than the purpose of an industrial building, may apply to the Minister for leave to appeal to him, and shall forthwith notify the council of the application.

(5) (*a*) The provisions of this clause as regards consent to the erection and use of buildings for trade or industry and appeals in connection therewith shall be in substitution for the provisions of the Public Health Acts (and any Acts amending the same) as to consent and appeal in respect of the establishment of offensive trades;

(*b*) The erection of a building for the purposes of this clause includes the conversion of a building of any of the types defined in Clause 18 into a building of any other of those types.

SUPPLEMENTARY ZONING.

DENSITY AND CHARACTER.

30. If at any time the council are of opinion that—

(*a*) the buildings to be erected in any part of a character zone ought to be limited to one or more of the classes of buildings which are permitted under Clause 29 to be erected in that zone; or

(*b*) any class or classes of buildings which, under the provisions of Clause 29 may only be erected in any character zone with the consent of the council can, consistently with the predominant use of the zone, be permitted to be erected in any part of the zone without such consent; or

(*c*) the average number of building units permitted under Clause 22 to be erected per acre ought to be varied over the whole or any part of density zones ;

the council may make an Order for the purpose with the approval of the Minister:

Provided that no Order shall be made which would allow the average number of building units permitted to be erected per acre in density zones to be increased to more than .

HEIGHT OF BUILDINGS.

Limitation of Height of Buildings.

31.—(1) No building (not being an industrial building or a building for noxious trade or industry erected in character zones) (*a*) shall be so erected or extended that:—

(*a*) the highest point of the building, measured from the mean level of the ground immediately surrounding the building, exceeds (*b*) feet in height;

(*b*) any part of the building projects above any line drawn from the centre of the street in front of the building at an angle of (*b*) (or if the street is of any one of the types described in Part II. of the First Schedule to this scheme, (*b*)) with the horizontal:

(*a*) Industrial zones.

(*b*) Seventy feet and angles of 56° and 45° respectively are suggested as suitable standards for general application. Reference should, however, be made to the remarks in paragraph 29 of the Explanatory Memorandum, *ante*, p. 3859.

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Provided that—

(i) For the purpose of the foregoing provisions account shall be taken of parapets but not of chimneys, ornamental towers, turrets or any other such architectural features;

(ii) In the case of a building erected at the corner of two or more intersecting streets the height of the building shall be determined by reference to the wider or widest street;

(iii) In the case of a place of assembly the council may permit either or both of the limits imposed by this clause to be exceeded to such extent as they may think fit.

(2) No dwelling-house erected in the zone edged   on the map shall contain more than two storeys, exclusive of any storey constructed wholly or partly in the roof and exclusive of any storey the floor of which is more than six feet below the mean level of the centre of the street in front of the building:

Provided that, if in the case of a group of contiguous dwelling-houses not exceeding six in number it is desired to maintain the height of all the dwelling-houses forming the group at the same level, not more than four of the dwelling-houses may, where the slope of the street in front thereof renders it necessary, contain three storeys, exclusive of any storey constructed wholly or partly in the roof.

SPACE ABOUT BUILDINGS.

Space within Curtilage of Buildings which may be Covered by Buildings.

32.—(1) The proportion of land within the curtilage of any building which may be occupied by buildings shall not exceed the proportion indicated in the table below, but in the case of an existing building nothing herein shall make the existing occupation of the curtilage by buildings a contravention of the scheme or prevent the building from being extended so as to occupy a greater proportion of its curtilage than that indicated in the table, subject, however, where the building is extended, to the subjoined conditions:—

(*a*) the area of the ground covered by the building as extended shall not exceed the area of the ground covered by the existing building by more than the following percentages:—

A maximum percentage of 25, the percentage to be reduced in the ratio of 1 for every 2 per cent. by which the existing area of the ground covered by the building exceeds one-half of the curtilage of the building;

(*b*) the proportion of land covered by the extended building shall in no case exceed nine-tenths of the curtilage.

Table (*a*).

PART I.—PLOTS LAID OUT FOR BUILDING AFTER ______ ______

Height of Building. 1	Dwelling-houses. 2	Residential buildings, institutions, schools, and shops in which dwelling accommodation is provided. 3	Other buildings. 4
Neither exceeding 30 feet in height nor being over the main part of the building of more than one storey above ground level.			
Exceeding 30 feet in height or being over the main part of the building of more than one storey above ground level.			

(*a*) See the Illustrative Table in the Explanatory Memorandum, at p. 3866, *ante*.

PART II.—PLOTS LAID OUT FOR BUILDING BEFORE________________

Plots of square feet or over.—The proportions in Part I. of the table.

Plots of less than square feet.—The proportions in Part I. of this table increased in the ratio of to the number of square feet in the plot, subject to a maximum proportion of in the case of dwelling-houses, in the case of residential buildings, institutions, schools and shops in which dwelling accommodation is provided, and in the case of other buildings.

(2) Notwithstanding anything to the contrary in the foregoing provisions of this clause—

(*a*) in the case of a dwelling-house which—

(i) in the opinion of the council is adjacent to the junction of two or more streets, or

(ii) is situated within the zone edged on the map,

the proportion of land within the curtilage of the dwelling-house which may be occupied by buildings may exceed the proportion indicated in the table, but shall not exceed ;

(*b*) the council may permit the proportion of land within the curtilage of any building which may be occupied by buildings to be increased in the case of a building abutting on two or more streets, or where, by reason of any other exceptional circumstances, they think fit so to do.

(3) The provisions of this clause shall not preclude the erection of a building proposed to be erected by virtue of an exemption granted under Clause 22 (2).

(4) For the purposes of this clause :—

(*a*) the height of a building shall be measured from the mean level of the ground surrounding the building to the top of the parapet, or half the height of the roof, whichever is the higher ;

(*b*) where any part of the curtilage of a building, other than land reserved for streets, becomes a street or part of a street, it shall be deemed to continue to form part of the curtilage of the building ;

(*c*) where the curtilage of a building is partly within and partly outside the area, the curtilage shall be treated as wholly within the area, but the council may make it a condition of so treating the curtilage that no buildings are erected on the portion of the curtilage outside the area so as to occupy, together with the buildings on the portion of the curtilage within the area, a greater proportion of the land within the curtilage as a whole than could have been occupied if the whole of the curtilage had been within the area.

BREAKS IN BUILDINGS.

33.—(1) Not more than [1] dwelling-houses or residential buildings shall be erected in one continuous block.

(2) (*a*) A dwelling-house or residential building shall not be erected :—

(i) nearer than [2] feet to any other dwelling-house or residential building erected after ;

(ii) nearer than [3] feet to any building other than a dwelling-house or residential building erected after ;

(iii) nearer than [3] feet to the owner's boundary ;

(*b*) A building of any type other than a dwelling-house or residential building shall not be erected nearer than [3] feet to a dwelling-house or residential building erected after ;

Provided that the foregoing requirements with regard to distance from other buildings or from the owner's boundary shall not prevent the erection of a building intended to form part of a continuous block with any other building or buildings, or the erection of a building nearer than [3] feet to the boundary of a street, where not precluded by a building line fixed in pursuance of Clause 34.

[1] [2] [3] 8, 6 and 3 respectively are suggested as suitable standards for general application, but local conditions and requirements should be taken into account.

Appendix II.

(3) Notwithstanding the provisions of this clause, the council may, if they think fit, permit—

(a) more than dwelling-houses or residential buildings to be erected in one continuous block where the buildings are arranged to the satisfaction of the council;

(b) the erection between two buildings of a connecting wall, arch or other architectural feature approved by the council;

(c) the erection adjoining a building of an outbuilding not exceeding ten feet in height (measured from the mean level of the ground surrounding the outbuilding to the top of the parapet or half the height of the roof, whichever is the higher);

(d) the erection of a building nearer to any other building or to the owner's boundary than the distance specified in sub-clause (2) of this clause where it appears to the council upon representation being made by the owner that on account of exceptional circumstances affecting the development of the site it would be unreasonable to require compliance with that sub-clause.

BUILDING LINES.

Effect of Building Line. Building Lines shown on Map.

34.—(1) Where a building line for any street or proposed street is shown on the map or, not being shown on the map, is fixed by the council under the provisions of this part of the scheme, no building or structure, other than boundary walls or fences or temporary structures erected in connection with building operations, or buildings permitted in pursuance of Clause 9 shall, save as hereinafter provided, be erected nearer to the street than the building line.

Fixing of Building Line for new Street not shown on Map.

(2) The council may fix a building line for any new street not shown on the map, other than a street of Types G or H described in Part II. of the First Schedule to this scheme, when the plan for such street is submitted to them for approval under Clause 10, or when an order reserving land for a street is made by the council under sub-clause (5) of Clause 6, and any building line so fixed shall be included in the order for the street under Clause 10 or Clause 6, as the case may be.

Fixing of Building Line for existing Street where Line not shown on Map.

(3) In the case of a street existing at the date of commencement of this scheme for which no building line is shown on the map, the council may by order fix a building line either for the street or for such part thereof as they think fit when the plan of a building which is proposed to be erected fronting on the street is submitted to them for approval.

Power to permit Buildings in advance of Building Line.

(4) Notwithstanding the foregoing provisions of this clause, the council may, if they think fit, permit—

(a) the projection in front of the building line of any bay window, porch or other projecting portion of a building;

(b) in the case of industrial buildings or buildings for noxious trade or industry, the erection of the building at such distance, not being less than (a) feet from the boundary of any street, as the council may specify;

(c) the erection of groups of shops and business premises at such distance, not being less than (a) feet from the boundary of any street, as the council may specify;

(d) the erection in front of the building line of any building where, by reason of the levels of the site or of any adjoining land, or by reason of any other exceptional circumstances, or for purposes of architectural effect, such permission is, in the opinion of the council, advisable;

(a) 10 feet is suggested as a generally suitable limit, subject to special local conditions.

(e) the erection in front of the building line of a lodge or other building to be used in connection with a dwelling-house, provided that the lodge or building shall not exceed two storeys in height and shall not be nearer than (a) feet to the boundary of the street.

Before giving permission under paragraph (b), (c) or (d) of this sub-clause, the council shall, at the expense of the applicant, give notice in writing of the proposal to the owners of the adjoining land and to all other persons who, in the opinion of the council, may be affected by the giving or withholding of such permission, and shall consider all objections which may be addressed to them in writing by any such persons within a period, not being less than 14 days, to be specified in the notice.

Appeals.

(5) Any owner who feels aggrieved by an order of the council fixing a building line in respect of his land in pursuance of sub-clauses (2) and (3) of this clause, not being an order made with the approval of the Minister under sub-clause (5) of Clause 6, may apply to the Minister for leave to appeal to him.

MODIFICATION IN APPLICATION OF PUBLIC HEALTH (BUILDINGS IN STREETS) ACT, 1888.

35.—(1) In any street in which a building line is in operation under this scheme a person shall not be precluded by section 3 of the Public Health (Buildings in Streets) Act, 1888, from erecting or bringing forward any house or building to which the building line applies beyond the front main wall of the house or building on either side thereof.

(2) Nothing in this clause shall authorise the erection or bringing forward of any house or building beyond the building line shown on the map or fixed by the council under the provisions of this part of the scheme.

SPECIAL PROVISIONS AS TO BUILDINGS AND BUILDING PLOTS PARTLY WITHIN THE AREA OF THE SCHEME AND PARTLY WITHIN THE AREA OF ANOTHER SCHEME.

36.—Where any existing or proposed building or building plot is or would be partly within the area of this scheme and partly within the area of any other town planning scheme, the part of the building or plot within the area of this scheme shall, unless the Minister otherwise directs, be treated as subject, as regards any matter to which this part of the scheme relates, to the provisions of the scheme for the area in which the greater part of the street frontage to the building, or, if there is no street frontage, the greater part of the building itself is or would be situate, or, where the frontage or building, as the case may be, is situate in equal parts in the respective areas, as subject to the least restrictive of the relevant provisions in the applicable schemes, as though those provisions were substituted, where necessary, for the corresponding provisions in this scheme.

PART IV.—RESERVATION OF LANDS.

RESERVATION AND ACQUISITION OF LANDS.

37.—(1) The uses for which the lands specified in column 1 of the following table are reserved are indicated in column 2 of the table. The lands specified in the table may, until the "appointed day," continue to be used as they are used at the date of the approval of this scheme or may be used for purposes of agriculture and horticulture or for such other purposes as the council may permit. Before the "appointed day" such buildings may be erected and maintained upon any of the lands specified in the table as are necessary for the purposes for which the lands are permitted to be used, subject to such conditions as the council may impose as to their removal after such date as aforesaid or otherwise.

The "appointed day" for the purposes of this sub-clause means, in the case of lands reserved for use as private open spaces, such date as the council may in each

(a) 10 feet is suggested as a generally suitable limit, subject to special local conditions.

Appendix II. case fix, not being less than six months after notice thereof has been given to the owner, and, in the case of lands reserved for other uses, the date of the acquisition of the land by the council, or of the expiration or other determination of any lease to which the land is subject at the date of acquisition, or such later date as the Minister may approve.

(2) Except as aforesaid no part of the lands specified in the table shall be used for any purpose other than that indicated in the table as the purpose for which the land is reserved, and no buildings other than those required for that purpose shall be erected thereon.

Table.

Indication on map of lands reserved. 1.	Uses for which lands are reserved. 2.
Coloured and numbered –	
Coloured and numbered –	
Coloured and numbered –	
Coloured and numbered –	
Coloured and numbered –	

(3) No person shall without the consent of the council cut down any tree growing on land reserved for a public open space under this clause except where the tree has become dangerous or impedes the use of the land for any purpose for which it is permitted to be used under this clause, and no person shall spoil or waste land required for any purpose under this clause so as to destroy or impair its use for the purpose for which it is reserved.

(4) (*a*) The purposes of this scheme shall include the provision by the council of public open spaces and playing fields upon lands reserved for those purposes respectively;

(*b*) The council may at any time acquire by agreement and, if they think fit, convert into a public open space or a playing field any of the lands reserved as private open spaces and numbered on the map.

(5) The council shall have like powers in regard to any lands reserved as public or private open spaces or playing fields, when acquired by the council, as if the same were acquired for the purposes of public walks, parks and pleasure grounds or playing fields under the Public Health Acts or any enactments amending those Acts.

For the purposes of this clause, land reserved for use as a private open space means land reserved for use as a private ground for sports, play, rest or recreation, or as an ornamental garden or pleasure ground, or as meadow or pasture land, orchards, woodlands or nursery grounds, but does not include a sports or recreation ground customarily open to the public on payment of a charge, or market gardens, allotments, or land used wholly or principally for the purpose of cultivation under glass.

LANDS NO LONGER REQUIRED FOR THE PURPOSES FOR WHICH THEY ARE RESERVED.

38. If at any time any land reserved for any purpose under this part of the scheme is not required or likely to be required for that purpose, the council may make an order with the approval of the Minister declaring the land no longer to be so reserved, and thereafter the provisions of this part of the scheme shall not apply to the land, but the land shall be subject to the remaining provisions of this scheme as if it were included in such zone or zones as may be specified in the order.

SAVING FOR LANDS OF STATUTORY COMPANIES, ETC.

39. Nothing in this part of the scheme shall affect the site of any ancient monument or other object of archæological interest, nor, except in so far as may be agreed between the council and the persons interested in the land, any land held or used for any of the purposes referred to in paragraph 2 of Part II. of the Third Schedule to the Act, so long as the land continues to be held or used for those purposes.

PART V.—GENERAL AMENITY.

PRESERVATION OF TREES.

40.—(1) If at any time the council, having regard to the amenity of any part of the area, are of opinion that any growing tree of a height of more than (a) feet or having a trunk of a girth of more than (a) feet at a height of (a) feet above the ground, or any group of such trees, ought to be preserved, the council may register the tree or group of trees, and shall thereupon notify the owner and occupier of the land upon which the tree or group of trees is growing that the tree or group of trees has been registered, and the register of trees so made shall be open to inspection by persons interested at all reasonable times.

(2) No person shall cut down or wilfully destroy any tree registered by the council under this clause, except with the consent of the council or upon an order of a court of summary jurisdiction under sub-clause (3) of this clause or where the tree has become dangerous:

Provided that if the council do not notify their refusal to consent to the cutting down or destruction of any registered tree within one month from the date of an application for consent their consent shall be deemed to have been given.

(3) Any owner or occupier who feels aggrieved by a refusal of the council to consent to the cutting down or destruction of any registered tree may appeal to a court of summary jurisdiction, and the court may, if they think just, make an order authorising the cutting down or destruction of the tree, but such order shall not affect any rights as between the owner and occupier.

(4) The council may delegate their powers under this clause with or without restriction, to any committee of the council.

DISPLAY OF ADVERTISEMENTS. MAINTENANCE OF PRIVATE GARDENS AND PRIVATE OPEN SPACES.

41.—(1) The council may serve a notice in respect of any of the matters specified in sub-clause (2) of this clause, on the person by whose action or omission the injury referred to in the sub-clause arises (including the owner of unoccupied premises), requiring him, within a reasonable time to be specified in the notice, to take such action and to execute such works, including works of removal, as may be necessary to abate the injury.

(2) A notice may be served under this clause if the amenity of zone or of any public or private open space in the area is seriously injured by:—

(a) the display of any advertisement in the area; or

(b) the condition of any garden, curtilage, or private open space in the area.

(3) If the person on whom the notice is served fails to comply with the notice, the council may cause a complaint relating to the injury to be made to a court of summary jurisdiction, and that court may issue a summons requiring the person to appear before them and, if satisfied that the alleged injury exists, may make an order requiring the person to comply with the requisition or otherwise to abate the injury and to do any works necessary for the purpose within a time specified in the order. Failure to comply with such an order shall be a contravention of this scheme.

The order may also empower the council themselves to undertake the necessary works and to recover the cost from the person on whom the order is made, if the person fails to comply with the order.

(a) See the remarks in paragraph 34 of the Explanatory Memorandum, at p. 3861, *ante*.

(4)* (*a*) Any person may apply to the council for their consent to the display of an advertisement in the area, and consent shall be deemed to have been given, if the council do not notify their refusal to consent within one month from the date of the receipt of the application ;

(*b*) Where, on any such application, the council refuse their consent, the applicant may, within 21 days from the date of notification of refusal, appeal to a court of summary jurisdiction, and the court may, if they think just, make an order permitting the display of the advertisement to which the application relates ;

(*c*) The council may, if they think fit, authorise generally the display of particular classes of advertisement in the area, with or without specifying the positions or manner in which they may be displayed ;

(*d*) The display of an advertisement in accordance with any consent or general authority of the council or any order of the court under this sub-clause shall not be deemed to be an injury of amenity within the meaning of this clause ;

(*e*) The council may delegate their powers under this sub-clause with or without restriction, to any committee of the council.

(5) The provisions of this clause as to advertisements shall be in addition to and not in derogation of the provisions of the Advertisements Regulation Acts, 1907 and 1925.

(6) For the purposes of this clause, " private open space " means land so reserved under Clause 37, and the display of an advertisement includes the erection of a hoarding or other structure or apparatus for the purposes of advertising.

(7) Nothing in this clause shall prevent the display of the following advertisements :—

(*a*) advertisements upon land relating solely to any trade or business carried on, or to any entertainment or meeting, auction or sale to be held upon or in relation to such land or any property thereon ; and advertisements on the door or in the window of a building ; if the advertisements do not in either case contain letters, figures or advertising emblems exceeding six inches in height, and do not (except where affixed to and not projecting above a vertical wall of a building) exceed a height of twelve feet from the ground ;

(*b*) for a period of five years from the date of the approval of this scheme, hoardings or similar structures erected or in use for advertising purposes prior to that date and any advertisements displayed thereon during that period, or any other advertisement displayed at the date of the approval of this scheme.

PART VI.—MISCELLANEOUS.

AGREEMENTS.

42.—(1) The council may enter into agreements for the purpose of carrying this scheme into effect, and where any such agreement imposes on the council a liability for expenditure, the agreement shall state whether or not the council propose to defray such expenditure or any part thereof by means of a loan.

Where it is stated in the agreement that the council so propose, the agreement shall not become operative unless and until it is approved by the Minister.

(2) The several agreements of which particulars are set out in the Fourth Schedule to this scheme shall be deemed to have been made by the council under the powers conferred on them by this clause, and notwithstanding any inconsistency between any of the provisions of any such agreement and this scheme, the provisions of the agreement shall prevail.

Any other agreements made by the council after   and before the date of approval of this scheme in respect of any matter regarding which agreements may be made under this clause shall, so far as they are consistent with the provisions of this scheme, have effect as if they had been made by the council under the powers conferred on them by this clause.

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* Sub-clause (4) to be omitted where the council are not the local authority for the purposes of the Advertisements Regulation Acts, 1907 and 1925 (see paragraph 35 of the Explanatory Memorandum), at p. 3861, *ante*.

(3) A person having the powers of a tenant for life within the meaning of the Settled Lands Act, 1925, may, with the consent of the persons who are trustees of the settlement for the purposes of that Act or on an order of the court, enter into any agreement which the council have power under this clause to make, but nothing in this clause shall prejudice or affect the exercise by any such person of any powers, whether statutory or other, which he could have exercised apart from this clause.

(4) The council shall have power to enforce any covenant contained in agreements of the kinds referred to in this clause against persons deriving title under the covenantor, notwithstanding that the council are not in possession of or interested in any land for the benefit of which the covenant was entered into, in the same manner and to the same extent as if they had from the date on which the covenant was entered into been possessed of or interested in such land.

ADJUSTMENT OF BOUNDARIES OF ESTATES.

43.—(1) For the purpose of securing such adjustment of the boundaries of estates and building plots as will facilitate the proper laying out of streets and development of land within the area, the council may agree with the persons interested in lands for the exchange between those persons of portions of the lands, either with or without payment of money by way of equality of exchange, and may, if they think fit, themselves pay in whole or in part any money required to be paid by way of equality of exchange, and may pay in whole or in part the costs of the exchange.

(2) In default of agreement the council may by order provide that the lands shall be exchanged on such terms as may be specified in the order, but before making the order the council shall send to each of the persons concerned a draft of the proposed order, and any such person shall be entitled within 14 days after the said draft is sent to him to require the matter to be submitted to the arbitration of a single arbitrator to be agreed between the council and the persons concerned, or, in default of agreement, to be appointed by the Minister.

(3) The arbitrator so appointed shall have power to modify the boundaries of the lands proposed to be exchanged and otherwise to fix the terms upon which the exchange is to be effected, including the payment of money by the council, but the payment of money by any person concerned other than the council shall not be made a term of the award without his consent. The provisions of the Arbitration Act, 1889, shall apply to an arbitration held under this clause, and the council and the persons concerned shall be treated as parties to the arbitration.

(4) Upon the issue by the arbitrator of his award the council may either decide not to proceed with the proposed order or may make the order in the terms of the award. If the council decide not to proceed, they shall, notwithstanding any direction in the award to the contrary, pay the costs of the persons concerned of and in connection with the arbitration, and the arbitrator shall have power to tax or settle the amount of the costs to be so paid.

(5) The order of the council to effect the exchange of lands under this clause shall be made by an instrument executed in three parts, one part whereof shall be delivered duly stamped to each of the persons concerned. The order shall have the like effect as an Order of Exchange of lands duly made by the Minister of Agriculture and Fisheries under section 147 of the Inclosure Act, 1845.

(6) Nothing in this clause shall enable the council to make (*a*) an order affecting any land to which paragraphs 1 and 2 of Part II. of the Third Schedule to the Act apply, or (*b*) an order the terms of which provide for the payment by way of equality of exchange of a sum exceeding one-eighth of the value of the less valuable piece of land.

(7) For the purpose of securing an adjustment of the boundaries of estates and building plots as aforesaid, the council may themselves purchase, subject to the provisions of section 8 of the Act, any land, and may for that purpose sell or lease the land so purchased in whole or in part.

MODIFICATIONS IN DETAIL OF SCHEME.

44.—(1) The council shall have power from time to time by order to make any minor modification in the site of any proposed street coloured pink on the map (and any consequential modification of a building line) or in the boundary of any zone or of any area reserved for any purpose under Part IV. of this scheme.

(2) Any person who feels aggrieved by an order of the council under this clause may apply to the Minister for leave to appeal to him.

(3) A copy of any order made by the council under this clause shall be furnished to the Minister as soon as practicable.

RETROSPECTIVE EFFECT OF SCHEME.

45. The provisions of this scheme (other than the provisions of Clause 20 requiring dwelling-houses and residential buildings to be erected on land units) shall apply to all buildings whose erection is commenced after and to any other work done by any person other than the council after that date, as if that date had been the date of approval of this scheme.

EFFECT OF SCHEME UPON ORDERS UNDER SECTION 4 OF THE ACT.

46. Where in pursuance of any special or general order made by the Minister under section 4 of the Act or any corresponding provision of any Act repealed thereby the development of any estate or any building operation has been permitted to proceed, no building, street or other work whose erection, lay out or construction is commenced before the date of approval of this scheme or under a contract entered into before that date in pursuance of such permission and in accordance with any requirements made as a condition of granting such permission, shall be deemed to contravene the provisions of this scheme, and, where permission has been granted for the user of land or buildings in pursuance of an order as aforesaid, conditionally or unconditionally, nothing in this scheme shall operate to prevent the continued use of the land or buildings in accordance with the permission.

FULFILMENT OF CONDITIONS.

47. Where permission for the erection, laying out or construction of any street or building, or in respect of any other matter, is given subject to conditions imposed by the council or the Minister on appeal or agreed between the council and the owner under any provision of this scheme, or where conditions have been similarly imposed or agreed in connection with the erection, laying out, or construction of any street, building, or other work, or the user of any land or buildings, to which Clause 46 applies, and the last-mentioned conditions are not inconsistent with the provisions of the scheme, the conditions shall have effect as if they were provisions of this scheme:

Provided that any such conditions may be waived or modified with the consent of the owner of the land to which they relate in the manner, and in accordance with the requirements as to advertisement, notices, consideration of objections, and otherwise, applicable to the imposition of the conditions, or any corresponding conditions, under the scheme.

DISPOSAL OF LANDS.

48.—(1) The council may, with the consent of the Minister, sell or lease or exchange any land acquired by them for any purpose of this scheme which is not required for that purpose, or may appropriate any such land to some other purpose approved by the Minister.

(2) The council may, with the consent of the Minister, lease any land which has been acquired by them for any purpose of this scheme, but is temporarily not required for that purpose, or may apply any such land to any purpose approved by the Minister.

(3) The appropriation or temporary application of land by the council under this clause shall be subject to any special covenants or agreements affecting the use of the land in their hands.

APPROPRIATION OF LANDS.

49.—(1) Any land belonging to the council which is reserved for streets or for any purpose under Clause 37, may, when required for the purpose for which it is reserved, whether or not originally acquired for that purpose, be appropriated therefor.

(2) (*a*) Notwithstanding the provisions of this clause, no land forming part of any common, open space, or allotment within the meaning of paragraph 3 of Part II. of the Third Schedule to the Act shall be appropriated to any other purpose except where land, not being less in area, certified by the Minister after consultation with the Minister of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights and to the public, is given in exchange;

(*b*) Any land forming part of any common, open space or allotment as aforesaid appropriated under this clause shall, by virtue of the appropriation, be discharged from any rights, trusts and incidents to which it was previously subject, and any land given in exhange shall be held subject to the same rights, trusts and incidents as attached to the land appropriated.

ENTRY ON LANDS FOR INSPECTION, ETC.

50. Any members, officers or servants of the council, after not less than twenty-four hours' notice and on production of the written authority of the council, shall be admitted into or upon any property within the area at any time between the hours of nine in the forenoon and six in the afternoon for the purpose of any inspection necessary for carrying this scheme into effect or of enforcing any of its provisions.

If admission for any of the purposes of this clause is refused, any justice on complaint thereof on oath by any officer of the council (made after reasonable notice in writing of intention to make the same has been given to the person having custody of the property) may by order under his hand require that person to admit any members, officers and servants of the council into or upon the property during the hours aforesaid. If no person having such custody can be found, the justice shall, on oath made before him of that fact, by order under his hand authorise any members, officers and servants of the council to enter into or upon the property during the hours aforesaid. Any such order made by a justice shall continue in force until the purposes for which admittance was required have been fulfilled or executed.

CONTRAVENTIONS OF SCHEME.

51.—(1) Where it appears to the council that any building or other work is such as to contravene this scheme, or that in the erection or carrying out of any building or other work any provision of this scheme has not been complied with, or that any person has failed to execute any work which it is his duty to execute under this scheme and that delay in the execution of the work would prejudice the efficient operation of this scheme, the council may serve a notice containing a copy of this clause and of section 7 of the Act upon the person in default, specifying the respects in which the scheme has been contravened or the works in the execution of which delay has occurred, and stating that the council intend to exercise their powers under paragraph (*a*) or (*b*) of sub-section (1) of the said section, as the case may be.

(2) At the expiration of one month from the date of the notice the council may exercise their powers under paragraph (*a*) or (*b*) aforesaid, as the case may be, but, where they have previously been notified by the person served with the notice or by the Minister that a question whether any building or work specified in the notice contravenes the scheme has been referred to the Minister for decision under sub-section (3) of the said section, the council shall suspend further action pending the decision of the Minister.

(3) When on any question referred to the Minister under sub-section (3) of the said section it is determined that any building or work contravenes this scheme, or that any provision of this scheme has not been complied with in the erection or carrying out of any building or other work, the council, after giving such person as aforesaid notice that, at the expiration of a period specified in the notice (not being less than one month from the date of service of the notice), they intend to exercise their powers under paragraph (*a*) aforesaid, may proceed to remove, pull down, or alter the building or work.

PENALTIES.

52.—(1) Any person who commits or knowingly permits any contravention or other breach of the provisions of this scheme or who neglects or fails to comply with any of those provisions shall be guilty of an offence.

(2) Any person guilty of an offence under this scheme shall be liable on conviction in any court of summary jurisdiction to a penalty not exceeding forty shillings for each offence or in the case of an offence under Clause 40 to a penalty not exceeding ten pounds for each offence, and in the case of a continuing offence he shall be liable to a further penalty not exceeding twenty shillings for each day upon which any offence is continued after notice in writing of the alleged offence has been served on him by the council or other person instituting the proceedings.

(3) Section 37 of the Criminal Justice Administration Act, 1914 (which provides a right of appeal in certain events to a court of quarter sessions), shall apply to offences under this scheme.

(4) Proceedings may be taken under this clause in addition to any other proceedings or remedy.

GIFTS.

53. The council may accept a donation of land or money or other property for the furtherance of any object of this scheme and it shall not be necessary to enrol any assurance with respect to any such property under the Mortmain and Charitable Uses Act, 1888.

RECOVERY OF EXPENSES.

54.—(1) All expenses (other than expenses recoverable under the *Private Street Works Act*, 1892 [*section* 150 *of the Public Health Act*, 1875] as applied by this scheme) incurred by the council under this scheme for the repayment of which any person is made liable under this scheme or the Act or by any agreement with the council under this scheme, or any other expenses payable under or by virtue of this scheme, shall be recoverable summarily as a civil debt, and, where recoverable from the owner of any land in respect of which they have been incurred, shall, until payment, be a charge on the inheritance of that land.

(2) Where the value of land is increased by the making of this scheme, the sum due to the council in respect of that increase shall, until payment, be a charge on the inheritance of the land the value of which has been increased.

(3) The council shall have in respect of expenses which are charged on land by this clause all the same powers and remedies under the Law of Property Act, 1925, and otherwise as if they were mortgagees under a mortgage made by deed.

APPLICATION OF MONEYS RECEIVED BY COUNCIL.

55.—(1) All amounts recovered by the council under section 10 of the Act in respect of the increase in value of property or received from the sale of surplus lands, and all other money, being capital or in the nature of capital, received from any other source in connection with this scheme, shall be applied, where possible, in defraying the cost of carrying out any works in respect of which they are received under this scheme, or in repayment of moneys borrowed under the Act for purposes of this scheme, or to such other purposes as may be approved by the Minister.

(2) An application of money under this clause in repayment of moneys borrowed by the council shall be in addition to, and not in substitution for, any other mode

of extinguishment provided under the Act, except to such extent and upon such terms as may be approved by the Minister, and, where money is applied in defraying the cost of carrying out any works under this clause, any borrowing powers of the council for the purpose shall be reduced to that extent.

SUSPENSION AND APPLICATION OF ACTS AND BYELAWS.

56.—(1) Any byelaws made by the council with respect to new streets which are in force in the area shall cease to have effect in the area; but any application or plans or sections submitted to the council under the byelaws in respect of which permission to proceed has not been granted or refused in pursuance of any special or general order made by the Minister under section 4 of the Act, or any corresponding provision of any Act repealed thereby, shall be deemed to have been submitted under this scheme.

(2) The provisions of any other byelaws or of any statutory enactment or regulations which are in force shall have effect subject to this scheme as regards matters dealt with in the scheme, and, in so far as inconsistent with the provisions of the scheme, shall be suspended:

Provided that nothing in Part III. of the scheme shall authorise the council to permit the erection of a building in a manner contravening the byelaws and local Acts or the provisions of any general Act.

APPEALS.

57.—(1) Where an application for leave to appeal may be made to the Minister under this scheme:—

(i) if the application is for leave to appeal against any order, decision, refusal, specification or declaration of the council, or against the imposition of any conditions by the council, it shall be made within 14 days from the date of service of notice thereof;

(ii) if the application is for leave to appeal against any neglect of the council, it shall not be made until one month after notice of intention to apply for appeal has been given to the council:

Provided that the Minister may on the application of any person desiring to appeal extend the time for making application for leave to appeal prescribed by paragraph (i) of this sub-clause, and may so extend the time although the application is not made until after the expiration of the time so prescribed.

(2) An application for leave to appeal shall be made in writing and shall contain a concise statement of the facts and contentions on which the applicant relies.

(3) In any case in which an application for leave to appeal has been granted the Minister may accept the application as an appeal, and shall notify the council that leave to appeal has been granted and furnish them with a copy of the application.

(4) The Minister may on any appeal make such order in the matter as he thinks equitable, and any order so made shall be binding and conclusive on all parties.

(5) Where the Minister does not for the purpose of determining an appeal appoint an arbitrator to act for him in pursuance of his powers under section 30 of the Regulation of Railways Act, 1868, as applied by section 17 of the Act, the costs of the appeal, including the costs of any local inquiry held in connection therewith, shall be in the discretion of the Minister, who may direct to and by whom and in what manner those costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof. Any order made by the Minister as to such costs may be made a rule of one of the superior courts of law.

For the purposes of this sub-clause the determination by the Minister of any measurement under the definition of the erection of a building in Clause 1 shall be regarded as the determination of an appeal.

COSTS IN APPEALS OR APPLICATIONS TO COURTS OF SUMMARY JURISDICTION.

58. Where an application or appeal may be made to a court of summary jurisdiction under this scheme, the court may order by whom and in what manner any costs incurred in connection with the application or appeal shall be paid, and any costs so ordered to be paid shall be recoverable summarily as a civil debt.

Appendix II.

ORDERS.

59. Where the council are empowered to make an order under any provisions of this scheme, other than an order for exchange of lands under Clause 43 or a charging order under Clause 63 :—

(1) The order shall be under the seal of the council, and shall, where necessary, refer to a plan, on a scale not less than that of the map, defining the particular land, if any, which may be specified in the order, and any neighbouring land affected, and illustrating so far as conveniently possible the contents of the order.

(2) Where the order relates to specified land, the council shall give notice of the proposal to make the order to the owner of the land, and to the owner of any neighbouring land in the area who may, in the opinion of the council, be affected.

The council shall include in the notice a statement that a copy of the proposed order and plan (if any) will be open for inspection at a specified place or places, and that, if the owner desires to make any representations or objections with respect thereto, he may address them in writing to the council within a specified period from the date of the notice. The specified period shall not be less than 14 days or more than one month in the case of orders under clauses 34 (3), 38 and 44, and not less than one month or more than six weeks in other cases.

This sub-clause shall not apply to orders to which Clause 12 applies.

(3) Where the order (whether relating to specified land or not) requires the approval of the Minister, or an appeal may be made against the order by any person other than the applicant for the order or any owner notified under the preceding sub-clause, the council shall give notice of the proposal to make the order by advertisement in a local newspaper circulating in the area. The advertisement shall be in the same terms as the notice under the preceding sub-clause, with the substitution of the words "any interested person," for "the owner."

(4) Before making the order, the council shall consider any representations or objections made to them within the prescribed period.

(5) Where the order requires the approval of the Minister :—

(*a*) the Minister may require notices to be served on any additional owners who may in his opinion be affected by the order ;

(*b*) the order may include any necessary modifications in the application of this scheme to the land or any neighbouring land to which the order relates ;

(*c*) the Minister may approve the order with or without modifications or may disapprove it, provided that before approving any order made in pursuance of clauses (*a*) the Minister shall be satisfied that the provisions of the order are reasonable having regard to the nature and situation of the land affected by the order.

(6) A copy of the order when duly made and, where necessary, approved by the Minister, shall, where the order relates to specified land, be served by the council on the owner of the land, and the council shall also notify any other owner to whom notice of the proposal to make the order was sent that a copy of the order as made or approved may be inspected at a specified place or places.

Where the order, whether relating to specified land or not, is one approved by the Minister, the council shall also give notice of the approval by advertisement in similar terms in a local newspaper circulating in the area.

(7) Where an appeal may be made against the order by any person other than the applicant for the order or the owner of the land to which the order relates, the order shall not take effect until the expiration of seven days after the time specified for making the appeal under Clause 57, or, if an appeal is made, until such appeal is disposed of.

(8) The order shall have effect as if it were incorporated in and formed part of this scheme and shall be deposited with this scheme at the office of the clerk to the council.

(9) The order may be varied or revoked in the manner, and in accordance with the requirements as to advertisement, notices, consideration of objections, and

(*a*) Insert references to relevant clauses dealing with matters within the scope of section 11 (2) of the Town Planning Act, 1925—*e.g.*, Clause 30 above.

otherwise, applicable to the making of the order, but in the case of an order not requiring the approval of the Minister, only with the consent of the owner of the land to which it relates, or, failing such consent, with the authority of the Minister.

CONSENT OF COUNCIL TO BE IN WRITING.

60. In all cases where the consent, authority or permission of the council is required to be given under this scheme, and is not required to be given by means of an order made in pursuance of the scheme, such consent, authority or permission shall be in writing, and shall be either under the hand of the clerk or of some person duly authorised to act in place of the clerk or under the seal of the council.

REGISTER OF PERMISSIONS AND CONDITIONS.

61. The council shall keep, so as to be available for inspection at all reasonable times by any person interested, and in the form, if any, prescribed by the Minister, a register of any consent, authority or permission granted by them or by the Minister on appeal under any provision of this scheme, and of any conditions imposed or agreed between the council and the owner in connection therewith, so far as not included in orders required to be deposited with the scheme.

CLAIMS FOR COMPENSATION AND BETTERMENT.

62. Claims under section 10 of the Act for compensation or in respect of any increase in the value of property due to the making of this scheme, shall be made within 12 months from the date of approval of this scheme:

Provided that in the event of such a claim arising out of the exercise by the council of any power conferred on them under Clauses 6 (2), 6 (5), 10, 34, or 40, the claim may be made at any time not later than 12 months after the date on which notice is given by the council to the claimant of the exercise by them of such power or of their intention to exercise such power, as the case may be, or, where an appeal lies and is made to the Minister against the exercise by the council of such power, or the approval of the Minister is required to the exercise of such power, not later than 12 months after the date on which notice is given to the claimant of the Minister's decision on the appeal or not later than 12 months after the date of publication of the Minister's approval, as the case may be.

CHARGING ORDERS.

63.—(1) Where any owner has paid any sum required to be paid under section 10 of the Act, in respect of the increase in value of his land by reason of the operation of this scheme, or where any other person has advanced money for that purpose, such owner or person may apply to the council for a charging order, and on production of the receipt for the sum so paid, the council shall make an order charging on the land an annuity to repay the amount.

(2) The annuity charged shall be such annual sum as will repay the said amount by equal instalments of principal and interest combined in a period of 30 years, interest being calculated at the same rate as that which, at the date when the charge is made, is the rate of interest charged on loans granted by the Public Works Loan Commissioners to local authorities for the same period, and shall commence from the date of the order, and be payable to the person named in such order, his executors, administrators or assigns.

(3) A charge made under this clause shall be a land charge within the meaning of the Land Charges Act, 1925, and may be registered accordingly.

(4) The provisions of section 32 of the Housing Act, 1925, shall apply to charges created under this clause.

(5) Charging orders and transfers of charges may be made under this clause according to the Forms A and B in the Fifth Schedule to this scheme or in any other convenient form.

SUPPLY OF COPIES OF NOTICES TO REGISTERED PERSONS.

64. Any person may, in consideration of such annual payment not exceeding £1 as the council may fix, require the council to register his name, and the council shall thereafter serve upon that person at the last address notified by him to the council a copy of every advertisement which, under the provisions of this scheme, the council are required to insert in some local newspaper circulating in the area.

INSPECTION OF SCHEME.

65. The council shall permit any person interested to inspect at any reasonable time the scheme, the order of the Minister approving the scheme, the duplicate of the map deposited in the offices of the clerk to the council, and the agreements of which particulars are set out in the Fourth Schedule to this scheme.

SERVICE OF NOTICES.

66. Notices or other documents required or authorised to be served under this scheme shall be in writing and may be served :—

(*a*) by delivery of the same personally to the person required to be served, or, if such person is absent abroad or cannot be found, to his agent ; or

(*b*) by leaving the same at the usual or last known place of abode or business of such person aforesaid ; or

(*c*) by post as a registered letter addressed to the usual or last known place of abode of such person ; or

(*d*) in the case of a notice required to be served on a local authority or corporate body or company, by delivering the same to their clerk or secretary or leaving the same at the office of the authority or body or, in the case of the company, at the registered office, with some person employed there, or by post as a registered letter addressed to such clerk or secretary at that office :

Provided that if the owner of any land is not known to, and after reasonable inquiry cannot be ascertained by, the council, the notice may be served by leaving it, addressed to "the owner," with some occupier of the land, or if there is no occupier, by affixing it to some conspicuous part of the land.

FOR THE PROTECTION OF THE POSTMASTER-GENERAL.

67.—(1) Nothing in this scheme shall affect the application of section 7 of the Telegraph Act, 1878, to any alteration in any telegraphic line of the Postmaster General which may be involved in the exercise of powers conferred by the scheme.

(2) Notwithstanding the stopping up or diversion of any highway or footpath or any exchange of land forming part of a street for other land under this scheme, the Postmaster-General shall continue to have the same powers and rights in regard to any telegraphic line which remains in, under, upon, over, along or across the site of the said highway or footpath or of the part of the street so exchanged as if the same had continued to be a highway or footpath or part of the street, as the case may be :

Provided that if the council or the person in whom the soil of the said highway or footpath is vested or the person who exchanges other land for the part of the street desires to alter such telegraphic line, the enactments of section 7 of the said Act shall thereupon apply in all respects as though the council or the said person (as the case may be) were undertakers within the meaning of that Act.

(3) Expressions in this clause have the same meaning as in the Telegraph Act, 1878.

Appendix II.

DURATION OF SCHEME AND SHORT TITLE.

68.—(1) This scheme shall commence on the day on which it is approved by the Minister, and shall, subject to any variations made by any subsequent scheme, continue in operation until revoked.

(2) This scheme may be cited as "The
Town Planning Scheme, 19 ."

SCHEDULES.

FIRST SCHEDULE.

(Clause 10.)

(*See* pages 3896–3899, *post.*)

SECOND SCHEDULE.*

(Clause 16.)

Number on the map of highway to be diverted or stopped up. 1.	Number on the map of new street. 2.

THIRD SCHEDULE.*

(Clause 18.)

FOURTH SCHEDULE.*

(Clause 42.)

Date of agreement. 1.	Parties. 2.	Description of lands. 3.

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* Separate sheets should be attached when these schedules are required.

FIRST

(CLAUSE

PART I.—STREETS LIKELY TO BE

TYPE. 1	DIMENSIONS.					
	Maximum length of street. 2	Minimum. width of street. 3	Minimum width of carriageway. 4	Minimum number of footways. 5	Minimum width of each footway. 6	Levels. 7
A.	—	36 ft.	24 ft.	2	6 ft.	The street shall be laid out at such level as will afford the easiest practicable gradients, having regard to the intended use of the land abutting on the street throughout the entire length of the street for the purpose of securing easy and convenient means of communication with any other street or intended street with which the new street may be connected.

PART II.—STREETS NOT LIKELY TO BE

B.	1,500 ft.	36 ft.	16 ft.	2 (1, if street built up to on one side only.)	4 ft. 6 in.	Ditto

SCHEDULE.

10.)

REQUIRED FOR THROUGH TRAFFIC.

Conditions.				Specification of works and materials. (For use where specifications are prescribed in the scheme.)
Construction of surface. 8	Junction with other streets. 9	Turning-spaces. 10	Other. 11	12
The surface of the carriageway shall be constructed so as to curve or fall from the centre or crown of the carriageway to the channels at the sides thereof ; the height of the crown of the carriageway above the levels of the side channels being calculated at the rate of not less than one-quarter of an inch and not more than three-quarters of an inch for every foot of the width between the centre or crown of the carriageway and the side channels. Each footway shall be constructed so as to slope or fall towards the kerb or outer edge at the rate of one-half an inch for every foot of width, if the footway be not paved, flagged or asphalted ; and at the rate of not less than one-quarter of an inch and not more than one-half of an inch for every foot of width, if the footway be paved, flagged or asphalted. Each footway shall be constructed so that the height of the kerb or outer edge of the footway above the channel of the carriageway (except where there is a crossing for the use of foot-passengers) shall be not less than three inches at the highest part of the channel and not more than seven inches at the lowest. Any portion of the surface of the street not constructed as carriageway or footway shall be planted with grass, trees, or shrubs, or treated in some other suitable manner to the reasonable satisfaction of the council.	—	—	Proper and sufficient provision shall be made for carrying off the surface water from the street.	

REQUIRED FOR THROUGH TRAFFIC.

8	9	10	11	12
Ditto	The street shall communicate at each end with a street of Type A, or at one end with such a street and at the other end with a street of Type F, or with a highway having a carriageway existing at the date of the approval of this scheme, but where the street communicates at one end with a street of Type F, its length together with the length of the street of Type F shall not exceed 1,000 feet. The street may also communicate at one end with a street of Type B, and at the other end with a street of Type F, if the length of the street together with the length of the street of Type F does not exceed 750 feet.	If the street exceeds 500 feet in length a turning-space (or turning-spaces) shall be provided at a distance not exceeding 500 feet apart or from either end of the street. The turning-space shall be of such dimension that a circle with a diameter of 30 feet could be inscribed within the carriageway.	Ditto No buildings other than dwelling-houses or such residential or public buildings (as respectively defined in Clause 18 of this scheme) as the council may approve shall be erected in the street.	

1	2	3	4	5	6	7
C.	750 ft.	30 ft.	16 ft.	1	4 ft. 6 in.	Ditto
D.	450 ft. (600 ft. if the minimum width of the carriageway is 16 feet).	24 ft.	14 ft.	—	—	Ditto
E.	200 ft.	16 ft.	8 ft.	—	—	Ditto
F. Applicable only to streets intended to give access solely to buildings forming three sides of a quadrangle or arranged in some other similar manner so as to front on to an open space.	500 ft.	14 ft.	10 ft.	—		Ditto
G. Applicable only to streets intended for use as a secondary means of access to premises for the purpose of the removal of house refuse and other matters.		10 ft. (if intended for use as a carriageway). 4 ft. 6 in. (if not so intended).	—	—		Ditto
H Applicable only to streets not intended for use as carriageways.		4 ft. 6 in.	—	—	—	Ditto

[NOTE.—The dimensions in this Table are generally recommended, but suggested modifications will be considered
The types of through traffic streets adopted will no doubt depend to some extent on standards already in force in th
type of through traffic street of a width appreciably in excess of 36 feet it is recommended that additional types of street o
require a street of the greater width.

The dimensions of the types of streets in Part II. (except Types G and H) have been based on the assumption of
the prescribed limits, and could be tightened or relaxed to meet variations in density or in the character of the locality].

8	9	10	11	12
Ditto	The street shall communicate at each end with a street of Type A or B, or at one end with a a street of either of such types and at the other end with a street of Type F, or a highway having a carriageway existing at the date of the approval of this scheme, but where the street communicates at one end with a street of Type F its length together with the length of the street of Type F shall not exceed 750 feet.	Ditto	Ditto	
Ditto	The street shall communicate at one end with a street of Type A or B or with a highway having a carriage way existing at the date of the approval of this scheme, and shall communicate with no other street. other than a street not intended for use as a carriageway.	A turning space of the dimensions specified above shall be constructed at the other end of the street.	Ditto	
Ditto	The street shall communicate at one end with a street of Type A, B or C or with a highway having a carriageway existing at the date of the approval of this scheme, and shall communicate with no other street, other than a street not intended for use as a carriageway.	Ditto	Ditto	
The surface of the carriageway shall be so constructed as to fall to a channel at one side of the carriageway, such fall being calculated at a minimum rate of one-quarter of an inch for every foot of the width of the carriageway. Any portion of the surface of the street not constructed as carriageway or footway shall be planted with grass, trees or shrubs or treated in some other suitable manner to the reasonable satisfaction of the council.	The street shall communicate at each end with a street of Type A, B or C or with a highway having a carriageway existing at the date of the approval of this scheme, and shall communicate with no other street, other than a street not intended for use as a carriageway.	—	Ditto All the buildings to which the street gives access shall be on the same side of the street.	
—	—	—	Proper and sufficient provision shall be made for carrying off the surface water from the street.	
—	—	—	The street shall not without the consent of the council be used as a principal means of approach to any buildings.	

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or proposals for additional or alternative types of streets.
particular area, but this should not preclude any desirable revision, and where the existing standard provides for a single
reduced width should be adopted for application where the traffic is not likely to be of such a character and volume as to

development of twelve to the acre in a normal residential neighbourhood. The dimensions admit of adjustment within

FIFTH SCHEDULE.

(Clause 63.)

FORM A.

CHARGING ORDER.

The ____________________ being the responsible authority under the ____________________ Town Planning Scheme, 19—, made under the Town Planning Act, 1925, do by this order under their common seal charge the lands and premises mentioned in the schedule hereto with the payment to __________ of __________ of the sum of __________ pounds payable yearly (half yearly) on the ________ day of ________ for the term of ________ years, and being in consideration of a payment of ________ pounds made by ________________ under section 10 (3) of the said Act.

Schedule of Lands Charged.

Name, &c., of of lands. 1.	Owner. 2.	Occupier. 3.	Parish. 4.	County. 5.	Total acreage. 6.

FORM B.

Form of Assignment of Charge. To be endorsed on Charging Order.

Dated the ________________ day of ________________.

I, the within-named ____________________ in pursuance of the Town Planning Act, 1925, and of the consideration of __________ pounds, this day paid to me, hereby assign to ______________ the within-mentioned charge.

Signed ____________________

TRAMWAYS.

BOARD OF TRADE (*a*) RULES WITH RESPECT TO PROVISIONAL ORDERS AND OTHER MATTERS UNDER THE TRAMWAYS ACT, 1870.

* * * * * *

NOTES.

(1) *All memorials, objections, and other documents should be on paper of foolscap size.*

(2) *Promoters who desire to be incorporated must register themselves under the Companies Act*, 1862.

RULES OF THE BOARD OF TRADE.

Approval of application made by local authorities.

RULE I. When the application is made by any local authority, the evidence of approval required as above by Schedule A. (Part III.) of the Act must be given at the time fixed for proving compliance with the Act and these Rules, by (*a*) a certified copy of the resolution approving of the intention to make the application, (*b*) a certified copy of the notice convening the special meeting to consider the application, and (*c*) a certified statement of the number of members constituting the local authority, and of the number present and voting at such special meeting.

Consent to applications not made by local authorities.

RULE II. Where an application is made by promoters, not being the local authority of the district in which the tramway is proposed to be laid, evidence of the consent required by Part I., section 4 of the Act, must be given at the time

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(*a*) The functions of the Board of Trade under the Tramways Acts are now vested in the Ministry of Transport.

fixed for proving compliance with the Act and these Rules, by (*a*) a certified copy of the resolution passed at a meeting of the local or road authority, as the case may be, at which the application was approved, (*b*) a copy of the notice convening the meeting, which notice must contain a statement that the subject of the proposed tramway will be brought before the meeting.

Similar evidence of the consent of the local and road authorities must be produced in cases in which the promoters seek to use steam or other mechanical power on any tramway or tramways already authorised.

Description of tramways in advertisement.

RULE III. The tramways mentioned in the advertisement of the intended application should be described in the manner prescribed in Rule XVI., but the length need not be inserted.

Advertisement as to narrow places.

RULE IV. The advertisement must specify at what point or points, and on which side of the street or road, it is proposed to lay such tramway, so that for a distance of thirty feet or upwards a less space than nine feet six inches, or if it is intended to run thereon carriages or trucks adapted for use upon railways, a less space than ten feet six inches shall intervene between the outside of the footpath on the side of the street or road and the nearest rail of the tramway. The notice shall also specify the gauge to be adopted, and what power it is intended to employ for moving carriages or trucks upon the tramway.

Street notice.

RULE V. In the months of October and November, or one of them, immediately preceding the application for any Provisional Order, a notice thereof shall be posted for fourteen consecutive days in every street or road, along which it is proposed to lay the tramway in such manner as the authority having the control of such street or road shall direct; and if after application to such authority no such direction shall be given, then in some conspicuous position in such street or road; and such notice shall also state the place or places at which the plans of such tramway will be deposited.

Notice to owners and lessees of railways, tramways and canals.

RULE VI. On or before the 15th day of December immediately preceding the application for any Provisional Order for laying down a tramway crossing any railway or tramway on the level, or crossing any railway, tramway, or canal by means of a bridge, or otherwise affecting or interfering with such railway, tramway, or canal, notice in writing of such application shall be served upon the owner or reputed owner and upon the lessee or reputed lessee of such railway, tramway or canal, and such notice shall state the place or places at which the plans of the tramway to be authorised by such Provisional Order have been or will be deposited.

Similar notice must also be given to county councils and to proprietors of navigable rivers in respect of their bridges or other works which are proposed to be crossed or otherwise interfered with.

Every notice under this Rule must be accompanied by a copy of Rule XVII., omitting the first paragraph, and must state where copies of the draft Provisional Order, when deposited at the Board of Trade, can be obtained.

Notice to local and road authorities.

RULE VII. When the promoters make application for an extension of time for the construction of, or for authority to abandon, any tramway, they must on or before the 15th day of December, serve notice of such application upon all the local and road authorities affected.

Intimation to intending objectors.

RULE VIII. The preceding advertisement and notices, other than the street notice, must state that every company, corporation, or person desirous of making any representation to the Board of Trade, or of bringing before them any objection respecting the application, may do so by letter, addressed to the assistant secretary of the Railway Department of the Board of Trade, *on or before the* 15*th January* next ensuing; that copies of their objections must at the same time be sent to the promoters; and that in forwarding to the Board of Trade such objections the objectors or their agents should state that a copy of the same has been sent to the promoters or their agents.

Notice to frontagers.

RULE IX. On or before the 15th day of December immediately preceding the application for a Provisional Order, notice in writing must be given to the owners or reputed owners, lessees or reputed lessees, and occupiers of all houses, shops, or warehouses abutting upon any part of any street or road where, for a distance of thirty feet or upwards, it is proposed that a less space than nine feet six inches

Appendix II.

shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway.

This notice should be given in respect of such premises on both sides of the road, and must contain a notification that if such owner, lessee, or occupier dissents from the tramway being so laid, he may express his dissent by a statement in writing, addressed to the assistant secretary of the Railway Department of the Board of Trade, *on or before the* 1*st January* next ensuing, and that he must at the same time send a copy of his dissent to the promoters.

Map and diagram.

RULE X. A published map of the district on a scale of not less than six inches to a mile (or, if no map on such a scale be published, then the best map obtainable), with the line of the proposed tramway marked thereon, and a diagram on a scale of not less than two inches to the mile prepared in accordance with the specimen appended to these rules, must also be deposited on or before the 30th of November.

Requirements as to plans.

RULE XI. The plans to be deposited must also comply with the following requirements:—

The plans shall indicate whether it is proposed to lay the tramway along the centre of any street or road, and if not along the centre, then on which side of, and at what distance from, an imaginary line drawn along the centre of such street or road, and whether or not, and if so, at what point or points, it is proposed to lay such tramway, or that for a distance of thirty feet or upwards a less space than nine feet six inches, or if it is intended to run thereon carriages or trucks adapted for use upon railways, a less space than ten feet six inches, shall intervene between the outside of the footpath on either side of the street or road and the nearest rail of the tramway.

All lengths shall be stated on the plan and section in miles, furlongs, chains, and decimals of a chain.

The distance in miles and furlongs from one of the termini of each tramway shall be marked on the plan and section.

Each double portion of tramway, whether a passing-place or otherwise, shall be indicated by a double line.

The total length of the street or road upon which each tramway is to be laid shall be stated (*i.e.*, the length of route of each tramway).

The length of each double and single portion of such tramway, and the total length of such double and single portions respectively, shall also be stated.

In the case of double lines (including passing-places), the distance between the centre lines of each line of tramway shall be marked on the plans. This distance must in all cases be sufficient to leave at least 15 inches between the sides of the widest carriage and engines to be used on the tramways when passing one another.

The gradients of the street or road on which each tramway is to be laid shall be marked on the section.

Every crossing of a railway, tramway, river, or canal shall be shown, specifying in the case of railways and tramways whether they are crossed over, under, or on the level.

All tidal waters shall be coloured blue.

All places, where for a distance of 30 feet and upwards there will be a less space than nine feet six inches between the outside of the footpath on either side of the street or road and the nearest rail of the tramway, shall be indicated by a thick dotted line on the plans on the side or sides of the line of tramway where such narrow places occur, as well as noted on the plans, and the width of the street or road at these places shall also be marked on the plans.

NOTE.—The section of each tramway should, where practicable, be shown on the same page as the plan.

Plans in certain cases to be in duplicate.

RULE XII. The plans to be deposited with the clerk of the peace or sheriff clerk (as the case may be) must be in duplicate. (See Standing Order of the House of Lords and of the House of Commons.)

Portions only of plans

RULE XIII. In cases where the proposed works are intended to be made in or through one or more parishes or districts, the deposit with the parish clerks or local authorities need consist only of a copy of so much of the plans and sections as relates to their respective parishes or districts.

required in certain cases. Plans, etc., to be deposited in Parliament.

RULE XIV. The following Standing Orders must also be complied with (a):

STANDING ORDER OF THE HOUSE OF LORDS.

"Whenever plans, sections, books of reference, or maps are deposited in the case of an application to any public department or county council for a Provisional Order or certificate, duplicates of the said documents shall at the same time be deposited in the Office of the Clerk of the Parliaments, provided that with regard to such deposits as are so made at any public department or with any county council after the prorogation of Parliament and before the thirtieth day of November in any year, such duplicates shall be so deposited on or before the thirtieth day of November."

STANDING ORDER OF THE HOUSE OF COMMONS.

"Whenever plans, sections, books of reference, or maps are deposited in the case of an application to any public department or county council for a Provisional Order or Provisional Certificate, duplicates of the said documents shall at the same time be deposited in the Private Bill Office, provided that with regard to such deposits as are so made at any public department or with any county council after the prorogation of Parliament, and before the thirtieth day of November in any year, such duplicates shall be so deposited on the thirtieth day of November."

RULE XV. The following documents, etc., must also be deposited at the Board of Trade on or before the 23rd December, viz. :—

List of railways, tramways, and canals, and copy of the notice.

(1) A complete list of every railway, tramway, and canal proposed to be crossed or otherwise affected or interfered with, together with the names and addresses of the owners or reputed owners, and of the lessees or reputed lessees thereof, and a certified copy of the notice served upon them.

Lists of local and road authorities and copy of notice.

(2) A complete list of the local and of the road authorities through whose districts the proposed tramway is to pass (including in such list the clerk to the county council in cases where it is proposed to cross county bridges), and if any such district is or forms part of a highway district, under the provisions of the Highway Acts, a statement to that effect must accompany the deposit. Also a separate list of the local and road authorities affected by any application relating to the use of steam or other mechanical power on authorised tramways, or to an extension of time or abandonment; together with a copy of any notice served under Rule VII.

Copy of street notice.

(3) A certified copy of the notice which is required by Rule V. to be posted in the streets in October or November next before the application.

List of frontagers and copy of notice.

(4) In all cases where for a distance of 30 feet or upwards it is proposed that a less space than nine feet six inches shall intervene between the outside of the footpath on either side of the road and the nearest rail of the tramway, or a less space than ten feet six inches if it is intended to run on the tramway carriages or trucks adapted for use upon railways, a complete list of the owners or reputed owners, lessees or reputed lessees, and occupiers of all houses, shops, or warehouses abutting upon any part of the highway, where such less space is proposed, together with a certified copy of the notice which was served on them on or before the 15th December, as required by Rule IX. (The list should be so prepared as to show distinctly and separately every length of street or road where for a distanee of 30 feet or upwards such less space is proposed, and in respect of every such length of street or road it should indicate in parallel columns the name of the street, the name or number of the house, shop, or warehouse, and the names of the owner or reputed owner, the lessee or reputed lessee, and of the occupier.)

Description of land.

(5) A description of the land (if any) which the promoters propose to purchase for the construction of the tramway. (The contracts for the purchase of all the lands required must be produced at the time of proving compliance with the Act and these Rules.)

Memorandum of association, etc.

(6) A list of every Provisional Order or Act of Parliament (if any) of the promoters; and where the promoters are a company incorporated under the Companies Act,

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(a) These standing orders refer to *amended* as well as to original plans.

1862, a printed copy of the memorandum of association, articles of association, and any registered special resolution of the company, and in the case of a company incorporated in any other manner, a copy of every deed or instrument of settlement or incorporation.

Fee.

(7) A fee of £35, by cheque payable to "An Assistant Secretary of the Board of Trade." (This fee will not necessarily be taken to cover the cost of inquiries or other matters arising out of the application. With respect to costs in such matters, security must be given from time to time by the promoters as the Board of Trade may require.)

DRAFT PROVISIONAL ORDER.

Form of draft Provisional Order.

RULE XVI. The following rules must be observed in regard to the draft Provisional Order :—

(1) The draft Provisional Order must be deposited in triplicate and be printed on *one side only of the page*, so as to leave the back of the page blank, and any schedule annexed must begin a new page.

(2) The draft Provisional Order must describe where each tramway is to commence and terminate, and must state the streets and roads along which it is to pass, and the total length of the double and single portions respectively of such tramway in miles, furlongs, chains, and decimals of a chain.

(3) Each double and single portion of such tramway, with its commencement and termination, must also be described. (This can be done by stating that each line or branch line will be double or single throughout, except at certain specified places where it will be single or double.)

(4) Every passing-place must be described as a double line in accordance with the Standing Order of the House of Lords, which provides that "*two lines of tramway running side by side shall be described as a double line.*"

(5) In cases where the promoters are individuals their addresses as well as names should be inserted in the draft Order.

(6) The names and addresses of the agents for the Provisional Order must be printed on the outside of the draft Order, and there must be a notice at the end of it stating that objections are to be addressed to the Assistant Secretary of the Railway Department of the Board of Trade on or before the 15th January next ensuing, that copies of objections must at the same time be sent to the promoters, and that in forwarding to the Board of Trade such objections, the objectors or their agents should state that a copy of the same has been sent to the promoters or their agents.

PROOFS OF COMPLIANCE WITH THE ACT AND RULES.

Proofs of compliance with Act and Rules.

RULE XVII. The agents should be prepared to prove compliance with the provisions of the Act and these rules by the *15th January, and all such proofs must be completed on or before the 22nd February.* Six days' notice will be given of the day and hour at which the agents are to attend for the purpose at the Board of Trade, and printed forms of proof will accompany the notice. These forms should be filled up by the agents, and brought with the requisite documents to the department at the time fixed for proving compliance.

If any local or road authority, or any railway, tramway, or canal company, or any other company, body, or person desire to have any clauses or other amendments inserted in the Order, they must deliver the same to the agents for the Order, and also to the Board of Trade, not later than the *8th February.*

On or before the 22nd February the agents must deposit at the Board of Trade a filled up draft printed Order (in duplicate) containing in manuscript all such clauses or other amendments as have been agreed upon.

If any of the clauses or other amendments which have been delivered to the agents are not settled with the consent of both parties the agents must, so far as they can, on or before the 22nd February, show what are the amendments, if any, which each party would be willing to accept.

After the 22nd February no further proposals for clauses will be entertained by the Board of Trade.

Deposit of amended plan and section.

RULE XVIII. Should any alteration of the plan and section originally deposited for the purposes of the Order be made, with the approval of the Board of Trade, before the Order is granted, a copy of such plan and section (or of so much thereof as may be necessary), showing such alteration, must, before the Order is introduced into a Confirmation Bill, be deposited by the promoters for public inspection:—

In England, in the office of the clerk of the peace for every county, riding, or division, and of the parish clerk of every parish, and the office of the local authority of every district, affected by such alteration; and

In Scotland, in the office of the principal sheriff clerk, for every county district, or division affected by such alteration.

Copies of such documents are at the same time to be deposited at the office of the Board of Trade in the Office of the Clerk of the Parliaments and at the Private Bill Office.

Proofs of deposit and advertisement of Order as made.

RULE XIX. When a Provisional Order has been made, and before it is introduced into the Confirmation Bill, the promoters will be required to submit to the Board of Trade the following proofs, viz.:—

(1) The receipt of the clerk of the peace or sheriff clerk, or proof by affidavit of the deposit of the Order with such officer as required by Part IV. of Schedule B to the Act.

(2) A copy of the local newspaper containing the advertisement of the Order. This advertisement must have a short heading stating that the Order has been made by the Board of Trade under the Tramways Act, 1870, previous to its being introduced into a Confirmation Bill, and must also state the name of the office where printed copies of the Order can be obtained.

(3) Proof must also be given that the advertisement Order is a correct copy of the Order delivered by the Board of Trade to be advertised, that it was inserted in the newspaper in which the original advertisement of the application for the Order was published, and that a sufficient number of printed copies of the Order were deposited for sale at the office named in the original advertisement, with a statement of the price for which they may be obtained.

(4) Receipts or proofs by affidavit of the deposit of amended plans as required by Rule XVIII.

Printed forms for these proofs will be furnished by the Board of Trade when the Order is sent to the promoters to be advertised, and one of these forms must be filled by the promoters, and brought or forwarded to the department *as soon as possible* after the advertisement and deposit have been made.

DEPOSIT OF MONEY, PENALTY FOR NON-COMPLETION OF TRAMWAYS, AND RELEASE OF DEPOSIT.

Deposit of money in the Chancery Division under section 12 of Act.

RULE XX. After the Provisional Order is ready, and before the same is introduced by the Board of Trade into a Confirming Bill, the *promoters* (unless they are a local authority) shall, if they are not possessed of a tramway already open for public traffic, which has during the year last past paid dividends on their ordinary share capital, pay as a deposit a sum of money not less than five per centum on the amount of the estimate of the expense of the construction of the tramway, as follows; namely,

Where the tramway or any part thereof will be situate in England,—to the account of the Paymaster General for and on behalf of the Supreme Court of Judicature in England to the credit of the particular tramway:

Where the tramway will be situate wholly in Scotland,—either to the account of the Paymaster General for and on behalf of the Supreme Court of Judicature in England in manner aforesaid, or (at the option of the promoters) into a bank in Scotland established by Act of Parliament or Royal Charter, in the name and with the privity of the Queen's Remembrancer of the Court of Exchequer in Scotland *ex parte* the particular tramway.

The Board of Trade may issue their warrant to the promoters for such payment into court, which warrant shall be a sufficient authority for the *persons* therein named, not exceeding five in number, or the majority or survivors of them, to pay the money therein mentioned to the account of the Paymaster General for and on behalf of the Supreme Court of Judicature in England or into the bank therein mentioned, in the name and with the privity of the officer therein mentioned, if any, and for that officer to issue directions to such bank to receive the same, to be placed to his account there according to the method (prescribed by statute, or general rules or orders of court or otherwise), for the time being in force respecting the payment of money into the said courts respectively, and without fee or reward.

Provided, that in lieu, wholly or in part, of the payment of money, the promoters may bring into court as a deposit an equivalent sum of bank annuities, or of any stocks, funds, or securities on which cash under the control of the respective courts is for the time being permitted to be invested, or of exchequer bills (the value thereof being taken at the price at which the promoters originally purchased the same, as appearing by the broker's certificate of the purchase ; and in that case the Board of Trade shall vary their warrant accordingly by directing the transfer or deposit of such amount of stocks, funds, securities, or exchequer bills by the persons therein named.

Where money is so paid into the Supreme Court of Judicature. the Court may, on the application of the persons named in the warrant of the Board of Trade, or of the majority or survivors of them, order that the same be invested in such stocks, funds, or securities as the applicants desire and the Court thinks fit.

In the subsequent provisions of these rules, the term "the deposit fund" means the money deposited, or the stocks, funds, or securities in which the same is invested, or the bank annuities, stocks, funds, securities, or exchequer bills transferred or deposited, as the case may be ; and the term "the depositors" means the persons named in the warrant of the Board of Trade authorising the deposit, or the majority or survivors of those persons, their executors, administrators, or assigns.

Penalty for non-completion of tramways.

RULE XXI. If the promoters empowered by the Order to make the tramway are possessed of a tramway already opened for public traffic, and which has during the year last past paid dividends on their ordinary share capital, no deposit will be required ; but if such promoters (unless they are a local authority) do not, within the time in the Order prescribed, or within the time as prolonged by the special direction of the Board of Trade under section 18 of the Tramways Act, 1870, and if none is prescribed, or if the time has not been prolonged as aforesaid, then within two years from the passing of the Act confirming the Order, complete the tramway authorised by the Order, they will be liable to a penalty of £50 a day for every day after the expiration of the period so limited, until the said tramway is completed and opened for public traffic, or until the sum received in respect of such penalty shall amount to five per cent. on the estimated cost of the works ; and the said penalty may be applied for by any road authority claiming to be compensated in accordance with the provisions of Rule XXII., and in the same manner as the penalty provided in the third section of the Act 17 & 18 Vict. c. 31, known as the Railway and Canal Traffic Act, 1854, and every sum of money recovered by way of such penalty as aforesaid shall be paid under the warrant or order of such court or judge as is specified in the said third section of the Act 17 & 18 Vict. c. 31, to an account opened or to be opened in the name and with the privity of the Paymaster General for and on behalf of the Supreme Court of Judicature in England [the Queen's Remembrancer of the Court of Exchequer in Scotland (according as the tramway is situate in England or Scotland)], in the bank named in such Order, and shall not be paid thereout, except as provided by Rule XXII., but no penalty will accrue in respect of any time during which it shall appear, by a certificate to be obtained from the Board of Trade, that the promoters were prevented from completing or opening such tramway by unforeseen accident or circumstances beyond their control ; Provided, that the want of sufficient funds will not be held to be a circumstance beyond their control.

Application of deposit.

RULE XXII. If the promoters empowered by the Order to make the tramway do not within the time within the Order prescribed, or within the time as prolonged by the special direction of the Board of Trade under section 18 of the Tramways Act, 1870, and if none is prescribed, or if the time has not been prolonged as aforesaid, then within two years from the passing of the Act confirming the Order, complete the tramway, and open it for public traffic, then and in every such case the deposit fund, or so much thereof as shall not have been repaid to the depositors (or any sum of money recovered by way of such penalty as aforesaid), shall be applicable, and after due notice in the London or Edinburgh Gazette, as the case may require, shall be applied towards compensating all road authorities for the expense incurred by them in taking up any tramway or materials connected therewith placed by the promoters in or on any road vested in or maintainable by such road authorities respectively, and in making good all damage caused to such roads by the construction or abandonment of such tramway, and for which expense or damage no compensation or inadequate compensation shall have been paid, and shall be distributed in satisfaction of such compensation in such manner and in such proportions as to the Supreme Court of Judicature in England or Court of Exchequer in Scotland, as the case may be, may seem fit; and if no such compensation shall be payable, or if a portion of the said deposit fund (or of the sum or sums of money recovered by way of penalty aforesaid) shall have been found sufficient to satisfy all just claims in respect of such compensation. then the said deposit fund (or the sum or sums of money recovered by way of penalty aforesaid), or such portion of it as may not be required as aforesaid shall in the discretion of the Court if the promoters are a company and a receiver has been appointed, or if such company is insolvent and has been ordered to be wound up be paid or transferred to such receiver, or to the liquidator or liquidators of the company, or be applied in the discretion of the Court as part of the assets of the company, for the benefit of the creditors thereof. Subject to such application as aforesaid, the deposit fund may be repaid or retransferred to the depositors or as they shall direct.

Release of deposit.

RULE XXIII. The Court in which the deposit is made shall, on the application of the depositors, order the deposit fund to be paid or transferred to the applicants, or as they shall direct, if, within the time by the Order prescribed, or within the time prolonged by the special direction of the Board of Trade under section 18 of the Tramways Act, 1870, and if none is prescribed, or if the time has not been prolonged as aforesaid, then within two years from the passing of the Act confirming the Order, the promoters thereby empowered to make the tramway, complete it, and open it for public traffic after inspection by an inspector appointed by the Board of Trade, and upon a certificate of the Board of Trade that the tramway is fit for public traffic as provided by Rule XXV.; Provided, that if within such time as aforesaid any portion of a line of tramway authorised by an Order is opened for public traffic, after such inspection as aforesaid, and on such certificate under Rule XXV. as aforesaid, then on the production of a certificate of the Board of Trade, specifying the length of the portion of the tramway opened as aforesaid, and the portion of the deposit fund which bears to the whole of the deposit fund proportion as the length of the tramway so opened bears to the entire length of the tramway authorised by the Order the court in which the deposit is made shall, on the application of the depositors, order the said portion of the deposit fund so specified in such certificate as aforesaid to be paid or transferred to them, or as they shall direct.

Miscellaneous as to deposits.

RULE XXIV. The depositors shall be entitled to receive payment of any interest or dividends from time to time accruing on the deposit fund while in court; and the court in which the deposit is made may from time to time, on the application of the depositors, make such Order as seems fit respecting the payment of the interests or dividends accordingly

If either House of Parliament refuse to confirm any Provisional Order in respect whereof a deposit has been made under these rules, or authorise a portion only of any tramway comprised in such Order, or if any such Provisional Order be withdrawn before the same is confirmed by Parliament the Court shall, upon production of a certificate of the Board of Trade, order the deposit fund or a proportionate part thereof, as the case may be, to be paid to the depositors, or as they shall direct.

The issuing in any case of any warrant or certificate relating to deposit or to the deposit fund, or any error in any such warrant or certificate or in relation thereto, shall not make the Board of Trade, or the person signing the warrant or certificate on their behalf, in any manner liable for or in respect of the deposit fund, or the interest of or dividends on the same, or any part thereof respectively.

Any application under these rules to the Supreme Court of Judicature shall be made in a summary manner by summons at chambers.

OPENING OF TRAMWAYS.

Opening of tramways.

RULE XXV. The promoters shall give to the Board of Trade at least 14 days' notice in writing of their intention to open any tramway, or portion of a tramway, and such tramway or portion of tramway shall not be opened for public traffic until an inspector appointed by the Board of Trade has inspected the same, and the Board of Trade has certified that it is fit for such traffic. The above-mentioned notice should be accompanied by the following documents, viz. :—

(1) A copy of the Act or Provisional Order authorising the construction of the tramways.

(2) A copy or tracing of so much of the deposited plans and sections as relates to the portion of tramway proposed to be opened, distinguished between double and single line, and showing in red ink any variations therefrom in the tramways as constructed.

(3) A list of the local and road authorities concerned.

(4) A diagram of the lines submitted for inspection, on a scale of about two inches to a mile.

PROLONGATION OF TIME FOR THE COMMENCEMENT OR COMPLETION OF WORKS.

Prolongation of time for commencement or completion of works.

The Board of Trade, under the powers conferred upon them by section 18 of the Tramways Act, 1870, have made the following rules with respect to applications for a prolongation of time for the commencement or the completion of the works authorised by any Order made under the above-named Act :—

1. The application should be in the form of a memorial setting forth the grounds on which the application is made, and must be made *at least one month before* the expiration of the time prescribed for the commencement or the completion of the works, as the case may be.

2. The promoters of any tramway undertaking authorised by any Order, who intend to apply to the Board of Trade for a prolongation of the time limited for the commencement or the completion of the works authorised by such Order, shall publish by advertisement, once at least in each of two successive weeks, in some one and the same newspaper published in the district affected by such Order a notice of their intention to apply to the Board of Trade for a prolongation of time.

3. The notice must state the period to which it is proposed to prolong the time limited for the commencement or the completion of the works, as the case may be, and must contain a notification that all persons desirous of making any representation to the Board of Trade, or of bringing before them any objection respecting the application, may do so by letter addressed to the Assistant Secretary (Railway Department) Board of Trade, on or before a day to be named in the advertisement, being not less than 21 days from the date of the first publication of the advertisement, and that copies of their representations or objections should at the same time be sent to the promoters.

4. A similar notice must be delivered to every local and road authority *before* the second publication of the notice. Copies of newspapers containing the notice, and a statement that a copy of it has been duly served on the local and road authorities as required by these rules, must be sent to the Board of Trade with the application.

5. Before the Board of Trade comply with the application, they will impose such conditions (if any) as they think fit.

COURTENAY BOYLE.

Board of Trade (Railway Department),
January, 1892.

WATER SUPPLY.

See also "GAS WORKS," *ante*, p. 3341.

AT THE COURT AT BUCKINGHAM PALACE, THE 9TH DAY OF NOVEMBER, 1920.

PRESENT,

The King's Most Excellent Majesty in Council.

WHEREAS by subsections (2) and (4) of section 3 of the Ministry of Health Act, 1919, it is provided that His Majesty may from time to time by Order in Council transfer to the Minister of Health any of the powers and duties in England and Wales of any Government Department which appear to His Majesty to relate to matters affecting or incidental to the health of the people, and may make such incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to any transfer of powers or duties by or under that section and may make such adaptations in the enactments relating to such powers or duties as may be necessary to make exercisable by the Minister of Health and his officers the powers and duties so transferred:

And whereas the Board of Trade exercise and perform certain powers and duties in relation to water undertakings which appear to His Majesty to relate to matters affecting or incidental to the health of the people,

Now, therefore, His Majesty, by and with the advice of His Privy Council, is pleased to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Ministry of Health (Transfer of Powers as to Water Undertakings) Order, 1920.
2. As from the 16th November, 1920, the powers and duties of the Board of Trade specified in the second column of the schedule to this Order shall be transferred to the Minister of Health, and in relation to the powers and duties so transferred the enactments mentioned in the first column to that schedule shall be construed as if reference to the Minister of Health were substituted for reterence to the Board of Trade.

ALMERIC FITZROY.

SCHEDULE.

Enactment.	Powers and duties transferred.
Gas and Water Works Facilities Act, 1870, and Gas and Water Works Facilities Act, 1870 (Amendment) Act, 1873.	All powers and duties in relation to water undertakings in England and Wales.

S. R. & O., 1921, No. 1563.

THE WATER UNDERTAKINGS (MODIFICATION OF CHARGES) RULES, 1921, DATED OCTOBER 7TH, 1921, MADE BY THE MINISTER OF HEALTH UNDER SECTION 2 (3) OF THE WATER UNDERTAKINGS (MODIFICATION OF CHARGES) ACT, 1921.

The Minister of Health, in pursuance of the powers conferred on him by sub-section (3) of section 2 of the Water Undertakings (Modification of Charges) Act, 1921, and of all other powers enabling him in that behalf, hereby makes the following rules:—

1.—(1) These rules may be cited as the Water Undertakings (Modification of Charges) Rules, 1921.

(2) In these Rules, unless the context otherwise requires:—

"The Act" means the Water Undertakings (Modification of Charges) Act, 1921;
"The Minister" means the Minister of Health;
"Prescribed" means prescribed by these Rules.

(3) The Interpretation Act, 1889, applies to the interpretation of these rules as it applies to the interpretation of an Act of Parliament.

2. An application to the Minister for an Order under the Act shall be addressed to the Secretary, Ministry of Health, Whitehall, London, S.W.1, and shall specify the provisions which it is desired that the Minister should include in the Order.

3. The application shall be accompanied by the prescribed fee and by the following documents:—

(1) In the case of an application made under paragraph (*a*) of sub-section (1) of section 1 of the Act—

(i) A statement of the grounds on which the application is made, including such comparative statements of cost under different headings and of other matters as may be necessary or desirable in connection with the application.

(ii) A tabulated statement of the accounts and balances of the several financial years commencing with the year which includes the 4th August, 1912, to the date of the application in the form specified in the First or Second Schedule hereto (as the case may require) with such additional entries as may appear desirable in any particular case, together with estimated figures in respect of the year in which the application is made and of the first full year in which the proposed charges are to operate.

(iii) A copy of the published accounts for each of those years.

(iv) A statement of the charges made in each of those years for the various kinds of supply and the dates and particulars of any increases of such charges.

(v) A statement of the capital commitments, definite and prospective, of future years for such period as it may be desirable or possible to estimate the same, together with an estimate of the variations in loan service charges during those years.

(vi) A statement showing how it is estimated that the revenue account will work out during a similar term of years.

(vii) A list of all Acts and Orders relating to the undertaking and a reference to the provisions thereof regulating the charges and application of revenue.

(viii) One copy of each of such of the last-mentioned Acts and Orders as regulate the charges and application of revenue of the undertaking, or, if a copy of any such Act or Order is not available, a certified extract comprising the relevant provisions thereof.

(2) In the case of an application made under paragraph (*b*) of sub-section (1) of section 1 of the Act—

(i) The documents specified under (i), (iii), (vii) and (viii) of the preceding paragraph of this rule.

(ii) A copy of the award or agreement which it is desired to modify

(iii) A statement of the charges made under the award or agreement in each year since 1st April, 1912, to the date of the application, and the revenue thereby produced.

(iv) A statement showing the cost for each year of supply by measure *per* 1,000 gallons, and the cost of any fittings, materials, or service in connection with such supply.

(v) A statement of the losses in each year arising from the award or agreement.

(vi) A statement of the estimated income for the first year on the proposed revised charges and the estimated consumption of water.

(3) In the case of an application made under sub-section (2) of section 1 of the Act by water undertakers—

The documents specified in paragraph (1) of this article with such modifications in respect of dates as are necessary in the circumstances of the case.

(4) In the case of an application made under sub-section (2) of section 1 of the Act by a local authority not being the water undertakers or by twenty consumers—

(i) A statement of the grounds on which the application is made.

(ii) Such of the documents required in the case of applications by water undertakers as the applicants may be in a position to furnish.

4.—(1) The applicants for an Order shall as soon as may be after transmitting the application to the Minister serve a notice thereof in the form specified in the Third Schedule hereto, or in a form substantially to the like effect—

(*a*) Upon every local authority the whole or any part of whose area is within the limits of supply;

(*b*) If the applicants are not themselves the water undertakers, upon the water undertakers;

(*c*) Upon all parties to any award or agreement which it is desired to modify;

and shall publish the notice once in each of two successive weeks in some local newspaper or newspapers circulating throughout the limits of supply and once in the *London Gazette*.

(2) From and after the date of the application until the determination thereof the applicants shall keep deposited at their offices or at some other place approved by the Minister copies of the application and of all documents submitted to the Minister in connection therewith, and shall allow the same to be inspected and copied by any persons interested and shall supply copies thereof in accordance with the terms of the prescribed notice.

5.—(1) As soon as may be after the latest date fixed by the notice for the making of representations and objections the applicants shall transmit to the Minister—

(i) A copy of each newspaper containing an advertisement of the notice.

(ii) A certificate that the requirements of paragraph (1) of rule 4 have been complied with endorsed with a list of the recipients, giving in each case the date and mode of service.

(iii) A list of all representations and objections received by the applicants, together with their observations upon each, and a certificate that paragraph (2) of this rule has been complied with.

(2) Before the date on which the documents mentioned in the preceding paragraph of this rule are transmitted to the Minister the applicants shall transmit by registered post to each person from whom a representation or objection has been received a copy of their observations thereon.

6.—(1) As soon as may be after the receipt of the documents specified in the preceding rule, the Minister shall inquire of each person who has made an objection to the application whether, after considering the observations made in reply thereto by the applicants, he intends to maintain his objection, and shall inform him that if he does so intend he must within 14 days notify his intention to the Minister and at the same time transmit to the Minister the prescribed fee.

(2) If a person who has made an objection to the application does not, within the said period of 14 days, notify the Minister of his intention to maintain the objection and also transmit the prescribed fee, the objection shall at the expiration of that period be deemed to be withdrawn.

(3) A notice of objection given to the Minister under sub-section (2) of section 2 of the Act shall not be effectual for the purposes of that section unless accompanied by the prescribed fee.

7.—(1) The expenses incurred by the Minister in respect of inquiries or other proceedings under the Act or any part thereof shall, if the Minister so orders, be paid by the applicants or objectors in such manner or out of such funds as the Minister may direct, and the Minister may certify the amount of the expenses so incurred, and any sum so certified and directed by the Minister to be paid by any applicants or objectors shall be a debt from that applicant or person to the Crown.

(2) Such expenses may include the salary of any inspector or officer of the Minister engaged in the inquiry or proceeding, not exceeding three guineas a day.

(3) The Minister and his inspectors shall have for the purposes of any inquiry under the Act the same powers as they respectively have for the purpose of an inquiry under the Public Health Act, 1875.

8.—(1) The Minister may in the case of any application or objection require the applicant or the objector to furnish such further information or documents as the Minister may think fit.

(2) The Minister may, subject to the provisions of the Act, dispense with any of the requirements of these rules, either unconditionally or upon such conditions as he may think fit, if he is satisfied that there is reasonable cause for such dispensation and that no person will be prejudiced thereby.

9. The fees payable by persons making applications or objections under the Act shall be the fees specified in the fourth schedule to these rules: Provided that the Minister may, if in any case he thinks it proper to do so, refund the whole or any part of the fee paid by an objector.

Appendix II.

SCHEDULES.

FIRST, SECOND, AND THIRD SCHEDULES.

* * * * * *

FOURTH SCHEDULE.

(1) *Fees payable by applicants.*

(*a*) Where the applicants are the water undertakers and their water revenue for the preceding financial year exceeded—

£100,000	£50
£60,000	£35
£20,000	£20
In any other case	£10

(*b*) Where the applicants are not the water undertakers	£10

(2) *Fees payable by objectors.*

(*a*) For every objection made prior to the making of an Order and not withdrawn	£2
(*b*) For every objection made under section 2 (2) after the making of an Order and not withdrawn	£7

S. R. & O., 1926, No. 1184.

WATER, ENGLAND AND WALES.

SUPPLY UNDER GAS AND WATER WORKS FACILITIES ACTS.

THE WATER ORDERS PROCEDURE RULES, 1926, DATED 1ST OCTOBER, 1926, MADE BY THE MINISTER OF HEALTH UNDER THE GAS AND WATER WORKS FACILITIES ACTS.

Whereas by section 4 of the Gas and Water Works Facilities Act, 1870 (hereinafter referred to as "the Act of 1870") it is enacted that Provisional Orders authorising any gas undertaking or water undertaking under the authority of that Act may be obtained by any company, companies, or person, and by section 5 provision is made with regard to the procedure to be followed in making application for such Provisional Orders;

And whereas by section 14 of the Gas and Water Works Facilities Act, 1870, Amendment Act, 1873 (hereinafter referred to as "the Act of 1873") the Board of Trade were empowered from time to time to make and when made to rescind, annul, or add to rules with respect to the procedure to be had before the Board under the Act of 1870 or the Act of 1873 and matters connected therewith;

And whereas in the month of August, 1886, the Board of Trade made Rules with respect to Provisional Orders and other matters under the Acts of 1870 and 1873;

And whereas by the Ministry of Health (Transfer of Powers as to Water Undertakings) Order, 1920, made under section 3 of the Ministry of Health Act, 1919, by His Majesty in Council all the powers and duties of the Board of Trade under the Act of 1870 and the Act of 1873 in relation to water undertakings in England and Wales have been transferred to the Minister of Health, but the Board of Trade still retain the powers and duties vested in them by the said Acts with reference to gas undertakings:

Now, therefore, the Minister of Health, in pursuance of his powers in that behalf, hereby rescinds and annuls the aforesaid Rules made by the Board of Trade in so far as those Rules relate to water undertakings in England and Wales, and hereby makes the following Rules:—

Appendix II.

Preliminary.

1. These Rules may be cited as "the Water Orders Procedure Rules, 1926," and shall come into operation on the date hereof.

2.—(1) In these Rules, unless the context otherwise requires,—

(*a*) "The Minister" means the Minister of Health;

(*b*) "The district" means the district affected or proposed to be affected by the Order;

(*c*) Other expressions have the same meanings as the like expressions have in the Act of 1870.

(2) The Interpretation Act, 1889, applies to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Notice as to Objections to Intended Application.

3. The notice in writing required to be given by paragraph (1) of section 5 of the Act of 1870 and the notice by advertisement and notice in writing required to be given by paragraph (2) of that section, shall state that every person desirous of bringing before the Minister of Health any objection respecting the application for a Provisional Order may do so by letter addressed to the Secretary, Ministry of Health, Whitehall, London, S.W.1., on or before the 15th day of January next following the date of the said notice or advertisement, that a copy of such objection must at the same time be sent to the undertakers or their agent, and that in forwarding to the Minister such objection the objectors or their agents shall state that they have complied with this requirement.

Deposit of Plans and Sections.

4.—(1) On or before the 30th day of November of the year in which the notice referred to in Rule 3 hereof is given (hereinafter referred to as "the same year") the undertakers shall deposit at the offices of the Minister:—

(*a*) The documents required under Part II. of Schedule B to the Act of 1870 to be so deposited, and

(*b*) an ordnance map of the district on a scale of not less than one inch to the mile showing the area and, by distinctive colouring, the boundaries of the proposed or existing limits of supply, the sites of any proposed works and any proposed extension of the existing limits of supply.

(2) Plans and sections deposited under Part II. of Schedule B of the Act of 1870 or under paragraph (*a*) of sub-division (1) of this Rule shall be such plans and sections as would be required by the Standing Orders for the time being of the Houses of Parliament to be deposited in Parliament if the undertakers instead of applying for a Provisional Order were proceeding by a Private Bill.

(3) Plans and sections deposited with the Clerk of the Peace under Part II. of Schedule B of the Act of 1870 shall, subject to the Standing Orders for the time being of the Houses of Parliament, be deposited in duplicate.

Notice of Intention to make Application.

5. On or before the 15th day of December in the same year where the application is for a Provisional Order for constructing water works or works connected therewith whereby it is proposed to lay any pipes along or across any railway, tramway, canal, or navigable river, or over any county bridge, or otherwise to affect or interfere with such railway, tramway, canal, navigable river or county bridge, the undertakers shall serve notice in writing of the intention to make such application upon the owner or reputed owner and upon the lessee or reputed lessee of such railway, tramway or canal, and upon the county council with respect to such county bridge, and upon the conservators or other body having statutory powers of control in respect of the navigable river, and such notice shall state the place or places at which the plans of the works to be authorised by such order have been or will be deposited, and that any objections are required to be sent to the Minister within the time and in the manner hereinbefore specified. Every such notice must be accompanied by a copy of Rules 11 and 12 of these Rules, and must state where copies of the Draft Provisional Order, when deposited at the offices of the Minister, can be obtained.

Appendix II.

6.—(1) On or before the 23rd day of December in the same year the undertakers shall deposit at the offices of the Minister—

(*a*) The documents required under Part III. of Schedule B to the Act of 1870 to be so deposited.

(*b*) A complete list of every railway, tramway, canal, navigable river, and county bridge, along or across which it is proposed to lay any pipe, or which it is proposed otherwise to affect or interfere with, together with the names and addresses of the persons or bodies on whom notice is to be served in respect thereof under Rule 5.

(*c*) A list of the local and road authorities in whose districts the proposed works are situated, including the county council, where it is proposed to interfere with any [county road] (*a*) or any county bridge.

(*d*) A complete list of every company, corporation, or person supplying water within the district.

(*e*) A complete list of such owners or reputed owners, lessees or reputed lessees and occupiers of mills and manufactories or other works as are referred to in paragraph (2) of section 5 of the Act of 1870, together with a certified copy of the notice which has been served upon them in accordance with the provisions of the said paragraph.

(*f*) A statement of the existing capital (including loan capital) of the undertakers, showing the amounts respectively authorised, raised, and expended, and in the case of an application for powers to raise additional capital (including loan capital), a further statement setting forth, under separate heads, all the purposes for which the additional capital is required. The statements shall be furnished whether the undertakers have parliamentary powers or not.

(*g*) A copy of the printed accounts presented to the shareholders for the half-year or other period next preceding the date of the application.

(*h*) The deed of conveyance or lease to, or the contract for purchase by, the undertakers of all lands to be used for the purposes of the Order.

(*i*) A list of all Provisional and other Orders or Acts of Parliament (if any) of the undertakers together with one copy of each Order and Act; and where the undertakers are a company incorporated under the Companies Acts, a printed copy of the Memorandum of Association, Articles of Association, and any registered special resolution of the company; and in the case of a company incorporated in any other manner a copy of every instrument of incorporation.

(*j*) A fee of fifty pounds by cheque made payable to the Minister of Health: Provided that such further security, if any, shall be given by the undertakers as the Minister may from time to time require with respect to the costs of any inquiry or other matter arising out of the application.

(2) The draft of the Provisional Order deposited with the Minister shall be in triplicate.

(3)—(*a*) The draft of the Provisional Order and the printed copies thereof referred to in Part III. of Schedule B to the Act of 1870 shall be on foolscap paper and be printed on one side only of each sheet of paper, and any schedule thereto shall begin on a new page.

(*b*) Any land proposed to be acquired shall be scheduled to the draft Order.

(*c*) The names and addresses of the agent of the undertakers shall be printed on the outside of the draft Order, which shall contain a notice at the end of it stating that any objections are required to be sent to the Minister within the time and in the manner hereinbefore specified.

(4) A copy of the draft Order shall on the 23rd day of December aforesaid, or within seven days thereafter, be deposited with the Office of Works, the Commissioners of Crown Lands, the Home Office and the Postmaster-General and, where the draft Order affects the Duchy of Lancaster or the Duchy of Cornwall, at the Office of such Duchy.

(*a*) "County road" is substituted for "main road" in pursuance of s. 29 (1) L.G.A., 1929, *ante*, p. 1884.

Approval of Shareholders or Proprietors.

7.—(1) Where the undertakers are a company (*a*) applying for capital or borrowing powers, or (*b*) proposing to purchase or amalgamate with another undertaking or to enter into an agreement with another undertaking jointly to supply water, a certified copy of a resolution approving the application passed by shareholders or stockholders qualified to vote at ordinary meetings of the company who were present (either in person or by proxy) at a general meeting, and who held at least three-fourths of the paid-up capital of the company represented by the votes at such meeting, shall be furnsihed to the Minister before the application can be entertained. A certified copy of the notice convening the meeting must also be furnished.

(2) Where the undertakers propose to purchase, or to amalgamate with another undertaking, or to enter into an agreement with another undertaking jointly to supply water, proof must also be furnished that the purchase or amalgamation is approved by the proprietors of the other undertaking concerned.

Proof of Compliance with Statutory Requirements.

8.—(1) The undertakers shall prove compliance with the provisions of—

(i) Section 5 and Parts I., II. and III. of Schedule B of the Act of 1870; and
(ii) these Rules:

by statutory declaration made by the undertakers or their agent to be deposited in the offices of the Minister on or before the 15th day of January immediately succeeding the making of the application or such later date as the Minister may allow.

(2) The following documents shall be annexed as exhibits:—

(*a*) Copies of all notices served upon local authorities, road authorities, companies, corporations and persons in pursuance of the Act of 1870 and of these Rules;
(*b*) Copies of the newspapers containing the advertisements; and
(*c*) A copy of the *London Gazette* in which the advertisement was inserted.

9.—(1) On or before the 15th day of January aforesaid there shall be deposited in the offices of the Minister,—

(*a*) a statutory declaration showing that the requirements of the Standing Orders of both Houses of Parliament have been complied with, as regards the deposit with the Clerk of the Parliaments and at the Private Bill Office of duplicates of every map, plan, section, and book of reference deposited with the Minister; and
(*b*) a statutory declaration proving compliance with the Standing Order of the House of Commons with regard to the taking of houses occupied wholly or partially by thirty or more persons of the working classes, or where the taking of the land will not involve the acquisition of any house or houses so occupied, a statutory declaration for the purpose of showing that the Standing Order does not apply.

(2) The statutory declaration referred to in paragraph (1) (*a*) of this Rule shall be made by the undertakers or their agent and by the person by whom the deposits were made, and the statutory declaration referred to in paragraph (1) (*b*) of this Rule shall be made by the undertakers or their agent.

Objections.

10.—(1) Any objection to an application for a Provisional Order shall be lodged with the Minister on or before the 15th day of January immediately succeeding the making of the application.

(2) When an objection is lodged with the Minister, the objector or his agent shall state that he has at the same time forwarded a copy of such objection to the undertakers or their agent.

(3) Every memorial, objection, and other such document deposited or lodged with the Minister shall be on foolscap paper.

(4) As soon as practicable after the 15th day of January, the undertakers shall furnish the Minister with replies to any objections which have been made. A copy of the reply to each objection shall at the same time be sent to the objector or his agent.

Proposals for Amendment of Draft Order.

11. If any local or road authority, or railway, tramway or canal company, or any other company, body or person desires to have any clause or other amendment inserted in the Order they must deliver the proposed clause or amendment to the undertakers or their agent and also to the Minister on or before the 8th day of February immediately succeeding the making of the application: Provided that such delivery shall not prejudice the right of the party making such delivery to oppose the Order in Parliament.

12.—(1) On or before the 22nd day of February immediately succeeding the making of the application the undertakers or their agent shall deliver to the Minister (*a*) a printed draft of the Provisional Order in triplicate containing in manuscript all such clauses or other amendments as have been agreed between the several parties concerned, and (*b*) a certified copy of any resolution passed before that date by any local authority and by any road authority (where such exists distinct from the local authority for the purposes of the Act of 1870), whose consent is required under section 4 of the Act of 1870, approving the application.

(2) If any of the proposed clauses or other amendments which have been delivered to the undertakers or their agent and to the Minister have not been settled with the consent of all the parties concerned, the undertakers or their agent shall, so far as they can, on or before the 22nd day of February immediately succeeding the making of the application furnish to the Minister in writing a statement showing what are the amendments, if any, which each party would be willing to accept.

(3) After the said 22nd day of February no further proposals for clauses will be entertained by the Minister.

Procedure after Making of Order.

13.—(1) After a Provisional Order has been made, and before it is introduced into a Confirmation Bill in Parliament, the undertakers shall, within fourteen days after the day on which the Provisional Order shall have been sent to them by the Minister, transmit to him a statutory declaration made by them or their agent proving that the Provisional Order was published on or before the 25th day of April immediately succeeding the making of the Order, in conformity with paragraph 3 of Part IV. of Schedule B of the Act of 1870, and that paragraphs 1 and 2 of the said part of that Schedule have been complied with.

(2) Copies of the Provisional Order and of the newspaper containing the advertisement of the Order, shall be annexed to the declaration as exhibits.

(3) The advertisement shall have a short heading stating that the Order has been made by the Minister under the Act of 1870 for the purpose of being introduced into a Confirmation Bill in Parliament, and must also state the office where printed copies of the Order can be obtained, which shall be the office named in the original advertisement of the application for the Order.

(4) The declaration shall state that a sufficient number of printed copies of the Order have been deposited for sale at the office named in the original advertisement, and the price, not exceeding one shilling for each copy, for which they may be obtained.

Application for Extension of Time for Authorised Works.

14. Where an application is made to the Minister under section 11 of the Act of 1870 for a prolongation of time for the commencement or the completion of water works authorised by any Order made under that Act:—

(*a*) The application shall be in the form of a memorial setting forth the grounds on which the application is made, and shall be made at least one month before the expiration of the time prescribed for the commencement or the completion of the works, as the case may be.

(*b*)—(i) The undertakers shall publish by advertisement, once at least in two successive weeks, in some newspaper circulating in the district, a notice of their intention to apply to the Minister for a prolongation of time.

(ii) The notice must state the period to which it is proposed to prolong the time limited for the commencement or the completion of the works, as the case may be, and shall contain a notification that all persons desirous of bringing before the Minister any objection respecting the application, may do so by letter addressed to the Secretary, Minister of Health, Whitehall, London, S.W.1, to be received by him on or before a day named in the notice, being not less than twenty-one days from the date of the first publication of the notice, and that copies of their objections shall, at the same time, be sent to the undertakers.

(*c*) Before the second publication of the notice a notice containing the particulars set forth in paragraph (*b*) of this Rule shall be delivered to every local and road authority and to every person supplying water within the district, and in the case of water which is authorised by an Order to be abstracted from a stream, to the owners, lessees, and occupiers of mills, manufactories, and other works referred to in paragraph (2) of section 5 of the Act of 1870.

(*d*) Copies of newspapers containing the notice, and a statement that a copy of it has been duly served on all the parties above mentioned, as required by these Rules, shall be sent to the Minister with the application.

(*e*) The consent of the Minister to the application shall be subject to such conditions if any, as he may think fit to impose.

15. The Minister may, if he thinks fit, and subject to such conditions as he may impose, exercise his powers under the Act of 1870, notwithstanding the failure of the undertakers to comply with any of the requirements of these Rules other than statutory requirements.

ADDENDUM TO OFFICERS.

CIRCULAR No. 294 (ROADS).

MINISTRY OF TRANSPORT, Roads Department,
7, Whitehall Gardens, S.W.1.
June 26th, 1929.

SURVEYORS' SALARIES AND TRAVELLING EXPENSES.

GRANTS FROM THE ROAD FUND TO COUNTY COUNCILS AND RURAL DISTRICT COUNCILS UNDER SECTION 17 (2) OF THE MINISTRY OF TRANSPORT ACT, 1919.

SIR,—I am directed by the Minister of Transport to acquaint you that he has had under review the question of the grants made from the Road Fund, under section 17 (2) of the Ministry of Transport Act, 1919, towards the salaries and travelling expenses of highway surveyors to county councils and rural district councils having regard to the changes in highway administration which will become effective on the 1st April, 1930, under the provisions of the Local Government Act, 1929.

2. By section 30 of that Act rural district councils will cease to be highway authorities, and the responsibility for the maintenance of roads in a rural district will pass to the county council. The Minister is advised that under the terms of section 17 (2) of the Ministry of Transport Act, 1919, it will no longer be open to him to make grants towards the salary of an officer of a rural district council, even though the functions of the county council with respect to the maintenance, repair and improvement of certain roads in the district may have been delegated to the rural district council by the county council in pursuance of section 35 of the Local Government Act, 1929.

3. The Minister accordingly proposes that from 1st April, 1930, the following basis shall be adopted for any agreements that shall be entered into by him under section 17 (2) of the Ministry of Transport Act, 1919, to defray half the approved salary and establishment charges of the highway surveyor to a county council :—

(1) As soon as may be after the commencement of each financial year the county council will forward a statement showing the personnel, the organisation and the salaries of the county highway supervisory staff.

The salaries of this staff in so far as they are attributable to the discharge of highway functions, will, if approved by the Minister, be accepted for a grant under the agreement. Where an officer is not wholly employed upon highway duties, a proper apportionment should be made showing the amount of salary attributable to those duties.

Supplementary statements can be submitted if additions are made to the highway supervisory staff later in the year.

(2) The statement referred to in paragraph (1) should be confined to the county surveyor himself, his deputy, assistant or divisional surveyors or engineers and also any engineers engaged for particular works, and surveyors employed on building line and improvement line surveys, etc. Where, however, an agreement has been entered into by a county council and a rural district council under the proviso to section 120 of the Local Government Act, 1929, for the joint user by both councils of the services of a surveyor or engineer, the portion of the salary of such officer which is paid by the county council as representing his highway duties, will also be accepted for grant.

(3) The reasonable travelling expenses incurred on highway duties by the county surveyor himself will be accepted for grant, subject to the conditions at present in force, but not the travelling expenses of any member of his staff.

If any member of the staff is paid an inclusive salary to cover travelling expenses, an allocation must be made in the statement referred to in paragraph (1) above of the portion of the salary attributable to travelling expenses and this will be deducted in arriving at the portion of the salary to be accepted for grant.

4. The grants indicated above will, save in very special circumstances, constitute the only direct assistance from the Road Fund after 31st March, 1930, towards expenditure incurred by county councils on engineering or surveying staff and establishment charges. Expenditure under these headings under normal conditions will no longer be admitted for grant in connexion with particular works or surveys.

5. The agreements heretofore entered into with Highway authorities under section 17 (2) of the Ministry of Transport Act, 1919, in respect of contributions from the Road Fund towards the surveyor's or engineer's salary and travelling expenses contain a provision requiring the Minister to give six months' notice of his intention to discontinue the contributions. The Minister, therefore, hereby gives formal notice of his intention to discontinue on the 31st March, 1930, all contributions under existing agreements with county councils and rural district councils with a view to entering into fresh agreements with county councils as from 1st April, 1930, on the lines indicated in this Circular Letter.

6. Two further copies of this Circular Letter are enclosed for transmission to the highway surveyor and the accounting officer of your Council.

I am, Sir,
Your obedient servant,
H. H. PIGGOTT,
Assistant Secretary.

Clerk to the Council.

ADDENDA TO RATING AND VALUATION.

THE RATING AND VALUATION (FORMS OF DEMAND NOTE) RULES, 1930.

PROVISIONAL RULES, DATED FEBRUARY 5, 1930, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING THE FORMS OF DEMAND NOTES TO BE USED BY RATING AUTHORITIES.

Whereas by section 7 of the Rating and Valuation Act, 1925, provision is made with regard to the inclusion of certain information in the demand notes on which general rates and special rates are levied:

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe the form of any demand note or other document whatsoever which is required or authorised to be used under or for the purposes of the Act:

And whereas, consequent upon the coming into operation of the Local Government Act, 1929, and the changes therein provided for, it is expedient to supersede by the Rules hereinafter contained the Rating and Valuation Act (Forms of Demand Note) Rules, 1926), made under the said section 58:

Now therefore, the Minister of Health hereby certifies, under section 2 of the Rules Publication Act, 1893, that on account of urgency the following rules should come into operation immediately, and, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following rules, to come into operation forthwith as Provisional Rules:—

1.—(1) These Rules may be cited as the Rating and Valuation (Forms of Demand Note) Rules, 1930, and shall come into operation on the date hereof.

(2) In these Rules,—

"demand note" does not include a demand note issued in respect of any rating period beginning before the 1st day of April, 1930;

"the Act" means the Rating and Valuation Act, 1925;

"equivalent in terms of a rate in the pound" means in relation to any sum the poundage of the rate which it would be necessary to levy to produce that sum and for this purpose the product of a rate of a penny in the pound shall be a sum estimated in the manner prescribed by Rule 6 of the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1929 (*a*).

2.—(1) Every demand note for a general rate shall incorporate form A, form B or form C in the schedule hereto, as the case may be, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable in instalments.

(2) Every demand note for a special rate shall incorporate form D in the schedule hereto, or a form substantially to the like effect, modified, where necessary, to meet the case of a rate made payable in instalments.

(3) Subject to the provisions of Rule 3 the rating authority shall in preparing any demand note enter in the several columns particulars in accordance with the headings thereto.

3.—(1) As regards hereditaments in respect of which an allowance may be claimed under paragraph (*a*) of subsection (1) or under subsection (2) of section 11 of the Act, the rating authority,—

(*a*) in any case where the amount due from an owner in respect of a group of two or more hereditaments is shown as one total in the rate book, shall, in lieu of entering the particulars as specified in form A, form B, form C, or form D (as the case may be) in the columns appearing upon the demand note, enter those particulars in a schedule in respect of each such group to be attached to the demand note and shall enter on the demand note a reference to such schedule and the total amount of rates shown by the schedule to be due, and

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(*a*) See these Rules, *ante*, p. 3723.

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(*b*) in any other case shall, in preparing the demand note, insert on the form prescribed by Rule 2 information with respect to the allowance which may be claimed.

(2) The schedule referred to in paragraph (1) (*a*) of this Rule shall embody such one of the forms of statement J, K, or L, prescribed in the Rate Accounts (Rural District Councils) Order, 1926, and the Rate Accounts (Borough and Urban District Councils) Order, 1926 (*b*), as may be appropriate.

(3) The rating authority may, if they see fit, make use of a schedule in the manner provided by paragraph (1) of this Rule in any case where a person undertakes to pay the rates in respect of two or more hereditaments but is not entitled to claim any allowance referred to in the said paragraph.

4. A demand note or the schedule attached thereto in accordance with the provision of Rule 3, as the case may be, shall contain such a brief description of the hereditament or hereditaments to which it relates as may be reasonably necessary for the purposes of identification.

5. A demand note shall also include,—

(i) information with regard to the place and mode of payment ; and

(ii) in a rating area in which a resolution under section 8 of the Act (as to discount for prompt payment) is in force, information as to the effect of the resolution (including the date after which payment must be made in full).

6. A rating authority may include in a demand note for rates a demand for any water rate, rent or charge, or other rate, rent or charge payable to them, and may combine in one demand note demands for a general rate and for a special rate, provided that such combined demand note shall be so framed as to include all the information which by the Act and these rules would be required to be given to ratepayers if separate demand notes were issued.

7. There shall be included in every demand note a statement in the form set out in the schedule hereto appropriate to that demand note, or in a form substantially to the like effect, showing, in the manner for which that form provides—

(1) the equivalent in terms of a rate in the pound of the gross estimated expenditure less any income specifically applicable thereto, in respect of—

(*a*) each service or group of services for which a separate fund account is kept by the rating authority,

(*b*) each of the services separately set out in a precept received from any authority,

(*c*) each of the services specified in the form which is not included under the preceding categories (*a*) and (*b*), and in respect of which expenditure is to be incurred, and

(*d*) the other services of the rating authority, specifying such of them, if any, as they think fit.

distinguishing by an asterisk, in the manner indicated in the form, each service towards the cost of which a grant payable to the rating authority or County Council by a Government Department is speciaficlly applicable ; and

(2) the equivalent in terms of a rate in the pound of the Exchequer Grants under the Local Government Act, 1929, and, in the case of a rural district council, of any moneys receivable under section 92 of that Act.

8. For the purposes of the last preceding Rule the following provisions shall have effect :—

(1) The expression " separate fund account " includes—

(*a*) in relation to expenses chargeable on part only of a rating area, the separate account or accounts of such expenses,

(*b*) in relation to any service for which by law separate accounts are required to be kept, the separate revenue account kept therefor.

(2) In calculating the amount to be shown for the purposes of any service or group of services, there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service or group of services.

(*b*) See these Forms at pp. 3678, 3679, *ante*.

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(3) Where the aggregate amount in the pound which would otherwise have been levied by the rating authority has been varied in order to give effect to any differential rating requirements to which effect has to be given by the rating authority, a note shall be made on the statement showing the extent of, and reason for, such variation.

9. The Rating and Valuation Act (Forms of Demand Note) Rules, 1926, except as regards demand notes for any rate in respect of any rating period beginning before the 1st day of April, 1930, are hereby rescinded.

SCHEDULE.

FORM A.

(COUNTY BOROUGH COUNCIL.)

County Borough of..................

Demand Note for General Rate.

Mr..[or occupier].

(Address)..

....

The Council of the ....demand payment of a General Rate at .... pence in the pound [including .... pence for additional items*], made in respect of the financial [half-year] [year] ending on the .... day of..........................19......, and of the arrears (if any) of former rates,* now due from you as below :—

Number in Rate Book.	Description of Hereditament and Situation (if other than that specified in the address above).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount of Rate.
		£	£	£ s.
		Arrears (if any) of former rates *		
			Total	

Cheques, money orders and postal orders should be made payable to the .... Council of .... and crossed. They should not be made payable to any individual officer.

By order of the Council.

....

(Authorised Officer.)

FORM A.—Statement.

Rate Services.

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each

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* These words may be omitted if not required.

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of the principal services, after allowing for specific Government grants towards the expenses of the services marked * but without allocation to particular services of the Government grants under the Local Government Act, 1929.

The Government grants under the Act of 1929, being in aid of local government expenses generally, cannot be allocated to any particular service. They reduce by the amount shown the total rate in the pound which would otherwise be demanded.

SERVICES ADMINISTERED BY THE TOWN COUNCIL :

s. d. *s. d.*

*Education : elementary ....

*Education : higher ....

Public assistance ....

*Police ....

*Housing (including ....for Assisted Scheme, 1919) ....

Public Health ....

Highways and bridges ....

Fire brigade ....

.....................................undertaking ....

Other services and expenses ....

Deduct in respect of— *s. d.*

.........................undertaking ....

....

Other credits (not being Government grants) ....

SERVICES ADMINISTERED BY PRECEPTING AUTHORITIES, VIZ. :—

Assessment Committee..

............................Joint Board ....

....

Deduct.—The equivalent in terms of a rate in the pound of the Exchequer Grants under the Local Government Act, 1929 ....

Rate in the pound payable by ratepayer ....

FORM B.

(BOROUGH COUNCIL OR URBAN DISTRICT COUNCIL.)

Borough [or Urban District] of..

Demand Note for General Rate.

Mr.. [or occupier].

(Address) ....

....

The Council of the...demand payment of a General Rate at .... pence in the pound, [including .... pence for additional items †] made in respect of the financial [half-year] [year] ending on the .... day of ....19......, and of the arrears (if any) of former rates,† now due from you as below :—

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† These words may be omitted if not required.

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Number in Rate Book.	Description of Hereditament and Situation (if other than that specified in the address above).	Net Annual Value (where it differs from Rateable Value.	Rateable Value	Amount of Rate.
		£	£	£ s. d.
	Arrears (if any) of former rates †			
			Total	

Cheques, money orders and postal orders should be made payable to the .... Council of .... and crossed. They should not be made payable to any individual officer.

By order of the Council.

....

(Authorised Officer.)

FORM B.—Statement.

Rate Services.

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each of the principal services, after allowing for specific Government grants towards the expenses of the services marked * but without allocation to particular services of the Government grants under the Local Government Act, 1929.

The Government grants under the Act of 1929, being in aid of local government expenses generally, cannot be allocated to any particular service. They reduce by the amount shown the total rate in the pound which would otherwise be demanded.

SERVICES ADMINISTERED BY THE (BOROUGH) (URBAN DISTRICT) COUNCIL :—

s. d. s. d.

*Education : elementary ....

*Police ....

*Housing (including............for Assisted Scheme, 1919) ....

Public health ....

Highways and bridges ....

....................................undertaking ....

Other services and expenses ....

Deduct in respect of— s. d.

............................undertaking ....

....

Other credits (not being Government Grants) ....

SERVICES ADMINISTERED BY THE COUNTY COUNCIL :—

(a) *General County Purposes :—*

*Education : elementary ....

*Education : higher ....

Public assistance ....

*Police ....

Public health ....

*Highways and bridges ....

Other services and expenses ....

* These words may be omitted if not required.

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s. d. s. d. s. d.

Deduct in respect of credits of the County Council (not being Government Grants)

(b) *Special County Purposes:* †

*Education: elementary ....

*Police ....

Other services and expenses ....

Deduct in respect of credits of the County Council (not being Government Grants) ....

Add, For additional sum under the proviso to Section 9 (2) (*c*) of the Rating and Valuation Act, 1925 ....

SERVICES ADMINISTERED BY PRECEPTING AUTHORITIES OTHER THAN THE COUNTY COUNCIL, VIZ.:—

Assessment Committee ....

.....................................Joint Board ....

....

Deduct,—The equivalent in terms of a rate in the pound of—The Exchequer Grants under the Local Government Act, 1929.

(*a*) Amount receivable by (Borough) (Urban District) Council ....

(*b*) Amounts receivable by County Council ....†

Rate in the pound payable by Ratepayer ....

FORM C.

(RURAL DISTRICT COUNCIL.)

Rural District Council of ....

Demand Note for General Rate.

Mr.. [or occupier].

(Address) ....

....

The Rural District Council of .... demand payment of a General Rate at .... pence in the pound [including .... pence for additional items‡], made in respect of the financial [half-year] [year] ending on the .... day of ....19......, and of the arrears (if any) of former rates,‡ now due from you as below:—

Number in Rate Book.	Description of Hereditament and Situation (if other than that specified in the address above).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount of Rate.
		£	£	£ s. d.
Arrears (if any) of former rates ‡				
			Total	

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† The rate in the pound actually called for by the County Council for general county purposes is the difference between the two amounts marked,† namely, ...s. ....d.

‡ These words may be omitted if not required.

Cheques, money orders and postal orders should be made payable to the Rural District Council of .... and crossed. They should not be made payable to any individual officer.

By order of the Council.

....
(Authorised Officer.)

FORM C.—Statement.

Rate Services.

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound which would be required to meet the net expenses of each of the principal services, after allowing for specific Government grants towards the expenses of the services marked * but without allocation to particular services of the Government grants under the Local Government Act, 1929.

The Government grants under the Act of 1929, being in aid of local government expenses generally, cannot be allocated to any particular service. They reduce by the amount shown the total rate which would otherwise be demanded.

SERVICES ADMINISTERED BY THE RURAL DISTRICT COUNCIL :—			
(a) *General Expenses :*		s. d.	s. d.
*Housing (including............for Assisted Scheme, 1919)			
Public health			
Other services and expenses			
		———	
Deduct in respect of—	s. d.		
....			
Other credits of the Rural District Council (not being Government Grants)..	———	———	
(*b*) *Special expenses payable out of General Rate : (Principal services to be specified.)*			
————			
————			
Deduct in respect of—	———		
....			
Other parochial credits			
	———	———	
SERVICES ADMINISTERED BY THE COUNTY COUNCIL :			
(a) *General County Purposes :*			
*Education : elementary			
*Education : higher			
Public assistance			
*Police			
Public health			
*Highways and bridges			
Other services and expenses			
	———		
Deduct in respect of credits of the County Council (not being Government Grants)..			
(b) *Special County Purposes :*	———		†
*Education : elementary			
*Police			
Other services			
	———		
Deduct in respect of credits of the County Council (not being Government Grants)..			
	———	———	
SERVICES ADMINISTERED BY PRECEPTING AUTHORITIES OTHER THAN THE COUNTY COUNCIL, VIZ. :—			
Assessment Committee			
......................Joint Board			
....			
		———	———

---

† The rate in the pound actually called for by the County Council for general County Purposes is the difference between the two amounts marked † namely, ...*s.* ......*d.*

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	s. d.	s. d.
Deduct :—The equivalent in terms of a rate in the pound of—		
The Exchequer Grants under the Local Government Act, 1929, other than that under Section 92 :—		
(*a*) Amount receivable by the Rural District Council..................		†
(*b*) Amount receivable by the County Council		
Sums applicable in aid of parish rate (Section 92 of the Local Government Act, 1929)		
Rate in the pound payable by Ratepayer		

FORM D.

(RURAL DISTRICT COUNCIL.)

Rural District Council of ....

Demand Note for Special Rate.

Parish of ....

(or other area subject to the special rate.)

Mr ....[or occupier].

(Address) ....

The Rural District Council of .... demand payment of a Special Rate made in respect of the financial [half-year] [year] ending on the .... day of ....19......, and of the arrears (if any) of former rates,‡ now due from you as below.

The Rate is made at .... pence in the pound upon the rateable value of hereditaments as shown below, except that it is made upon one-quarter only of that rateable value in the case of tithe, tithe rent charge, land covered with water, or used as a canal or as a towing path for a canal, or as a railway constructed under the powers of any Act of Parliament for public conveyance.

Number in Rate Book.	Description of Hereditament and Situation (if other than that specified in the address above).	Net Annual Value (where it differs from Rateable Value).	Rateable Value.	Amount of Rate.
		£	£	£ s. d.
Arrears (if any) of former rates ‡				
			Total	

Cheques, money orders and postal orders should be made payable to the Rural District Council of .... and crossed. They should not be made payable to any individual officer.

By order of the Council.

....

(Authorised Officer.)

FORM D.—Statement.

Rate Service.

The following statement shows how the rate in the pound demanded is made up. It sets out the rate in the pound required to meet the net expenses of each of the services, after allowing for the sums applicable in aid of special rates under Section 92 of the Local Government Act, 1929.

---

† The rate in the pound actually called for by the County Council for general County Purposes is the difference between the two amounts marked,† namely,......*s.* ......*d.*

‡ These words may be omitted if not required.

SERVICES ADMINISTERED BY THE RURAL DISTRICT COUNCIL :—

s. d. s. d.

Sewerage..
Water undertaking ....
....

Deduct in respect of—

s. d.

....undertaking ....
....
Other Special Rate credits ....

SERVICES ADMINISTERED BY THE PARISH COUNCIL, PARISH MEETING OR OTHER PRECEPTING AUTHORITY :—

....

Deduct,—The equivalent in terms of a rate in the pound of the sum applicable in aid of the special rate (Section 92 of the Local Government Act, 1929).........

Rate in the pound payable by Ratepayer ....

Given under the Official Seal of the Minister of Health this fifth day of February, in the year One thousand nine hundred and thirty.

(L.S.)

E. H. Rhodes,
Assistant Secretary, Ministry of Health.

THE RATING AND VALUATION (FORMS OF PRECEPT—COUNTY COUNCILS) RULES, 1930.

PROVISIONAL RULES, DATED FEBRUARY 5, 1930, MADE BY THE MINISTER OF HEALTH UNDER SECTION 58 OF THE RATING AND VALUATION ACT, 1925 (15 & 16 GEO. 5, C. 90), FOR PRESCRIBING FORMS OF PRECEPTS TO BE USED BY COUNTY COUNCILS.

Whereas by section 9 of the Rating and Valuation Act, 1925, provision is made with respect to precepts to be issued to rating authorities by councils of counties in respect of any period beginning on or after the first day of April, 1929; and by subsection (5) of that section such councils are required on issuing any such precept to supply to the rating authority such information as is reasonably necessary for the preparation of demand notes in accordance with the provisions of Part I of the Act;

And whereas by section 58 of the said Act it is provided that the Minister of Health, after consultation with any local authority or association of local authorities with whom consultation appears to him to be desirable, may by rules prescribe the form of any return or other document whatsoever which is required or authorised to be used under or for the purposes of the Act;

And whereas by the Rating and Valuation (Forms of Demand Note) Rules, 1930, made by the Minister of Health under the said section 58, rating authorities are required to include in any demand note a statement giving certain information with respect to services administered by the County Council;

And whereas consequent upon the coming into operation of the Local Government Act, 1929, the changes therein provided for, and the making of the said rules it is expedient to supersede by the rules hereinafter contained the Rating and Valuation Act (Forms of Precept—County Councils) Rules, 1929, made under the said section 58:

Now therefore, the Minister of Health hereby certifies, under section 2 of the Rules Publication Act, 1893, that on account of urgency the following rules should come into operation immediately, and, after such consultation as is mentioned above, by virtue of the powers conferred upon him by the said section 58 and of all other powers enabling him in that behalf, hereby makes the following rules, to come into operation forthwith as Provisional Rules :—

1.—(1) These rules may be cited as the Rating and Valuation (Forms of Precept—County Councils) Rules, 1930, and shall come into operation on the date hereof.

(2) These rules shall not apply to any precept issued by the London County Council.

(3) In these Rules, " equivalent in terms of a rate in the pound " means in relation to any sum and any area the poundage of the rate which would be levied on that area under precept of the County Council if that sum formed the subject of a separate precept.

2. Every precept issued by a County Council under section 9 (2) of the Rating and Valuation Act, 1925, in respect of any period beginning on or after the 1st day of April, 1930, shall be in the form set out in the Schedule hereto or in a form substantially to the like effect.

3. Every precept issued by a County Council in accordance with the foregoing Rule shall show :—

(i) the rate in the pound which the Council require the rating authority to levy as part of the general rate ;

(ii) the rate in the pound which the Council require the rating authority to levy as an additional item of the general rate in respect of each part of the rating area on which any expenses are chargeable separately, indicating the part so charged, and the purpose of the charge ;

(iii) in the case of an amount which is not required to be expressed in the precept in terms of a rate in the pound, the amount and purpose of the sum demanded and the area charged.

4.—(1) There shall be included in every such precept a statement in the form set out in the Schedule hereto, or in a form substantially to the like effect, showing, in the manner for which the form provides,

(*a*) the equivalent in terms of a rate in the pound of the gross estimated expenditure less any income specifically applicable thereto, in respect of each service specified in the form and in respect of such other of their principal services, if any, as the County Council think fit ;

(*b*) the equivalent in terms of a rate in the pound of the Exchequer Grants payable to the County Council under the Local Government Act, 1929 ;

and distinguishing by an asterisk, in the manner indicated in the form, each such service towards the cost of which a grant payable to the County Council by any Government Department is specifically applicable.

(2) In calculating the amount to be shown for the purposes of any service or group of services, there shall be included any sums required for repayment of, or for interest on, moneys borrowed for that service or group of services.

5. Except as regards any precept issued in respect of any period ending on or before the 31st day of March, 1930, the Rating and Valuation Act (Forms of Precept—County Councils) Rules, 1929, are hereby rescinded.

SCHEDULE.

Form of County Council Precept.

Administrative County of...

To the Rating Authority for the { Borough / Urban District / Rural District } of ....

The Council of the above-mentioned County hereby give you notice that in respect of the financial [half-year] [year] beginning on the first day of ...., 19......, they will require from you the proceeds of the rates specified below [subject to such adjustment, by way of addition to those rates, as may be necessary to comply with the provisions of Section 9 (2) (*c*) of the Rating and Valuation Act, 1925 *] ;

---

* Omit these words in the case of a rural rating authority.

AND they do accordingly hereby require you to levy the said rates as part of the general rate or as additional items of that rate, as the case may require, and to make payments on account thereof to †.. as follows :—

£..................on or before the..................day of ....19...
£..................on or before the..................day of ....19...
£..................on or before the..................day of ....19...
£..................on or before the..................day of ....19...

and the balance thereof within 14 days after the date on which the total amount due shall have been ascertained in accordance with the provisions of the Rating and Valuation Act, 1925, and of the Rules made thereunder.

Rates to be levied on the whole of the rating area.

General County purposes at ....in the pound.
Special County purposes at ....in the pound.
Total ....in the pound.

Rates to be levied on part only of the rating area.

Part of rating area chargeable.	Service.	Amount in the Pound.
		s. *d.*

‡AND they do also give you notice that in respect of the above-mentioned period they will require from you the sums of money specified in the third column of the following table in respect of the services specified in the second column of that table, the cost of which is chargeable on that part only of your rating area specified in the first column of that table.

‡AND they do accordingly hereby require you to pay the said sums to†..................... on or before the ....day of ....19...

Part of rating area chargeable.	Service.	Sum.
		£

Dated this ....day of ....19......

(Signature)..................................

Clerk of the County Council.

STATEMENT.

The following statement shows, in respect of each of the under-mentioned services of the County Council the cost of which is chargeable over the whole of the rating area, the equivalent, in terms of a rate in the pound, of the gross estimated expenditure on the services *less* any estimated income from Government Grants or other sources (not being rates) specifically applicable thereto. In the case of the services marked * Government Grants specifically applicable thereto are receivable.

---

† Insert name and address of payee and any necessary directions.

‡ The two paragraphs marked ‡ and the table following them may be omitted where the precept is wholly on a poundage basis.

Appendix II.

SERVICES.	Amount in the Pound for			
	General County Purposes.		Special County Purposes.	
	s.	d.	s.	d.
*Education: Elementary				
*Education: Higher				
Public Assistance				
*Police				
*Highways and Bridges				
Public Health				
Other Services and expenses				
Total of above items				
Deduct the equivalent in terms of a rate in the pound of—				
(1) The Exchequer Grants under the Local Government Act, 1929				
(2) The proceeds of local taxation licence duties ...			—	—
(3) Other income or credits of the County Council, if any, not allocated to specific services			—	—
Total deductions				
NET TOTALS				

Given under the Official Seal of the Minister of Health this fifth day of February, in the year One thousand nine hundred and thirty.

(L.S.)

E. H. Rhodes,
Assistant Secretary, Ministry of Health.

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